

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR

PRESENT : Thiru.M.Veeranan, M.A.,LLM.,

Chief Judicial Magistrate,

Virudhunagar District at Srivilliputhur

Monday this the 8th day of September 2025

CrI.M.P.No.210/2025

(CNR No.TNVR02-000915-2025)

Can Fin Homes Limited,
Represented by its Authorised Officer,
Mr. L. Sathesh Kumar
S/o.Lakshmanan,
No.7/3-B, APV Complex (First Floor),
Puluganoorani Road,
Virudhunagar - 626 001.

... Petitioner

/ Vs /

- 1) Mr. I. Karuppasamy
- 2) Mrs. Viji

... Respondents

This petition came for final hearing before this Court on 25.08.2025 in the presence of Mr.S.I.Muthaiah, Advocate for the petitioner and upon hearing petitioner's side arguments, perusing affidavit, petition and other relevant documents, and having stood over for consideration till this day, this Court delivered the following :-

ORDER

- 1) This Petition has been filed by the petitioner seeking assistance under Section 14(1) of the Securitization And Reconstruction of Financial Assets And Enforcement of Security Interest Act 2002 (hereinafter referred to as SARFAESI Act).
- 2) The Case of the petitioner bank is that the bank had sanctioned a mortgage loan for Rs.11,50,000/- to the 1st respondent and his deceased son K.Tamilselvan. Due to the default of the respondents in repaying the loan amount, it was declared as Non Performing Asset (NPA) on 29.11.2023. In order to realize the loan amount together

with interest, the petitioner bank issued demand notice to the respondents under section 13(2) of the SARFAESI Act on 11.12.2023 calling upon the respondents to pay the dues to a tune of Rs.6,92,831/- as on 11.12.2023. The respondents though received the notice, they neither sent any reply nor paid the demand amount. Since, the respondents have not repaid the outstanding loan amount, the petitioner issued possession notice under section 13(4) of the SARFAESI Act on 19.02.2024. The possession notice was also published in English and Tamil Newspaper on 25.02.2024. The respondents have not surrendered physical possession and hence the petitioner has approached this court under section 14 of the SARFAESI Act to assist them in taking physical possession of the scheduled property.

3) Point for determination:

Whether the petitioner is entitled for assistance of this court in taking physical possession of the scheduled property under section 14 of the SARFAESI Act as prayed for?

4) The authorised officer of the petitioner bank has been examined as PW1 and Ex.P1 to Ex.P14 documents were marked. The submissions made by the learned counsel for the petitioner was heard and carefully considered and the exhibits produced by the petitioner were carefully perused.

5) Point and Answer:

(i) The petitioner is M/s.Can Fin Homes Limited which falls squarely within the definition of bank under section 2(1)(c) of the SARFAESI Act. The petitioner bank have produced Ex.P1, Authorization letter issued by Deputy General Manager, Madurai. By virtue of Ex.P1, Mr.L. Sathesh Kumar, Manager has been authorised as authorized officer to represent the petitioner bank in the proceedings taken under SARFAESI Act.

(ii) The Respondent 1 and 2 are the borrowers. The respondents have availed a mortgage loan of Rs.11,50,000/-. Ex.P2, Mortgage Loan Application; Ex.P3, Loan

Sanction Order; Ex.P4, Loan Agreement executed by the respondents show that the respondents had availed loan as stated by the petitioner.

(iii) The loan has been sanctioned against the property of the 1st respondent. Ex.P13 shows that the 1st respondent is the absolute owner of the petition scheduled property. Ex.P5 is the Memorandum of deposit of title deeds of the petition scheduled property executed by the 1st respondent. The respondents have thus created security interest over the scheduled property and the petitioner has valid and subsisting security interest over the scheduled property.

The Encumbrance Certificate of the scheduled property has been marked as Ex.P11. The Memorandum of Deposit of title deed is reflected in the Encumbrance Certificate. It is also candid from Ex.P11, Encumbrance Certificate that the scheduled property is located in Vellore Village, Virudhunagar District and thereby within the jurisdiction of this Court. The respondents have thus created security interest over the scheduled property and the petitioner bank has valid and subsisting security interest over the scheduled property.

(iv) The respondents have defaulted in repayment of the loan amount obtained from the petitioner bank which is evident from Account Statements produced as Ex.P12. Hence, the loan has been declared as Non Performing Asset on 29.11.2023 as per the guidelines of the Reserve Bank of India.

(v) The Respondents are borrowers. The petitioner bank issued notice under section 13(2) of the SARFAESI Act to the respondents 1 and 2 demanding repayment of the loan amount. The notice under section 13(2) of the SARFAESI Act has been produced as Ex.P7. The petitioner bank is thus entitled to take physical possession of the scheduled property. The petitioner bank has taken symbolic possession by issuing Ex.P8, possession notice and the possession notice has been published in Tamil and English Newspapers vide Ex.P9, P10.

