

N 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

Wednesday this the 19th day of February 2025

Crl.M.P.No.1968/2024

UCO Bank,
Rajapalayam Branch,
through its Authorized Officer,
G.Ranjithkumar,
S/o.R.Ganesan

... Petitioner

/ Vs /

- 1) M/s.TSS Agri Farms,
Prop : T.S. Sankara Nandakumar Raja,
S/o. (Late)T.A.Sankar Raja,
5, Peria Mandai Street,
Rajapalayam - 626 117,
Virudhunagar District.
- 2) T.S. Sankara Nandakumar Raja,
S/o.(Late) T.A.Sankar Raja,
5, Peria Mandai Street,
Rajapalayam - 626 117,
Virudhunagar District.
- 3) T.S. Mahendra Raja,
S/o.(Late) T.A.Sankar Raja,
5, Peria Mandai Street,
Rajapalayam - 626 117,
Virudhunagar District.
- 4) Mrs.Umarani,
W/o.(Late) Navamohan Raja,
5, Peria Mandai Street,
Rajapalayam - 626 117,
Virudhunagar District.
- 5) Mrs.T.N.Sanadhana,
D/o.(Late) Navamohan Raja,
5, Peria Mandai Street,
Rajapalayam - 626 117,
Virudhunagar District.

- 6) Mrs.T.N.Soundarya,
D/o.(Late) Navamohan Raja,
5, Peria Mandai Street,
Rajapalayam - 626 117,
Virudhunagar District.

(3 to 6 Respondents are legal heirs of Guarantor
(Late)Drowpathiammal, W/o.(Late) T.A.Sankar Raja)

... Respondents

This petition came for final hearing before this Court on 05.02.2025 in the presence of Mr.M.Murugesan, 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 Agricultural Credit Short Term/ Term loan of Rs.9,00,000/- to the respondents. 1st Respondent is the company and 2nd respondent is the borrower and the respondents 3 to 6 are the Guarantors. Due to the default of the respondents in repaying the loan amount, it was declared as Non Performing Asset (NPA) on 31.12.2011 and 30.06.2012. 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 24.06.2010 calling upon the respondents to pay the dues to a tune of Rs.9,92,400/- as on 31.03.2010. The respondents though received the notice, they neither sent any reply nor paid the demand amount. The guarantors of the principal borrower also did not raise any objection and also have not repaid the 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 26.10.2010. The possession notice was also published in English and Tamil Newspaper on 30.10.2010. 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.P27 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.UCO Bank which falls squarely within the definition of bank under section 2(1)(c) of the SARFAESI Act. The petitioner bank has produced Ex.P1, Power of Attorney issued by Head Office to represent the petitioner bank in the proceedings taken under SARFAESI Act.

(ii) The 1st Respondent is the company and 2nd respondent is the borrower and the respondents 3 to 6 are the Guarantors. The respondents have availed the Cash Credit loan facilities against the properties of the mother and guarantor of 2nd respondent namely Mrs.Drowpathiammal, W/o.T.S.Sankar Raja. Ex.P2, Hypothecation of goods of secure 'A' Demand Cash credit; Ex.P5 Guarantee Agreement; Ex.P7, Memorandum of Title Deed show that the respondents had availed loan as stated by the petitioner.

(iii) The loan has been sanctioned against the properties of the mother and guarantor of 2nd respondent namely Mrs.Drowpathiammal, W/o.T.S.Sankar Raja. Ex.P4 show that the mother and guarantor of 2nd respondent namely Mrs.Drowpathiammal, W/o.T.S.Sankar Raja is the absolute owner of the petition scheduled properties. Ex.P7, Memorandum of Deposit of Title deed executed by the mother and guarantor of 2nd respondent namely Mrs.Drowpathiammal, W/o.T.S.Sankar Raja in respect of the petition scheduled properties. The respondents have thus created security interest over of the scheduled properties and the petitioner has valid and subsisting security interest over of the scheduled properties.

The Encumbrance Certificate of the scheduled properties has been marked as Ex.P25 to Ex.P27. The Memorandum of Deposit of title deed is reflected in the Encumbrance Certificate. It is also candid from Ex.P25 to P27, Encumbrance Certificate that the scheduled properties are located in Sammanthapuram Village, Rajapalayam Taluk, 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 Statements produced as Ex.P24. Hence, the loan has been declared as Non Performing Asset on 31.12.2011 and 30.06.2012 as per the guidelines of the Reserve Bank of India.

