

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 3rd day of March 2025
Crl.M.P.No.1949/2024

State Bank of India,
Stressed Assets Recovery Branch
No.8, Dr.Ambedkar road,
1st Floor, Madurai - 625 020.
(Upstairs of the SBI Vinayaka Nagar Branch)
(Represented by its authorized officer)

... Petitioner

/ Vs /

- 1) M/s.Sri Vetrivel Traders,
Represented by its Proprietor,
M.R.Karkuvel,
113/A, Avalappasamy Kovil Street,
Kattaiyapuram, Virudhunagar - 626 001.
- 2) M.R.Karkuvel,
S/o.M.Ramasamy Nadar,
Proprietor M/s.Sri Vetrivel Traders,
Old No.12/5A, New No.87, Ramasamy Street,
Kattaiyapuram, Virudhdunagar - 626 001.
- 3) K.Chithra,
W/o.M.R.Karkuvel,
Old No.12/5A, New No.87, Ramasamy Street,
Kattaiyapuram, Virudhdunagar - 626 001.

... Respondents

This petition came for final hearing before this Court on 17.02.2025 in the presence of Mr.P.Pethu Rajesh, 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 various Credit facilities to the tune of Rs.4,98,00,000/- to the 1st respondent and the 2nd and 3rd respondents stood as Guarantors. Due to the default of the respondents in repaying the loan amount, it was declared as Non Performing Asset (NPA) on 28.11.2023. 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 16.05.2024 calling upon the respondents to pay the dues to a tune of Rs.3,87,50,290/- as on 16.05.2024. 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 30.07.2024. The possession notice was also published in English and Tamil Newspaper on 01.08.2024. 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 properties.

3) Point for determination:

Whether the petitioner is entitled for assistance of this court in taking physical possession of the scheduled properties 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.P17 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.State Bank of India limited which falls squarely within

the definition of bank under section 2(1)(c) of the SARFAESI Act. The petitioner bank has produced Ex.P1, Authorization letter issued to A.Vijayakumar, Chief Manager of State Bank of India, Stressed Assets Recovery Branch, Madurai as authorized officer to represent the bank in the proceedings taken under SARFAESI Act.

(ii) The 1st respondent is the borrower. 2nd and 3rd respondents stood as Guarantors. The respondents 1 to 3 have availed the loan to an amount of Rs.4,98,00,000/-. Ex.P2, Letter of Arrangement; Ex.P3, Supplemental Agreement of Loan cum Hypothecation and Ex.P4, Guarantee Agreement shows that the respondents had availed loan as stated by the petitioner.

(iii) The loan has been sanctioned against the properties of the 2nd and 3rd respondents. Ex.P12 to P15 shows that the 2nd and 3rd respondents are the absolute owner of the petition scheduled properties. Ex.P5 is the memorandum confirming the Extension of the Existing Equitable Mortgage executed by the 2nd and 3rd respondents. The respondents have thus created security interest over the scheduled properties and the petitioner has valid and subsisting security interest over the scheduled properties.

The Encumbrance Certificate of the scheduled properties has been marked as Ex.P17. The Memorandum of Deposit of title deed is reflected in the Encumbrance Certificate. It is also candid from Ex.P17, Encumbrance Certificate that the 1st item of the scheduled properties is located in Kottaipatty Village, Virudhunagar District and 2nd item of the scheduled properties is located in Virudhdunagar Town, Virudhunagar District and 3rd and 4th item of the scheduled properties are located in Allampatti Village, Virudhunagar District and thereby within the jurisdiction of this Court. The respondents have thus created security interest over the scheduled properties and the petitioner bank has valid and subsisting security interest over the scheduled properties.

(iv) The respondents have defaulted in repayment of the loan amount obtained from the petitioner bank which is evident from Account Statement produced as

Ex.P16. Hence, the loan has been declared as Non Performing Asset on 28.11.2023 as per the guidelines of the Reserve Bank of India.

