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IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, TIRUPATHUR,
TIRUPATHUR DISTRICT.

Present : **Selvi.M.K.Anusha, M.L.,**
Chief Judicial Magistrate,
Tirupathur.

Thursday this the 26th day of February 2026
Thiruvalluvar Aandu 2057, Shri Vishwavasud Varudam 14th day of Maasi Thingal.
Crl.M.P.No.3583/2025
CNR.No. TNTU020105142025

M/s Equitas Small Finance Bank Limited
No.769, Spencer Plaza,
4th floor, Phase – 2,
Anna Salai, Chennai 600 002.
Represented by its Authorized Officer,
Mr.R.Thilok Chandru S/o. Ravichandran,
No.108/8, Krishnagiri Road, Tirupathur,
Tirupathur District -635 601.

.....Petitioner.

// Versus //

1. Mr.Sivanandhi S/o. Chinnapayan,
2. Mrs.Thangamani W/o. Sivanandhi,
Both are residing at No.1/341,
Kothur Village and Post,
Natrampalli Talu,
Tirupathur District – 635 854.

...Respondents

This petition came up before me for final hearing on 03.01.2026 in the presence of **M/s.A.Kathiravan, B.Sc.,B.L.,** Learned Counsel for the petitioner, after considering the facts and circumstances of the petition considering the materials available records

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and after hearing arguments, having stood over for consideration till this day this Court passes the following

ORDER

1.The petitioner i.e., Equitas Small Finance Bank Limited has filed this application U/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 to appoint an Advocate Commissioner to take possession of the schedule mentioned property and documents, forward such assets and documents to the secured creditor the petitioner, issue any appropriate directions and orders to break open the secured asset mentioned in the schedule hereunder, if the same is under lock and key, by the Advocate Commissioner and to take inventory, to direct the Inspector of Police, Natrampalli Police Station or any other appropriate Police officer having jurisdiction over the area where the schedule mentioned property is situated to render police protection to the petitioner company to take possession of the schedule mentioned property and to pass necessary order or orders deems fit and proper in the given facts and circumstances of the case.

2. The Brief Averments of the Complaint is as follows :-

2.1. The petitioner is Small Finance Bank. The 1st respondent is borrower and others respondents are co-borrowers jointly obtained loan. The 2nd respondent is mortgaged her property belonged to her, the petitioner bank has lastly sanctioned a sum



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of Rs.1,38,000/- (Rupees One Lakhs Thirty Eighty Thousand only). Loan agreement dated 15.04.2023. Loan application dated 10.03.2021. Sanction letter dated 12.03.2021. The 2nd respondent being true and absolute owner of the petition mention schedule property, he accepted the terms and conditions of the sanctions, loan agreement and created an mortgaged by deposit of title deed dated 25.03.2021. Mortgage confirming deposit of title deed dated 25.03.2021, Settlement deed dated 29.10.2020.

2.2. The respondents were highly irregular in repaying the installments right from the beginning and committed willful default in the repayment of the loan. The accounts of the respondents was classified as non-performing assets in terms of RBI guidelines and in terms of Sec 2(0) SARFAESI Act 2002 as on 09.12.2022. Since, the respondents failed to discharge the liability despite of repeated demands the petitioner was constrained to invoke the provisions of the SARFAESI Act 2002 to enforce the security interest created by the 1st respondent over the schedule properties in favour of the petitioner's Finance. Accordingly, the authorized officer of the petitioner finance issued statutory demand notice on 15.04.2023 u/s 13(2) of SARFAESI Act 2002 against the respondents calling upon them 11.04.2023 together with contractual interest thereon within 60 days from the date of the receipt of the notice.

2.3. Even after the expiry of the statutory period of 60 days from the date of the receipt of Demand notice the respondents in spite of having knowledge about the



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constructive notice have failed to neglected to make payment. Being the secured creditor upon default by the borrower after statutory notice Under Section 13(2) of the Act. Petitioner's finance entitled to proceed against the borrower Under section 13(4) of the Act to take possession of the secured asset and as such the petitioner issued possession notice dated 01.12.2023. Subsequently, possession notice was affixed in the schedule property by the petitioner bank and also publication of the said possession notice was made on 03.12.2023 in the New Sunday Express and also in Tamil News paper namely Dinamani. The outstanding balance of the said loan as on 16.07.2023 is Rs.2,57,294/-. There is no proceeding pending before the DRT or any other forum as well no stay granted by DRT or any other forum pertaining to the above borrowers/respondents in respect of the secured assets mention in the petition schedule property. Hence, the petitioner approached this Court.

3. Proceedings before the Court :-

3.1. After filing this application the same was taken on file after considering the documents filed along with the petition.

3.2. The Hon'ble High Court in the Judgment reported in 2009 (2) MLJ (Crl) page 246 Indian Overseas Bank Vs M/s Sree Aravindh Steels Limited and others as held as follows



3.3. “CMM/DM acting under section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party”.

By applying the said principle in the given case no notice is order to the respondent.

3.4. Hence, no notice was served and the application was taken for enquiry. The Authorized Officer **Thiru.R.Thilok Chandru S/o Ravichandran** was examined as PW.1 and documents were marked as **Ex.P.1 to Ex.P.12**.

3.5. The petitioner would submit that the respondent is a chronic defaulter of payment of loan, the said loan was classified as non-performing asset and thereafter notice was issued and in pursuance of the same Symbolic Possession was takeover, now the petitioner seeking assistance of this Court for taking actual possession of the property and he prayed to appoint for Commissioner to assist the petitioner for taking actual possession of the property.