(v) The 1st Respondent is the company and 2nd respondent is the borrower and the respondents 3 to 6 are the Guarantors. The petitioner bank issued notice under section 13(2) of the SARFAESI Act to the respondents 1 to 6 demanding repayment of the loan amount. The notice under section 13(2) of the SARFAESI Act has been produced as Ex.P9. The petitioner bank is thus entitled to take physical possession of the scheduled properties. The petitioner bank has taken symbolic possession by issuing Ex.P10, 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 said 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 6 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 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.R.Jeevanatham (MS No.2607/2017)** 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, Rajapalayam North Police station and the Village Administrative officer, Sammanthapuram village, Virudhunagar District 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 deposit of Commissioner fees call on 01.03.2025.

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

Schedule of properties

Virudhunagar District, Rajapalayam Taluk, Municipal and SRO, Sammanthapuram Village, Peria Manthai Street, T.S.No.52, Survey Ward-A, Previous Natham S.No.77A/14B, property in the name of Mrs. S.Drowpathiammal, W/o.T.A. Sankar Raja Site measuring East West 48 feet and North South 64 feet totally 3072 Sq.feet (7 cents) and bounded on :

North	-	East West Road
West	-	North South path
South	-	Property of Narayana Ayyangar, Chinnaya Raja
East	-	Odai

As per sketch the site is like a triangle measuring West 16.6 meter, South 38 meter from North extreme to South Slandering towards South East measuring 32.2 meter total 7 cents owned by Mrs.S.Drowpathiammal, W/o.T.S.Sankar Raja.

Petitioner side Documents :

Ex.P.1	08.04.2021	Power of Attorney issued by the Head Office to the Authorised Officer of the Petitioner Bank	True copy
Ex.P.2	13.03.2008	Hypothecation of goods of secure 'A' Demand Cash Credit	Compared with original
Ex.P.3	13.03.2008	Demand Promissory Note	Compared with original
Ex.P.4	30.03.1978	Registered sale deeds vide Doc. No.434/1978 and 449/1978 in favour of the mother and	Compared with original

		Guarantor of the 2nd Respondent namely Mrs. Drowpathiammal, W/o. T.S.Sankar Raja (2 Nos)	
Ex.P.5	13.03.2008	Guarantee Agreement	Compared with original
Ex.P.6	09.02.2008	Legal Opinion	Compared with original
Ex.P.7	12.03.2008	Registered MOD executed by the mother and Guarantor of the 2nd Respondent in favour of the petitioner Bank vide Doc.No. 1230/2008 in SRO, Rajapalayam	Compared with original
Ex.P.8	25.07.2009 21.01.2010 04.11.2009	Reminder Notice issued by the petitioner Bank to the 2nd Respondent	Compared with original
Ex.P.9	24.06.2010	Section 13(2) Notice to the respondent with A/D	Compared with original
Ex.P.10	26.10.2010	Section 13(4) Notice to the respondent with A/D	Compared with original
Ex.P.11	30.10.2010	Paper Advertisement in the The Hindu	Compared with original
Ex.P.12	13.03.2023	Sale Notice issued by the Petitioner Bank to the Respondents	Compared with original
Ex.P.13	--	Returned Notice	Compared with original
Ex.P.14	13.03.2023	Paper Advertisement in the The Tamil Daily	Original
Ex.P.15	13.03.2023	Paper Advertisement in the The English Daily	Original
Ex.P.16	19.04.2023	Common order of the Hon'ble Madurai Bench of Madras High Court	Compared with original
Ex.P.17	08.08.2023	Sale Notice issued by the Petitioner Bank to the Respondents	Compared with original
Ex.P.18	17.08.2023	Returned Notice	Compared with original
Ex.P.19	08.08.2023	Paper Advertisement in the The Tamil Daily	Original
Ex.P.20	08.08.2023	Paper Advertisement in the The English Daily	Original
Ex.P.21	--	Photos of the schedule of property	photo copy
Ex.P.22	--	Sale Certificate	Compared with original

Ex.P.23	07.06.2024	Registered Sale Certificate for the schedule of property executed by the petitioners Bank in favour of Pravinth Ganesan, S/o. Ganesan vide Doc.No.2866/2024 in SRO, Rajapalayam	Compared with original
Ex.P.24	30.04.2012	Statement of Accounts	System generated copy
Ex.P.25	08.08.2024	Encumbarance Certificate ECA Online No.126524060/24 for the period of 44 years from 01.01.1975 to 12.02.2018 for schedule of property	Online copy
Ex.P.26	08.08.2024	Encumbarance Certificate ECA No.26524381/24 for the period of 1 year (13.02.2018 to 31.12.2018) for schedule of property	Online copy
Ex.P.27	08.08.2024	Encumbarance Certificate ECA No.126526061/24 for the period of 6 years (01.01.2019 to 05.08.2024) for schedule of property	Online copy

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

**Chief Judicial Magistrate Court,
Virudhunagar District at
Srivilliputhur.
Cr.M.P.No.1968/2024
Order Dated: 19.02.2025**