

FAIR ORDER



IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI
DATED THIS 19TH DAY OF JUNE 2026
PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No. 263/2025

1. Mr. Rafeek Raja
S/o Sharfudeen, Door No. 1008
Puthunatham East
Near to Ration Shop, Manaparai
Trichy – 621 310
2. Mrs. Sharmila Banu
W/o Rafeek Raja, Door No. 1008
Puthunatham East
Near to Ration Shop, Manaparai
Trichy – 621 310

..... **Applicants**

Vs

1. The Authorised Officer
Sundaram Home Finance Ltd.,
Corporate Office, Sundaram Towers
No. 46, Whites Road
Chennai – 600014
2. The Branch Manager
Sundaram Home Finance Ltd.,
Trichy Bus Operators Association Building “Bus Plaza”
No. 5-G, 2nd Floor, Lawson Road
Cantonment, Trichy 620 001
3. The Chief Judicial Magistrate
Karur District

..... **Defendants**

Appearance of Advocates:

M/s P. Thirumahilmaran---- Counsel for the Applicant

Mr. M. Senthil Kumar ---- Counsel for the Defendant Bank

2nd Defendant is none other than the Ld. CJM, Karur District.

This Application was heard in the presence of M/s P. Thirumahilmaran, Counsel for the Applicant and Mr. M. Senthil Kumar, Counsel for the Defendant Banks in the aforesaid case and upon hearing the arguments of both sides Counsels and having stood over for consideration till this day, this Tribunal delivered the following:

ORDER

1. This Application has been filed under Section 17(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 with a prayer to set aside the Cr. M.P. No. 426/2025 passed by the Chief Judicial Magistrate, Karur dated 14.03.2025 issued by the Defendant Banks under section 13(4) of the SARFAESI Act, 2002.

2. The brief averments of the Application filed by the Applicant are as follows:-

FACTS OF THE CASE

- i. It is submitted that the 1st applicant is the borrower and 2nd applicant is the guarantor of the loan which was granted by 2nd defendant finance. The applicant is running a textile business and in order to promote the business, the applicant approached the 2nd defendant finance for a term loan. The 2nd defendant also agreed to sanction of Rs.47,50,000/- and the loan was sanctioned and disbursed in the month of April, 2022. EMI has been fixed as Rs.67,464/- and rate of interest was fixed as 11.5% for the total tenure of 120 months. It is further case of the

Applicant that, the 2nd defendant finance did not issue any sanction letter to the applicant, when the applicant was pressing for the same, the defendant finance replied that it should be issued later point of time.

- ii.** It is further submitted that the applicants were regularly paying instalment to the 2nd defendant finance, even in the period of COVID-19 pandemic, the 2nd defendant forced them to pay the instalments. During that period, the applicants paid the instalments regularly. When the applicants are paying the instalments regularly, the 1st defendant issued the demand notice under section 13 (2) of Securitization and Reconstruction of Financial Assets and Enforcement of Interest act, 2002 (herein after referred as SARFAESI Act) on 29.06.2024, and therein the date of NPA was mentioned as on 29.06.2024, the principal and interest outstanding as on 29.06.2024 for a sum of Rs.45,38,466/- and penal interest of Rs.67,061/- and the total outstanding amount mentioned as Rs.46,06,670/- as on 29.06.2024. The 1st defendant finance without following the Reserve Bank of India (herein after referred as RBI) guidelines issued the Demand notice dated 29.06.2024.
- iii.** It is submitted that the defendant finance has affixed the possession notice dated 11.09.2024 and due amount has been mentioned as Rs.48,28,031/- as on 11.09.2024. Even after issuance of possession notice the applicant made payments on the following dates:-