4. Point for Consideration :-

4.1. Whether is this Court has to extend assistance to the Petitioner for taking actual possession of Schedule mentioned property as prayed ?

4.2. The evidence of PW.1 and the documents marked as Ex.P.1 to Ex.P.12 were carefully perused. The originals of the said were perused and the Xerox copy is alone is marked.



4.3. On perusal of the Ex.P.1 Letter of Authority dated 09.07.2025, Ex.P.2 ID card, Ex.P.3 Loan application form dated 10.03.2021, Ex.P.4 Sanction letter dated 12.03.2021, Ex.P.5 Loan agreement dated 15.04.2023, Ex.P.6 Mortgage confirming deposit of title deed dated 25.03.2021, Ex.P.7 Settlement deed dated 29.10.2020, Ex.P.8 Demand notice U/s.13(2) of SARFAESI Act with online postal tracker dated 15.04.2023, Ex.P.9 Possession notice U/s.13(4) of SARFAESI Act dated 01.12.2023, Ex.P.10 Publication made in the Indian Express and Dinamani for Notice 13(4) of Act dated 03.12.2023, Ex.P.11 Encumbrance Certificate dated 10.10.2025, Ex.P.12 Bank statement of Account dated 16.07.2025. The respondent after obtaining the loan from the petitioner has failed to repay the loan and the same became non-performing assets. In pursuance of the same demand notices were sent and Symbolic possession was also taken. However, in order to take physical possession of the property the petitioner has come forward with the present application. The petitioner also submitted that no similar petition is pending in any other forum and no stay is granted by any other forum.

4.4. Considering the facts and circumstances of this case, this Court is of the view that the petitioner must be extended assistance for taking physical possession of the property. In order to take the physical possession of the property it is necessary to appoint the Advocate Commissioner for the same.



4.5. All the documents marked on the side of the petitioner, and the evidence let in on behalf of the petitioner. It is quite evidence the respondent by mortgaging their property has obtained loan. But, the respondent has not repaid the loan amount and became a defaulter. As the respondent as a security for the loan amount as mortgaged the property in favour of the petitioner, then the petitioner is entitled to realize the loan amount by taking over the property. In order to take physical possession of the property the petition filed by the petitioner is allowed.

In the result, the petition is allowed, as follows

1. Mr.G.Sathiyamoorthy, Advocate Ms.No.6998/2022, Cell No.9952245458 place of practice at Tirupathur as per ID card is appointed as Advocate Commissioner to take physical possession of the secured properties.

2. If necessary, the Advocate Commissioner shall take police protection by submitting written request to the concerned police station house officer by stating reason for the same.

3. A sum of Rs. 30,000/- is ordered as remuneration to the Advocate Commissioner in which Rs.10,000/- has to be paid directly to the Advocate Commissioner by the petitioner initially and the balance of Rs.20,000/- has to be paid on execution of the warrant.



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4. The Advocate Commissioner shall execute the warrant without causing any physical harm to the inmates and as per law. He Shall execute the warrant within 30 days from the date of issuance of warrant and submit report to this Court.

5. Further, it is strictly instructed to the Learned Advocate Commissioner should follow the direction without any deviation from the lawful execution and to avoid any kinds of collusion or conspiracy with the Respondent till the termination of this legal proceedings.

6. Issue Commissioner Warrant. Call on 26.03.2026.

Directly dictated by me to the Typist and typed by the Computer directly, corrected and pronounced by me in Open Court on the 26th day of February 2026.

M.K.Anusha,
Chief Judicial Magistrate,
Tirupathur.

1. Witnesses on the side of the Petitioner :-

1.	PW.1	Mr.Thilok Chandru, Authorized Officer,
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2. Exhibits on the side of the Petitioner :-

S.No.	EXHIBITS	DESCRIPTION OF THE DOCUMENTS
1.	Ex.P.1	Letter of Authority dated 09.07.2025.

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2.	Ex.P.2	Copy of Identity card of authorized officer.
3.	Ex.P.3	Copy of loan application dated 10.03.2021.
4.	Ex.P.4	Copy of sanction dated 12.03.2021.
5.	Ex.P.5	Copy of Loan Agreement dated 15.04.2023.
6.	Ex.P.6	Mortgage confirming deposit of title deed dated 25.03.2021.
7.	Ex.P.7	Settlement deed dated 29.10.2020.
8.	Ex.P.8	Copy of demand notice under section 13(2) of SARFAESI Act with postal online tracker dated 15.04.2023.
9.	Ex.P.9	Copy of possession notice under section 13(4) of SARFAESI Act dated 01.12.2023.
10.	Ex.P.10	Publication made in Indian Express and Dinamani for notice under section 13(4) of Act dated 03.12.2023.
11.	Ex.P.11	Encumbrance Certificate dated 10.10.2025.
12.	Ex.P.12	Bank statement of Account dated 16.07.2025.

Schedule of Property

All that piece and parcel of land with building with an extent 763 Sq.ft together land with building, comprised in S.No.149/4, Situated at Pachoor Village, Natrampalli Taluk, Vellore District.



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BOUNDARIES

North by : *S.No.149/1.*
South by : *Street.*
East by : *S.No.149/1.*
West by : *S.No.149/1.*

Measurement:

Situated at within the sub Registration District of Natrampalli, and Registration District of Vellore.

M.K.Anusha,
Chief Judicial Magistrate,
Tirupathur.