

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
Friday this the 11th day of July 2025
CrI.M.P.No.223/2025
(CNR No.TNVR02-000983-2025)

Piramal Capital & Housing Finance Ltd.,
Rep. by its Authorized Officer
Mr.Vijay M Prabhakar
Palayamkottai,
Thirunelveli.

... Petitioner

/ Vs /

- 1) Mr.A. Ulaganathan,
No.6/490, Peththanachi nagar,
Lakshmi nagar,
Virudhunagar - 626 001.
- 2) Mrs.Bhakavathi,
W/o.A. Ulaganathan,
No.6/490, Peththanachi nagar,
Lakshmi nagar,
Virudhunagar - 626 001.

... Respondents

This petition came for final hearing before this Court on 27.06.2025 in the presence of Mr.V.Ganesan, 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 housing loan of Rs.26,58,887/- to the 1st respondent and the 2nd respondent stood as Co-borrower.

Due to the default of the respondents in repaying the loan amount, it was declared as Non Performing Asset (NPA) on 04.11.2021. 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 14.06.2021 calling upon the respondents to pay the dues to a tune of Rs.26,37,692/- as on 14.06.2021. 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 23.01.2024. The possession notice was also published in English and Tamil Newspaper on 28.01.2024. 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.P10 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.Piramal Capital & Housing Finance Ltd., which falls squarely within the definition of bank under section 2(1)(c) of the SARFAESI Act. The petitioner bank have produced Ex.P1, Authorisation letter issued by Mr.Bipin Singh, Company Secretary appointing Mr.Vijay M Prabhakar as authorized officer to represent the bank in the proceedings taken under SARFAESI Act.

(ii) The 1st respondent is the borrower. The 2nd respondent stood as Co-borrower. The respondents 1 and 2 have availed the housing loan against the property of the 2nd respondent to an amount of Rs.26,58,887 /-. Ex.P2, Loan Sanction letter and Ex.P3, Sanction letter shows that the respondents had availed loan as stated by the petitioner.

(iii) The loan has been sanctioned against the property of the 2nd respondent. Ex.P4 shows that the 2nd respondent is the absolute owner of the petition scheduled property. Ex.P5 is the Memorandum of deposit of title deed of the petition scheduled property executed by the 2nd respondent. The respondents 1 and 2 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.P10. The Memorandum of Deposit of title deed is reflected in the Encumbrance Certificate. It is also candid from Ex.P10, Encumbrance Certificate that the scheduled property is located in Chinnamoopanpatti 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.P9. Hence, the loan has been declared as Non Performing Asset on 04.11.2021 as per the guidelines of the Reserve Bank of India.

(v) The 1st respondent is the borrower and the 2nd respondent is the Co-borrower. 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.P6. The petitioner bank is thus entitled to take physical possession of the scheduled property. The petitioner bank has taken symbolic possession by issuing Ex.P7, possession notice, and the possession notice has been published in Tamil and English

Newspapers vide Ex.P8.

(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 **Mr.K. Eswaran (MS No.287/2011)** as Advocate Commissioner

1. to inspect the petition mentioned property after giving notice to both side;
2. to take inventories;
3. to take physical possession and immediately hand it over to the petitioner/secured creditor;
4. the Inspector of Police, Virudhunagar West Police station and the Village Administrative officer, Chinnamoopanpatti 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 22.07.2025.

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

SCHEDULE OF PROPERTY

விருதுநகர் பதிவு மாவட்டம், விருதுநகர் 2 நிர் இணை சார்பதிவுக அலுவலகம், விருதுநகர் வட்டம், சின்னமூப்பன்பட்டி கிராமம், பழைய பட்டா எண். 103-க்கு புதிய பட்டா எண்.138-இல் கண்ட சர்வே எண்.135/2A ஏக்கர் 2 செண்ட் 29-இல் அமைந்துள்ள மனைப்பிரிவுகளில் பிளாட் எண் 1 மனை நிலம் செண்ட் 6.74-இல் கீழ்புறம் மனைநிலம் செண்ட் 2.79-ம், வடமேற்கு மனைநிலம் செண்ட் 1.03-ம் ஆக மொத்தம் மனைநிலம் செண்ட் 3.82 க்கு நான்மால் அளவுகள் விபரம் :-