Sl. No.	Date	Amount
1	24.09.2024	67,464
2	25.09.2024	67,464
3	30.09.2024	67,464
4	13.11.2024	67,464

but inspite of payments by the applicants, the defendant finance has issued Eviction Intimation Notice to the applicants, under section 14 of SARFAESI Act to take physical possession of the schedule of property and it was mentioned therein to keep the secured property vacant. The 3rd respondent has not sent any notice to the applicant throughout the proceedings. The CJM order was passed behind the back of the applicants. After the eviction intimation notice, only the applicant came to know about the order passed by the CJM under section 14 of SARFAESI Act and it was taken from online. After the issuance of demand notice, the applicant has been paying instalments regularly to the defendant finance without any default. So far totally 27 instalments paid to the defendant finance of a sum of Rs. 18,21,528/- and the total tenure is 120 months. Therefore, the instalment is not yet over, the applicant is paying the instalment regularly to the bank, in such circumstances, recalling the loan account and the order passed by the 3rd respondent is without basis, against the law and violated the SARFAESI Act & Rules. Now the applicant is challenging the order passed in CrI.MP No.426 of 2025 dated 14.03.2025 under section 14 of the SARFAESI Act. The order is void-ab-initio as violation of principles of Natural Justice. The application filed by the defendant finance under section 14 of SARFAESI Act which is not proper and the proviso has not been followed by the defendant finance before passing orders. Hence the order passed by the 3rd respondent is liable to be set aside.

- iv.** It is further submitted that the defendant finance without issuing notice under section 13 (4) of the SARFAESI Act and Rule 8 (1) & (2) of the Security Interest (Enforcement) Rules, 2002 straight away initiated the proceedings under section 14 of

the SARFAESI Act. is unjust, illegal and against the law. Hence the order passed by the CJM, Karur is liable to be set aside.

- v. It is humbly submitted that now the defendant finance is taking steps to take physical possession of the property is not only illegal but also inhuman. The applicants have got right which is guaranteed under Article 300A of the Constitution of India. The schedule of property is a dwelling house.
- vi. In such circumstances the applicants have got no other way except to approach this Honourable Tribunal for challenging the order passed in CrI.M.P No.426 of 2025 on the file of Chief Judicial Magistrate, Karur filed under Section 14 of the Securitization and Reconstruction of Financial Assets on 14.03.2025 as it is illegal, void-ab-initio and liable to be set aside. Hence order passed in CrI.M.P No. 426 of 2025 on the file of Chief Judicial Magistrate, Karur on 14.03.2025 is liable to be set aside for the following among other.

MAIN GROUNDS:

a) The defendants have to follow the procedure contemplated under section 14 of SARFAESI Act for taking physical possession of the property. Under Section 14 of SARFAESI Act.

b) That after issuance of Demand notice, the applicants have paid instalment amount to the defendant finance, but without considering the same, the order has been passed. Hence the order passed by the CJM, Karur is liable to be set aside.

c) No notice was issued to the applicant in the above said Cri M.P No.426 of 2025. Hence the order passed in CrI.M.P. No. 426/2025 on the file of CJM, Karur dated 14.03.2025 under section 14 of the

SARFAESI Act is violation of principles of natural justice, void-ab-initio and liable to be set aside.

d) That without issuing notice under section 13 (4) of the SARFAESI Act and Rule 8 (1) & 2 of the Security Interest (Enforcement) Rules, 2002., the defendant finance straight away initiated the proceedings under section 14 of the SARFAESI Act. to take the physical Possession is unjust, illegal and against the law Hence the order passed by the CJM, Karur is liable to be set aside.

e) Unless the secured assets is registered with the concerned central government department, the secured creditor cannot enforce his right under SARFAESI Act, 2002. Hence the creditor is not secured creditor under the SARFAESI Act, they cannot invoke the SARFAESI act to recover due amount.

g) The defendant finance did not give any particulars regarding when the loan account was defaulted and how long the applicant was not maintaining the account limit, there is no such particulars mentioned in the Demand notice. Hence the issuance of the demand notice by the defendant bank is not as per law

h) That the authorised officer would not be appointed in the same finance, because he is a statutory authority, he has to take decision independently without any favour to the creditor.

