# IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 12th day of May, 2026

**Present: SMT. S.V. GOWRAMMA**
**Presiding Officer**

## SARFAESI APPLICATION No. 834 of 2024

S. Karthikeyani
w/o, Mr.Moorthy
No.8, Thangal main Road,
OM Mahalashmi Nagar,
Poonamalle, Tiruvallur – 600 056. ….Applicant

-Vs-

The Authorized Officer,
M/s. IDFC First Bank Ltd.,
Amarasri Building 3rd Floor,
No.455, Anna Salai, Teynampet,
Chennai -600 018. ….Respondent

**Counsels on record / appeared:**

Counsel for Applicant : M/s. T.S. Rajeev Gandh Anil Relwani,
J. Hema Kumar, R. Preetha Advocates.

Counsel for respondent : M/s. S.K. Mariyappan, S. Ram Prasad.

**ORDER ON SA 834/2024**

1. The present Securitization Application [SA] is filed on 22.11.2024 under sub section [1] of S.17 of the Securitization And Reconstruction of Financial Asset and Enforcement of Security Interest Act,2002 (for short the 'Act') challenging the action and the measure taken by the secured creditor under the Security Interest Enforcement Rules, 2002 [for short the Rules].

2. The applicant has challenged the Sec.14 order dated 08.11.2024 in Crl.M.P. No.10593 of 2024 passed by Chief Judicial Magistrate, Tiruvallur and the outstanding amount due as per Sec.14 order is Rs.67,25,915.93/-

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3. The applicant had availed a business loan from the respondent, and her mother late Chellamma Selvam, created an equitable mortgage in respect of the scheduled property and executed necessary security documents in favor of the respondent.

4. The borrower never allowed their loan account to become a NPA and has been remitting the payment's well in advance and there was no default for the statutory period so as to classify the applicant' account as NPA. The applicant's mother, who is the mortgagor, was hospitalized due to cancer, and applicant spent approximately Rs.12,00,000/- to cover medical expenses and she died on 14.09.2024. Hence, the applicant was unable to focus on her business, resulting in financial losses and some unpaid dues in the loan account, a fact well known to the respondent.

5. It is contended that the Applicant was made to sign many blank papers contents of which are not known to the Applicant and same are not binding on the Applicant.

6. It is mandatory on the part of the respondent to classify the loan account as NPA as per Sec.2(o) of the SARFAESI Act and in accordance with RBI guidelines. The respondent classified the loan account as NPA without following the RBI guidelines. Hence, the loan account of the applicant with the respondent is not an NPA and the respondent does not have any authority to enforce their security interest in over the property.

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7. The respondent, in S.14 petition, claimed to have issued a demand notice and a possession notice, which are not served to Applicant. The Applicant further submits that the possession notice was issued before the expiry of 60 days from the demand notice.

8. The applicant had approached the respondent for settlement, which was not accepted and the respondent had used back door method to evict the lawful possession of the property from the applicants thought the order Hon'ble CJM at Thiruvallur.

9. The respondent has not published the possession notice in leading newspapers in the locality, and that without compliance with the statutory requirements, the respondent ought not to have invoked the provisions of Section 14 of the SARFAESI Act.

10. The before Hon'ble CJM is only empowered to take physical possession of the property after taking inventory if necessary with the assistance of the police. The order has been misused by the respondent without the knowledge of the CJM and tried to throw out the applicant's.

11. Subsequently applicant requested the bank for some time for pay the installments, explaining the situation and request for redemption. However, the applicant were shocked and surprised that the Advocate Commissioner issued a letter dated 18.11.2024 directing them to vacate the schedule property within three days, failing which physical possession would be taken pursuant to the order dated 08.11.2024 in Crl.M.P. No. 10593 of 2024 passed by the Hon'ble Chief Judicial Magistrate, Tiruvallur.

12. On these grounds the applicant prays to set aside the Sec.14 order passed by the CJM, Tiruvallur.

13. The respondent has filed a detailed counter contending that the Applicant, along with Chellamma and Moorthy, approached the respondent for Loan Against Property facilities of Rs.40,00,000/- and Rs.7,95,148/- by mortgaging the schedule mentioned property, and the respondent sanctioned the said loans vide Sanction Letters dated 31.10.2019 and 03.10.2020 on the terms and conditions contained therein.

14. Subsequently the Applicant had executed a Loan Agreements Nos. 26615294 & 33842147 agreeing to repay the loan of Rs.40,00,000/- & Rs.7,95,148 with interest @18% & 9.25% p.a. to be repaid in 144 & 48 numbers of monthly installments each Rs.67,965/- & Rs.25,379/- respectively. The Applicant had created equitable mortgage by way of Memorandum of Deposit of Title Deeds on 06.12.2019 & 01.10.2020 registered as Document No.4453 of 2019 & 2780 of 2020, in the office of the Sub Registrar, Poonamallee over the Schedule Property.