(v) The 1st respondent is the borrower. 2nd and 3rd respondents stood as Guarantors. The petitioner bank issued notice under section 13(2) of the SARFAESI Act to the respondents 1 to 3 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 properties. The petitioner bank has taken symbolic possession by issuing Ex.P9, possession notice and the possession notice has been published in Tamil and English Newspapers vide Ex.P11.

(vi) Though, the respondents have been served with the notice, they have not surrendered physical possession of the scheduled properties. The authorized signatory of the petitioner bank has affirmed on oath that the respondents are purposely delaying surrender of possession of the scheduled properties and that there is no stay granted against taking possession of the scheduled properties. 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 to 3 in repayment of the loan amount; the loan amount is not barred by limitation; the scheduled properties were offered as security for the loan amount secured and; the scheduled properties are 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 properties after taking proper inventory and also to handover the possession of the properties to the petitioner bank and as such this petition is liable to be allowed.

In the result, this petition is allowed thereby appointing **Mr.N.Malaikani (MS No.120/2007)** as Advocate Commissioner

1. to inspect the petition mentioned properties 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, West Police Station, Virudhunagar and the Inspector of Police, East Police Station, Virudhunagar and the Village Administrative officers, Kottaipatti, Virudhunagar Town and Allampatti are directed to provide suitable assistance to the Commissioner in executing the warrant in respect of the properties in their respective jurisdiction;
5. the Advocate Commissioner may break open any locks put to the doors of the scheduled properties 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 deposit of Commissioner fees call on 14.03.2025.

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

SCHEDULE OF PROPERTIES

Property -1 - In the Name of Mr.M.R.Karukuvel & Mrs.K.Chithra **(Covered under Sale Deed No 3295/2014 dated 09.07.2014)**

Factory Land & Building at Door No.3/482-1, 3/482-2 in Virudhunagar District, Virudhunagar Taluk, Virudhunagar Joint II SRO, Kottaipatti Village, Sy.No.448/1, out of 1 acre and 3 cents this Property is having extent of **50.56 Cents**. (Now sub

divided bearing New patta no.1108 ; Sy. No.448/1A)

Boundaries :

North : Land of Sankarapandian
 East : Land of Jeyachandran, Palraj
 South : Land of Jeyachandran, Palraj
 West : North-South Mathinayakanpatti Road

The Measurement of the Property is 178 1/2 feet on east west in northern side and 172 1/2 feet on east west in southern side and 138 1/2 feet on north south ineastern side and 112 1/2 feet on north south in western side. The Total measurement of the property is 22025.25 Sq.feet.

The Property jurisdiction of Virudhunagar Joint 2 Sub Registrar Office, Virudhunagar Regn. District.

The Property located within the limits of Virudhunagar Panchayat Union, Kooraikundu Panchayat.

Property No-2 - In the Name of Mrs.K.Chithra
(Covered under Sale Deed No 3342/2011 dated 08.09.2011)

Residential land with house bearing Door No.12/8, in T.S.No.488, Ramasamy Street, Survey Ward No.15, Virudhunagar Town, Virudhunagar Joint I SRO, Virudhunagar District. Total extent of the property is **457.84 Sq.Feet.**

Boundaries :

North : East West Ramasamy Street
 East : House of Rajammal
 South : House of Thayilkara Mandapam, House of Sivanuammal and common wall
 West : House of Pushba Gandhiammal and common wall

The Measurement of the property is 11 3/4 on east west in northern side and 11 feet on east west in southern side and 40 on north south in eastern side and 40 1/2 on north south in western side. The Total measurement of the property is 457.84 Sq.feet.

The Property is located within the limits of Virudhunagar Municipality. The Property is located within the Jurisdiction of Virudhunagar Regn. District, Virudhunagar Joint I SRO.,

Property No-3 - In the Name of MrM.R.Karkuvel
(Covered under Sale Deed No 834/2016 dated 10.03.2016)

Land with house building at Virudhunagar District, Virudhunagar Taluk, Allampatti Village, Sy.No.47/3, out of 3 acre 95 cents in this survey number 1 acre 95 cents divided into many plots and this plot bearing No.6 western side in New Sy.No.47/3B having extent of **1.156 Cents (503.625 Sq.Ft)** land and its constructed house bearing

Door No.4/68-19.