(vi) Though, the respondents have been served with the notice, they have not surrendered physical possession of the scheduled property. The authorized signatory

of the petitioner bank has affirmed on oath that the respondents are purposely delaying surrender of possession of the scheduled property and that there is no stay granted against taking possession of the scheduled property. From the affirmation of the authorized signatory of the petitioner on oath and on perusal of the documents exhibited on the side of the petitioner, this court is satisfied that the petitioner bank has properly complied with the conditions precedent for invoking the provision under section 14 of the SARFAESI Act. Through the affidavit filed by the authorized signatory and through the exhibits marked on their side, the petitioner has satisfactorily established the default on the part of the respondents 1 and 2 in repayment of the loan amount; the loan amount is not barred by limitation; the scheduled property was offered as security for the loan amount secured and; the scheduled property is located within the jurisdiction of this court.

(vii) Thus, considering the above observations, this court finds it fit to issue proper direction to take physical possession of the secured assets described in the schedule of property after taking proper inventory and also to handover the possession of the property to the petitioner bank and as such this petition is liable to be allowed.

In the result, this petition is allowed thereby appointing **Mrs.P.Thangamareeswari (MS No.3051/2016)** as Advocate Commissioner

1. to inspect the petition mentioned property;
2. to take inventories;
3. to take physical possession and immediately hand it over to the petitioner/secured creditor;
4. the Inspector of Police, Amathur Police station and the Village Administrative officer, Vellore are directed to provide suitable assistance to the Commissioner in executing the warrant in respect of the property in their respective jurisdiction;
5. the Advocate Commissioner may break open any locks put to the doors of the

scheduled property if the same is necessary for handing over physical possession.

A sum of Rs.25,000/- is fixed as remuneration for the said Advocate Commissioner. Out of Rs.25,000/- Rupees 12,000/- shall be paid directly to the commissioner and the remaining Rs.13,000/- shall be **deposited into this Court within 10 days**. After executing the warrant and filing his report, the Advocate Commissioner is entitled to get the remaining remuneration of Rs.13,000/- from the Court by filing separate E-transfer application. For filing of Commissioner report call on 18.09.2025.

**Chief Judicial Magistrate,
Virudhunagar District at
Srivilliputhur.**

SCHEDULE OF PROPERTY

The Property is a house bearing D.No.5/1065 with vacant site in Sivakasi Taluk, Vellore Village, Thiruthangal Sub Registrar Office limit, Bearing Plot No.9 the boundaries of the house are as follows

North	- 20 feet breath east west common pathway
South	- Plot No.10
East	- Plot No.8
West	- 20 feet breath east west common pathway

The measurement of the property is 33 feet on East West and 39.5 feet on North and South. The total measurement of the Property is 1303.5 Sq.ft.

The property is located within the limits of Sivakasi panchayat union and Vellore panchayat in Ayyan Punjai Survey 170/6.

Petitioner side Documents :

Ex.P.1	01.09.2023	Appointment of Authorised Officer	True copy
Ex.P.2	--	Mortgage loan application	Compared with original
Ex.P.3	26.02.2015	Loan Sanction order	Compared with original
Ex.P.4	27.02.2015	Loan Agreement	Compared with original
Ex.P.5	04.03.2015	Memorandum of deposit of title deed by 1 st respondent	Compared with original

Ex.P.6	02.02.2021	Death certificate of Tamilselvam	Compared with original
Ex.P.7	11.12.2023	Copy of the Demand Notice U/s.13(2) of SARFAESI Act 2002 and Acknowledgement card	Compared with original
Ex.P.8	19.02.2024	Copy of Possession Notice issued by the petitioner to the respondents duly received by the respondents and Acknowledgement card	Compared with original
Ex.P.9	25.02.2024	Publication of Possession notice in English Daily	Original
Ex.P.10	25.02.2024	Publication of Possession notice in Tamil Daily	Original
Ex.P.11	--	Computerized Encumbrance Certificate	Online copy
Ex.P.12	--	Statement of Accounts	System Generated copy
Ex.P.13	20.03.2014	Settlement deed infavour of 1 st Respondent	Compared with original
Ex.P.14	--	National Housing Bank certificate	Compared with original

**Chief Judicial Magistrate,
Virudhunagar District at
Srivilliputhur.**

**Chief Judicial Magistrate Court,
Virudhunagar District at
Srivilliputhur.
Cr.M.P.No.210/2025
Order Dated: 08.09.2025**