15. The Applicant defaulted in the repayment and account has been classified as NPA on 03.01.2022. Hence, the bank has issued U/s.13(2) Demand Notice dated 14.11.2023, under the SARFAESI Act, calling upon the Applicant to make payment of the outstanding sum of Rs.67,25,915.93/- payable up to 14.11.2023 together with further interest till the date of payment, within a period of 60 days from the date of the notice and the same was sent through the register post along with

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acknowledgement cards. The demand notice was duly served to the borrowers and co borrowers.

16. Subsequently as abundant caution the respondent published the demand notice in two newspapers one in "The New Indian Express" (English Daily) and another one in "Dinamani" (Tamil Daily) both dated 01.02.2024.

17. Since no payment was forthcoming to repay the outstanding dues the respondent had taken Possession of the Secured Asset under Section 13(4) of SARFAESI Act vide Possession Notice dated 10.05.2024 which was affixed the conspicuous part of the secured assert and by drawing Panchnama to that effect. Subsequent to that the respondent has sent the intimation after taking Possession Notice dated on 14.05.2024 through Registered Post sent to the borrowers and the same is served on the Applicant. Thereafter the respondent effected the paper publication for possession notice in the daily newspapers one in The New Indian Express (English Daily) and another one in Dinamani (Tamil Daily-Vernacular language) both dated 15.05.2024.

18. The respondent has filed petition U/s.14 of SARFAESI Act along with all documents as mandated under the SARFAESI Act and supporting affidavit stating the procedures followed by the respondent. After perusal of documents the Hon'ble CJM, Tiruvallur passed an order dated 08.11.2024 in Crl.M.P.No.10593/2024 and appointed Ms. P. Nilomy as Advocate Commissioner to take physical possession of the secured asset.

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19. The Respondent bank countered all the averments made in the present SA and have followed all the procedures in accordance with Act. However, the applicant is misleading this Hon'ble Court to obtain the wrongful order. Hence, the above application is liable to dismissed. Further, the conditional order dated 27.11.2024 passed by this Hon'ble Tribunal also not complied with. Hence, the respondent prays for dismissal of the SA.

***Heard both sides of the Counsels and perused the records of the case***

20. The records reflects that the Applicant, along with Chellamma and Moorthy, approached the respondent for Loan Against Property facilities of Rs.40,00,000/- and Rs.7,95,148/- by mortgaging the schedule mentioned property, and the respondent sanctioned the said loans vide Sanction Letters dated 31.10.2019 and 03.10.2020 on the terms and conditions agreed to repay a loan of Rs.40,00,000/- & Rs.7,95,148/- with interest @18% & 9.25% p.a schedule to be repaid in 144 & 48 numbers of monthly installments each Rs.67,965/- & Rs.25,379/-.

21. The Applicant had created equitable mortgage by way of Memorandum of Deposit of Title Deeds on 06.12.2019 & 01.10.2020 registered as Document No.4453 of 2019 & 2780 of 2020, in the office of the Sub Registrar, Poonamallee.

22. In fact the applicant does not dispute the availing of the facilities and the mortgage of the property including the default in the repayment. Due

to continuous default in the repayment, the loan account of the applicant was classified as NPA on 03.01.2022 in accordance with RBI guidelines.

23. The respondent had issued the Sec.13(2) Demand Notice dated 14.11.2023 claiming an amount of Rs.67,25,915.93/- due as on 14.11.2023 along with other charges. The demand notice sent by RPAD which the borrowers and co-borrowers have received the demand notice as per the tracking consignment which is produced at pg.11-24, and as abundant caution, the demand notice is also published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 01.02.2024.

24. In spite of receipt of Sec.13(2) demand notice as the borrowers and the guarantors did not liquated the liability within 60 days and nor raised any objections to the demand made, the respondent bank has proceeded further under the Act.

25. The respondent issued the Sec.13(4) Possession Notice on 10.05.2024 sent through Registered Post with Acknowledgment, which the borrowers and co-borrowers have received the possession notice as per tracking consignment which is produced at Pg.30-38. The Possession Notice is published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 15.05.2024 and the Possession Notice is affixed on the conspicuous place of the property as per the photograph of affixture produced at Page No.39 and 40 of respondent bank's typed set.

26. As the applicants failed to repay the entire outstanding amount the bank has approached the CJM, Tiruvallur in u/s 14 of the SARFAESI Act. The Hon'ble CJM after perusal of the application and the loan documents produced by the respondent bank allowed the S.14 application on 08.11.2024.

27. Thus, it is evident that the Ld. Magistrate on examination of the pleadings in the S.14 application supported by the documents, have passed an order dated 08.11.2024 directing the Advocate Commissioner to take the possession of the property. Though the applicant has filed the present SA impugning the Sec.14 order dated 08.11.2024 passed by Ld. CJM, Tiruvallur has not pointed out any illegality in the measures taken by the respondent herein.

28. On the other hand, it is seen that the statutory notices, the Demand Notice dated 14.11.2023 and Possession Notice dated 10.05.2024 are issued to the applicants in accordance to law, applicants have waived right to raise any contention with regard to Sec.13(4) Possession Notice within the period of 45 days. Hence any contentions to Sec.13(4) Notice is barred by limitation.