l) That the defendant finance informed to the applicant for availing housing loan, interest will be charged as per the Reserve Bank of India Guidelines. But actually, at the relevant point of time, Reserve Bank India has fixed interest at rate of 6.5% to 7.5% for housing loan. The defendant finance assured to the applicant that interest is charging as per the Reserve Bank of India guidelines alone. The

defendant finance have obtained signature in the blank papers, loan agreement without filling the interest column of the agreement. Thereafter the defendant finance have informed to the applicant that interest has been charged at the rate of 11.5% per annum without following the Reserve Bank of India Guidelines. The defendant finance couldn't charge interest at rate of 11.5% and cannot evade the Reserve Bank of India guidelines. Hence the order passed by the CJM, Karur is liable to be set aside.

Applicants submitted following Citations as below :

1.	2014(2) SCALE 331
2.	2009 (9) SCC 92
3.	AIR 1975 SC 915
4.	II 2020 BC 97 (DRAT)
5.	IV 2015 BC 292 (DB) (MP)
6.	IV 2025 BC 18 (DRAT)
7.	IV 2023 BC 25 (DRAT)

SCHEDULE OF PROPERTY

All the piece and parcel of the property located in admeasuring 1302 square feet, in respect of old natham S.F. No. 289/7 present New S.F. No. 485/10. Located at Door No. 20/99, 20/99A, 20/99B, Vethachalapuram. Thogamalai, Thogamalai Village, Kulithalai Taluk, Karur District, Manapari Sub Registration District, Trichirappalli Registration District and bounded on the :

North by : Common Lane
South by : Property belongs to Arumugam and Thangavel
East by : Dhanalakshmi and Karuppan Building
West by : Ponnusamy and others house

Bounded by in Southen side of East West 30 feet, in Northern side of East West 32 Feet, in Western side South North 42 Feet, measuring an

extent of totally 1302 Square feet, Natham Patta No. 197, situated within the Registration District of Trichirappalli and Sub Registration District of Manaparai which is more fully and particularly described in the Title Deed No. 7576/2021.

Documents filed by the Applicants:

Sl.No.	Date	Documents particulars
1.	29.06.2023	Demand Notice
2.	11.09.2024	Affixture Possession Notice
3.	14.03.2025	Order passed in Crl. M.P. No. 426 of 2025 on the file of Chief Judicial Magistrate, Karur
4.	25.03.2025	Letter issued by the Defendant intimation
5		Proof of Payments

3. On the other hand, the Defendant bank appeared and filed Vakalath, Reply Statement along with type set and additional type set of papers wherein it has been submitted that the allegations contained paragraphs 5(i) to (v) of the application are all denied as incorrect and misleading. It is true that the 1st Applicant was granted term loan of Rs 47,50,000/- (Rupees Forty Seven Lakhs and Fifty Thousand only) and the monthly instalment was fixed at Rs.47,464/- (Rupees Forty Seven Thousand Four Hundred and Sixty Four only) and the Applicants have mortgaged the Secured Asset as security for due repayment of the loan, but the Defendant submitted that the Applicant is very irregular in the repayment of the loan instalments. The Applicant's loan account has been declared as N.P.A on 29.06.2024. The 1st Defendant has issued the Demand Notice to the applicants on 29.06.2024 and the same was also received by the Applicants on 05.07.2024. The Applicants have not sent any representation/objections to the said demand notice sent by the 1st Defendant.

- The 1st Defendant submitted that since the applicants have not repaid the entire loan outstanding within a period of 60 days

from the date of receipt of the demand notice, this Defendant has issued the Possession Notice on 11.09.2024. The Possession Notice was pasted over the Secured Asset on the same day. In fact the applicants have produced the Possession Notice which was affixed over the Secured Asset. The Possession Notice was also served through Registered Post on 16.09.2024 and the same was received on 20.09.2024. The Possession Notice was also duly published in the Tamil daily "Dina Mani" on 13.09.2024 and in English Daily "The New English Express" on 13.09.2024. As such this defendant has duly followed the procedures as contemplated under law while initiating the recovery action and also while taking the symbolic possession of the property. It is further submitted that the applicants were falsely alleging that the Symbolic Possession Notice was not issued to them. The Defendant have also filed an affidavit before the Hon'ble Chief Judicial Magistrate Court, Karur stating that there is no interim order granted by any court or Tribunal with regard to recovery action initiated by this Defendant.