Boundaries :

North : 15 feet breadth east west common pathway

East : Plot No.6 Eastern portion of Chandra Mohan, Thangaselvi

South : Land in survey No.47/3C1B

West : Plot No.5 of Emma Raja

The Measurement of the property is 25 1/2 feet on north south including 7 1/2 feet on 15 feet common pathway and 19 1/4 feet on east west. The Total measurement of the property is 503.625 Sq.feet.

The Property is located within the limits of Virudhunagar Panchayat Union and Kooraikundu Panchayat.

The Property is located within the Jurisdiction of Virudhunagar Regn. District, Virudhunagar Joint I SRO.,

Property No-4 - In the Joint Name of MrM.R.Karkuvel
(Covered under Sale Deed No 1821/2016 dated 09.06.2016)

Land with house building at Virudhunagar District, Virudhunagar Taluk, Allampatti Village, Sy.No.47/3, out of 3 acre 95 cents in this survey number 1 acre 95 cents divided into many plots and this plot bearing No.9 western side in New Sy.No.47/3B having extent of **1.639 Cents (714 Sq.Ft)** land and its constructed house bearing Door No.4/68-20.

Boundaries :

North : 15 feet breadth east west common pathway

East : Plot No.10

South : Land in survey No.47/3C1B

West : Plot No.8

The Measurement of the property is 25 1/2 feet on north south including 7 1/2 feet on 15 feet common pathway and 28 feet on east west. The Total measurement of the property is 714 Sq.feet.

The Property is located within the limits of Virudhunagar Panchayat Union and Kooraikundu Panchayat.

The Property is located within the Jurisdiction of Virudhunagar Regn. District, Virudhunagar Joint I SRO.,

Petitioner side Documents :

Ex.P.1 13.09.2024 Authorisation letter

True copy

Ex.P.2 25.04.2022 Letter of Arrangement

Compared
with original

Ex.P.3	25.04.2022	Supplemental Agreement of Loan cum Hypothecation	Compared with original
Ex.P.4	25.04.2022	Guarantee Agreement	Compared with original
Ex.P.5	04.10.2021	Memorandum confirming the Extension of the Existing Equitable Mortgage	Compared with original
Ex.P.6	16.05.2024	Demand notice under section 13(2) of the SARFAESI Act with Acknowledgment Card	Compared with original
Ex.P.7	10.07.2024	Objection given by the Borrower Under Section 13(2) of the SARFAESI Act	Compared with original
Ex.P.8	15.07.2024	Consideration of the objection Under section 13(3)(A) of the SARFAESI Act	Compared with original
Ex.P.9	30.07.2024	Possession notice under section 13(4) of the SARFAESI act read with Security Interest (Enforcement) Rules, 2002 along with Acknowledgment card	Original
Ex.P.10	01.08.2024	Photograph showing the affixture of the Possession Notice in the mortgaged premise	Photo copy
Ex.P.11	01.08.2024	Paper Publication for the Possession notice in English and Tamil	Original
Ex.P.12	09.07.2014	Title deed in the name of 2 nd and 3 rd respondents for the 1 st property mentioned in the schedule	Compared with original
Ex.P.13	08.09.2014	Title deed in the name of 2 nd respondent for the 2 nd property mentioned in the schedule	Compared with original
Ex.P.14	10.03.2016	Title deed in the name of 3 rd respondent for the 3 rd property mentioned in the schedule	Compared with original
Ex.P.15	09.06.2016	Title deed in the name of 3 rd respondent for the 4 th property mentioned in the schedule	Compared with original
Ex.P.16	21.09.2023	Statement of Account for all the loan account	System generated copy
Ex.P.17	--	Encumbrance Certificate for the schedule mentioned mortgaged property	Online copy

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

**Chief Judicial Magistrate Court,
Virudhunagar District at
Srivilliputhur.
Cr.M.P.No.1949/2024
Order Dated: 03.03.2025**