29. It is appropriate to mention the declaration of The Hon'ble Supreme Court and various Hon'ble High Courts in various judgments has held that the power of Designated Court under Section 14 SARFAESI Act, 2002 is ministerial and non- adjudicatory in nature and the process to be followed

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under Section 14 does not involve any element of quasi-judicial function nor it requires any application of mind.

30. The Hon'ble Bombay High Court in the matter of ***Phoenix ARC Pvt. Ltd. Vs. The State of Maharashtra*** *has held that* Court is only required to verify the affidavit of Secured Creditor filed in pursuance of the proviso to Section 14 and nothing more. The above Bombay High Court judgment has since been confirmed by the Hon'ble Supreme Court by its judgment dated 26.09.2022 in the matter of ***Balakrishna Ram Tarle v. Phoenix ARC (P) Ltd.*** as under:

*"Thus, the powers exercisable by CMM/DM Under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements Under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings Under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal".*

31. The Supreme Court in the judgment of **Authorized Officer, Indian Bank v D Visalakshi and other,** has held that a Chief Judicial Magistrate is equally competent to deal with the application moved by the secured creditor under Section 14 of the SARFAESI Act. Hence, the Sec.14 dated 08.11.2024 in Crl.M.P. No.10593/2024 passed by the Hon'ble CJM, Tiruvallur is a valid Order.

32. Additionally, Section 14(3) of the SARFAESI Act statuses that no action taken by the Chief Metropolitan Magistrate or District Magistrate (or any officer authorized by them) under S.14 can be challenged in court or before any other authority. This provision ensures that the authority of these officials in enforcing security interests is final and not subject to further review.

33. Thus, the Sec.14 order dated 08.11.2024 in Crl.M.P. No.10593/2024 passed by the Hon'ble CJM, Tiruvallur is after due consideration of the application, affidavit in support of compliance of procedures along with documents is an execution Order issued where no adjudication is required. The Order is passed considering the due compliance of the provisions of the S. 14 [i-ix].

34. On examination of pleadings and documents produced by respective parties, the Tribunal comes to conclusion that the respondent bank as secured creditor has initiated measures under the Act after classifying the account as NPA.

35. Consequent to classification of account as NPA has issued S.13[2] Demand Notice followed by Possession Notice and have complied all the procedures as contemplated under the Act and the Rules with supporting documents. Thus it is held that the Demand Notice u/s S.13[2] dated 14.11.2023 and S.13[4] Possession Notice dated 10.05.2024 are held as valid notices issued under the Act.

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36. For the foregoing reasons, the present SA is dismissed. Interim Order granted, if any stands vacated, pending IAs are disposed of in terms of this final order. No order as to cost. Sd/-

**(S.V. GOWRAMMA)**
**PRESIDING OFFICER,**
**DRT-III, CHENNAI**

(*Dictated to Steno (Suriya), transcribed by him, corrected, signed and pronounced by me on this the 12th day of May, 2026)*

## ANNEXURES

## LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

| Sl. No. | Description of Documents | Documents No. |
|---|---|---|
| 1. | Death Certificate dated 19.11.2024. | A-1 |
| 2. | Impugned order in Crl.M.P.No.10593 of 2024 passed by Hon'ble Chief Judicial Magistrate, Tiruvallur dated 08.11.2024. | A-2 |
| 3. | Advocate commissioner notice dated 18.11.2024. | A-3 |
| 4. | Caveat Petition received from the respondent counsel dated 19.11.2024. | A-4 |

## LIST OF DOCUMENTS PRODUCED BY THE RESPONDNET

| Sl. No. | Description of Documents | Documents No. |
|---|---|---|
| 1. | Copy of Demand Notice under section 13(2) of SARFAESI Act along with postal receipt and tracking dated 14.11.2023. | R-1 |
| 2. | Copy of paper publication effected under section 13(2) of SARFAESI Act dated 01.02.2024. | R-2 |
| 3. | Copy of Possession Notice under section 13(4) of SARFAESI Act along with postal receipt and tracking dated 10.05.2024. | R-3 |
| 4. | Photos of Possession Notice dated 10.05.2024. | R-4 |
| 5. | Copy of paper publication effected under section 13(4) of SARFAESI Act dated 15.05.2024. | R-5 |
| 6. | Copy of Foreclosure of Accounts dated 08.03.2025. | R-6 |
| 7. | Copy of Board Resolution dated 09.05.2023. | R-7 |

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**SCHEDULE OF PROPERTY**

All that piece and parcel land and Building, comprised in S. No. 363/6A, 363/8, 363/9, Patta No.230, As per Patta New Survey No. 363/6A, 363/8A1, 363/9A, measuring with an extent of 36.74 Cents, (out of 57 cents), Situated at Poonamallee Village, Poonamallee Taluk, in Thiruvallur District, within the Sub- Registration District of Poonamallee and in the Registration District of South Chennai, Tamilnadu – 600056. And bounded as:

East : Vacant Land,
West : Vacant Land & Building,
North : 23 Feet Road,
South : Land & Building. Sd/-

**(S.V. GOWRAMMA)**
**PRESIDING OFFICER,**
**DRT-III, CHENNAI**

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