- Further it is submitted that the Hon'ble Chief Judicial Magistrate Court, Karur after analyzing and verifying all the documents on the side of this Defendant, was pleased to pass an order on 14.03.2025 appointing an Advocate Commissioner to take physical possession of the property. It is further submitted that no prior notice was contemplated under law to be served on the borrowers/ guarantors before passing an order u/s 14 of the SARFAESI Act. In the above said circumstances, the impugned order passed by the Hon'ble Chief Judicial Magistrate Court, Karur is perfectly valid and legal.
- It is also submitted that even at the time of sanction of the loan amount, the rate of interest was duly explained to the Applicants

and the Applicants have consented for the rate of interest and penal interest and have signed the contract. Hence the applicants cannot now come and say that this Defendant is charging excessive interest. This Defendant submits that interest is being charged only on the contractual rate and the applicants are liable to pay the claim amount as per the notice.

- This Defendant further submitted that since the applicants have not paid the entire loan outstanding as claimed in the demand notice, they are entitled to continue the recovery action under the SARFAESI Act. and accordingly the Possession Notice was duly issued and the symbolic possession was taken on 11.09.2024. This Defendant submits that he/she has been duly appointed as an Authorised Officer as per the guidelines issued by the Reserve Bank of India and as such the entire recovery action is valid and legal. The applicant is a chronic defaulter and he cannot accuse this defendant of acting arbitrarily and inhumanly. This Defendant has duly followed the procedures contemplated under the SARFAESI Act. In the above circumstances the entire recovery action is perfectly valid and legal and the applicants are not entitled for any compensation as prayed for. There are no merits in the present application. The applicant does not have any cause of action to file the present application and the causes of action mentioned in the application are all wrong and imaginary.

Documents filed by the Defendants:

Sl. No.	Particulars
1.	Demand Notice dated on 26.09.2024
2.	Acknowledgement card of Demand Notice
3.	Possession Notice dated 11.09.2024
4.	Tracking consignment of Possession Notice

5.	Paper Publication possession Notice in “Dinamani” dated on 30.09.2024
6.	Paper Publication Possession Notice in “The Indian Express” dated on 30.09.2024
7.	Photograph Affixture of Possession Notice to the schedule property
8.	Chief Judicial Magistrate order in CrI.M.P. No.426/2025 dated on 14.03.2025
9.	CERSAI Report dated on 01.09.2025
10.	Statement of Accounts

Additional Typedset of papers filed by the Defendants:

Sl. No.	Dates	Original of particulars
1.	03.04.2024	Postal Receipts of Demand Notice dated on 26.09.2024
2.	05.07.2024	Acknowledgement cards of Demand Notice
3.	14.09.2024	Postal Receipts of Possession Notice dated 11.09.2024
4.	16.09.2024	Acknowledgement Cards of Possession Notice
5.	13.09.2024	Paper Publication of Possession Notice in “Dinamani” dated on 13.09.2024
6.	13.09.2024	Paper Publication of Possession Notice in “The New Indian Express” dated on 13.09.2024

4. ON THE BASIS OF ABOVE PLEADINGSTHE POINT WHICH ARISES FOR CONSIDERATION IS:-

WHETHER THE APPLICANT IS ENTITLED TO GET THE RELIEFS AS PRAYED FOR?