வடக்கே - சுந்தரநாயக்கர் நிலம்

தெற்கே - பிளாட் எண் 2 மனைநிலம்

கிழக்கே - பேளம்பட்டி கிராமம், சர்வே எண்.7/1-இல் சுமதி நிலமும், கோபால் நாயக்கர், மார்க்காள் வகையறா நிலமும்

மேற்கே - 20 அடி அகலமுள்ள தென்வடல் நீளப்பொதுப்பாதையும், எண்ணிடம் கிரையம் பெற்ற P. வினோத்குமார் மனைநிலமும்,

வைஷ்ணவர்களுக்குள்பட்ட இருதாக்குகளில் கீழ்ப்புறமுள்ள 1 வது தாக்குக்கு

அளவுகள் விபரம் :-

கீழ்தலை தென்வடலடி 39.1/4 (முப்பத்தி ஒன்பதேகால்)

மேல்தலை தென்வடலடி 41.3/4 (நாற்பத்தொன்றே முக்கால்)

வடதலை தென்தலை கிழமேலடி 30 (முப்பது)

அளவுள்ள 1215 ச.அடி பரப்பளவுள்ள மனைநிலமும்,

இதன் வடமேற்கிலுள்ள 2 வது தாக்குக்கு அளவுகள் விபரம் :-

மேல்புறமுள்ள 20 அடி அகலப்பொதுப்பாதையில் 10 அடி நிலம் சேர்த்து

வடதலை தென்தலை கிழமேலடி 40 (நாற்பது)

கீழ்தலை தென்வடலடி 9.3/4 (ஒன்பதே முக்கால்)

மேல்தலை தென்வடலடி 12.3/4 (பனிரெண்டே முக்கால்)

அளவுகளுள்ள 450 ச.அடி பரப்பளவுள்ள மனைநிலமும், ஆக வைஷ்ணவ இரு தாக்குகளில்

மொத்த விஸ்தீரணம் 1655 ச.அடிக்கு 154.682 ச.மீட்டர் பரப்பளவுள்ள மனைநிலம் சமஸ்தமும் வைஷ்ணவ சொத்திற்குரிய சகல இணைப்பு ரோடுகளிலும் மாமூல் பொதுப்பாதைப்பாத்தியம் சமஸ்தமும் வைஷ்ணவ சொத்து விருதுநகர் பஞ்சாயத்து யூனியனைச்சேர்ந்த சிவஞாண்புரம் கிராமப்பஞ்சாயத்து எல்லைக்குள்பட்டது.

Petitioner side Documents :

Ex.P.1	23.05.2024	Authorisation letter	True Copy
Ex.P.2	16.01.2018	Loan Application	Compared with original
Ex.P.3	24.01.2018	Loan Sanction letter	Compared with original
Ex.P.4	22.01.2018	Sale Deed in favour of the 2 nd respondent	Compared with original

Ex.P.5	06.02.2018	Memorandum of deposit of title deed and Supplementary MODT	Compared with original
Ex.P.6	14.06.2021	Demand Notice U/s.13(2) of Sarfaesi Act and Track consignment	Compared with original
Ex.P.7	23.01.2024	Possession Notice issued U/R.13(4) with Acknowledgment	Compared with original
Ex.P.8	13.10.2021 28.01.2024	Demand and Possession notice published in Tamil and English newspapers	Original
Ex.P.9	14.10.2024	Statement of Account	System Generated Copy
Ex.P.10	07.03.2025	Encumbrance Certificate	Online Copy

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

**Chief Judicial Magistrate Court,
Virudhunagar District at
Srivilliputhur.
Cr.M.P.No.223/2025
Order Dated: 11.07.2025**