5. Having heard the parties and after going through the entire documents available on the records, this Tribunal find that there is no dispute between the parties with regard to the availment of loan facilities. In this case, I find that the Applicants has availed some credit facilities

for a total sum of Rs. 47,50,000/- (Rupees forty seven lakhs fifty thousand only). It is further case of the applicant that he was regular in repayment loan dues, even in pandemic year of Covid he paid the instalment but the 1st Defendant Bank has classified his loan account as NPA on 29.06.2024. And, then the Bank has issued Demand Notice dated 29.06.2024 u/s. 13(2) of SARFAESI Act for a sum of Rs. 46,06,670/- (Rupees forty six lakhs six thousand six hundred seventy only). Thereafter, a Possession Notice dated 11.09.2024 u/s. 13(4) of SARFAESI Act was also issued by the 1st Defendant Bank. And, then the Bank has obtained an Order dated 14.03.2025 in Cr.M.P.No. 426/2025 from the 3rd Defendant for taking Physical Possession of the property. Challenging the same, the Applicant has filed this SA No. 263 of 2025.

6. On the other hand the bank has denied that applicant was regular in payment of loan amount rather it is stated by the Defendant Bank that when the applicant defaulted in repayment of EMI then the 1st Defendant Bank issued a Demand Notice dated 29.06.2024 under Section 13(2) of the SARFAESI Act for a sum of Rs.46,06,670/- **(Rupees forty six lakhs six thousand six hundred seventy only)** to the borrower and the co-borrower by registered post with acknowledgment due. I perused the documents filed by the 1st Defendant Bank and I also find that, the Bank has produced a copy of the Demand Notice **(annexed at pages 01 to 05 of the Bank's typed set of papers)** along with the postal acknowledgment (AD) cards as proof of service served on Applicants **(annexed at pages 06 to 18 of the Bank's typed set of papers)**. Further, I find that the Applicants did not send any reply to the Demand Notice under Section 13(3-A) of the SARFAESI Act and failed to make any representation to the 1st Defendant Bank.

7. Thereafter, the 1st Defendant Bank issued a Possession Notice vide dated 11.09.2024 under Section 13(4) of the SARFAESI Act for a sum of Rs.48,28,031/- **(Rupees forty eight lakhs twenty eight thousand**

thirty one only). On perusal of the records, I find that the 1st Defendant Bank has filed the copy of the Possession Notice (**annexed at pages 19 of the Bank's typed set of papers**), Track consignment (**annexed at pages 20 to 31 of the Bank's typed set of papers**), and paper publications of the Possession Notice (**annexed at pages 32 & 33 of the Bank's typed set of papers**) and also produced the original copies of the Postal receipts of Demand Notice & Possession Notice along with AD cards and paper publications of the Possession Notice in two leading newspapers, one in English and the other in Tamil. Further I find that, 1st Defendant Bank, stated in its Reply Statement that, the Possession Notice was affixed on the conspicuous part of the property and also produced photographs evidencing such affixture on the conspicuous part of the property (**annexed at pages 34 to 36 of the Bank's typed set of papers**). Further, the applicant has also admitted in his pleading (**Page No. 6**) that "*the Defendant finance has affixed the possession notice dated 11.09.2024*". Thus, I find that the 1st Defendant Bank has followed the SARFAESI procedures, while issuing the Possession Notice.

8. Thereafter, the 1st Defendant Bank obtained the impugned order dated 14.03.2025 passed by the 3rd Defendant in Cr.M.P. No. 426/2025 (**annexed at pages 37 to 45 of the Bank's typed set of papers**) for taking physical possession of the secured asset. However, the Applicant was unaware of the said order. Challenging the same, the Applicant has filed the present SARFAESI Application. In the present case, it has already been observed that the 1st Defendant Bank has strictly complied with the procedures prescribed under the SARFAESI Act while issuing the Possession Notice. Hence, the order passed by the Learned Chief Judicial Magistrate for taking physical possession of the secured asset is sustainable in the eye of law.

9. In view of the above discussion, I find that the 1st Defendant Bank has proceeded under the SARFAESI Act and Rules for recovery of the

loan amount from the Applicants and he has strictly followed the procedure prescribed under the SARFAESI Act and Rules.

10. Under the above facts and circumstances of the case, this Tribunal is of the considered view that Applicant has failed to prove his case.

In the result, **SA No. 263/2025 stands dismissed** with no costs.

(Dictated to KKN taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 19th June, 2026).

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER