

IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 02nd day of July, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

SARFAESI APPLICATION No. 61 of 2026

K.Kesavan,
S/o.Late Kaliyamurthy Pillai,
2/80 East Street, Vadugakudi,
Kodavasal Taluk,
Thiruvavarur District. 609 501.

....Applicant

-Vs-

The Authorized Officer, Indian Overseas Bank
Manavalanallur Branch
No 3/38/B, Main Road, Eravancherry
Manavalanallur, Nagapattinam - 609501

....Respondent

Counsels on record / appeared:

Counsel for Applicant : M/s. A. Sam Arul Prasath

Counsel for respondent : Mrs. V. Rajeswari

ORDER ON SA 61/2026

1. The present Securitization Application [SA] is filed on 21.01.2026 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 is the Guarantor and Mortgagor to the loan of Rs.8 Lakhs availed in the year 2018 has filed present SA challenging the Sec.14 order dated 12.11.2025 in CrI.M.P. No.615 of 2025 passed by Chief Judicial

Magistrate, Tiruvarur and the outstanding amount due as per Sec.14 order is Rs.29,97,000/-

3. Along with SA applicant has filed IA.200.2026 seeking for stay of the sec.14 order, the Tribunal recording the submission of the bank that the property is already sold and have issued Sale Certificate on 28.02.2025 dismissed the IA No.200/2026 in SA.No.61.2026.

4. Aggrieved by dismissal of stay application, the applicant preferred an appeal before the Hon'ble DRAT. The Hon'ble DRAT has directed this Tribunal to consider the issue of service of demand notice and to dispose of the SA.61.2026 as expeditiously as possible.

5. The respondent bank has filed detailed counter to the SA contending that applicant is the guarantor/mortgagor and borrower availed the loan of Rs.8 Lakhs in the year 2018. Though the borrower has paid interest in every month as per the loan agreement, applicant had also created equitable mortgage and had executed the documents in favoring the respondent bank. The borrower made payments in time, but has classified the loan account of the borrower as NPA which is incorrect, false and violative of the RBI guidelines.

6. It is submitted that as per Sec.2(o) of the Act, it is mandatory for the bank first to classify the account as NPA in accordance with the directions. The averment that the loan account is not an NPA and the respondent bank does not have any authority to enforce the security over the property is denied.

7. It is contended that the Advocate Commissioner informed the applicant's wife on 03.01.2026 informing the order of the Hon'ble CJM order dated 12.11.2025 in Cr.M.P.No.615 of 2025 and to vacate the premises. Further, the respondent bank without issuing any demand notice and possession notice and sale notice have obtained the order from Hon'ble CJM, Tiruvarur, hence, the applicant approached the bank and requested time to make the payment.

8. It is contended that the secured asset is not registered with the central registry as mandated under the Act taken by the bank is without issuing the statutory notices.

9. The secured asset is only property of the applicant and applicant seeks reasonable time to pay the loan. Being aggrieved by the Sec.14 order the present SA is filed on the grounds that Sec.13(2) is not served and the bank has obtained the Sec.14 order without issuing the demand notice, and without filing the proper affidavit and has not followed the provisions.

10. Further it is alleged that the bank has not affixed the demand notice and published in the two newspapers as under Rule 8(2) of SIE rules. On these grounds, the applicant prays to set aside the Sec.14 order passed by Chief Judicial Magistrate, Tiruvarur.

11. The respondent bank has filed the detailed counter along with the supporting documents inter alia contending that the property is already sold under the SARFAESI Act and Sale Certificate was issued on 28.02.2025

which is registered and the applicant being well aware of the sale proceedings and has not impugned the same in any court. The applicant has deliberately not vacated the premises and the bank is not able to deliver vacant possession to the auction purchaser.

12. It is the case of the bank that one Ms. G.K. Aarthy, with her Father Mr. G. Kaliyamoorthy had availed Education Loan of Rs.8 Lakhs form the respondent bank and against mortgage of the property of the applicant consisting of residential house in land measuring 35 cents situated at Vadugakudi Village, Kodavasal Taluk, Thiruvarur District and his personal guarantee. The applicant is the uncle of Ms. Aarthy and had availed for studying MBBS.

13. Due to default in the repayment, the loan account was classified as NPA on 01.05.2023 and respondent had issued a demand notice on 06.11.2023 demanding an amount of Rs.19,91,000/-. The demand notice issued to the borrower was duly served, while the notice sent to the applicant has returned with the endorsement "Unclaimed".

14. Further, there was no representation to the demand made hence, the bank took symbolic possession of the property on 08.07.2024 which was published in two newspaper one in Tamil "Dinathanthi" and another one in English "The Hindu" both dated 10.07.2024. The possession notice issued to the applicant was returned undelivered with the endorsement "Unclaimed" and was also affixed on the property.

15. The respondent bank took the valuation of the property and issued the sale notice on 20.01.2025 fixing the sale for Rs.29,72,000/- and the sale was successful and the purchaser paid the entire amount and sale certificated was issued on 28.02.2025 which is also registered subsequently.

16. As the applicant resisted for taking possession of the property, the respondent bank has filed the Sec.14 application in CrI.M.P.No.615 of 2025 for taking physical possession of the property, which came to be allowed on 12.11.2025 and the order copy was received by the bank on 19.11.2025.

17. The Advocate Commissioner visited the property on 03.01.2026 and handed over the copy of the warrant to the wife of the applicant who has acknowledged the same. The applicant wife Mrs. K. Nirmala gave a request letter to the Advocate Commissioner on same day seeking 15 days' time to vacate the premises. However, the applicant failed to deliver the possession even after expiry of 15 days and now has approached this Hon'ble Tribunal on false and flimsy grounds.

18. In the counter to the para wise averments, the respondent bank denies the allegation made in the present SA and submits that the applicant is the guarantor to the term loan of Rs.8 Lakhs availed by the borrower for her studies and was not regular in the repayment of the EMI and even after the completion of medical course. Hence, the applicant has created the equitable mortgage as security and due to default in the repayment, hence, the loan account was classified as NPA as per the RBI guidelines.

19. The demand notice was duly received by the borrowers who are none other than the niece and uncle of the applicant and the applicant refused to accept the demand notice and the same returned with endorsement "Unclaimed" which is considered as due service. Similarly, the possession notice also is well within the knowledge of the applicant and the notice is received by his uncle Mr. Kaliyamoorthy, who is a co-borrower. Hence the allegations that the demand notice and possession notice is totally fails.

20. On 03.01.2026 the applicant wife who was availed in the property received the warrant and acknowledged the same and mad a request to wait for 15 days with an undertaking to vacate the premises. The applicant wife letter dated 03.01.2026 produced by the applicant in pg.No.16 of the SA book which clearly reflect that the applicant being fully aware of the sale process, the repayments made by the borrower were promptly credited to the loan account and Sec.13(4) possession notice was duly served and Authorized Officer has filed an affidavit before the Ld. CJM in due compliance of the law and the bank has followed all the procedures. Hence, the respondent bank prays for dismissal of the SA.

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

21. The applicant is the Guarantor and Mortgagor to the loan availed and mortgaged his property as Collateral security towards the Credit facilities. The mortgage is registered before the Central Registry and the respondent

bank had filed CERSAI report duly evidencing registration of the security interest with the central registry which is produced at Pg.8-11 of counter.

22. Admittedly, the bank has initiated measures under the SARFAESI Act and issued Sec.13(2) Demand Notice after classifying the account as NPA on 01.05.2023. The Sec.13(2) Demand Notice was issued on 06.11.2023 and the bank has produced all documents for due service of the Section 13(2) Demand Notice. The demand notice clearly describes the types of loan availed, the nature of facility and the documents executed by the borrowers. Further the description of the properties is clearly mentioned in the S.13(2) demand notice.

23. It is the contention of the applicant that the Sec.13(2) Demand Notice sent by RPAD, was returned to the sender with the postal endorsement as "unclaimed" which is produced at Page No.15. However, the notice sent to Mr. V.G KaliyanMoorthy and GK Aarthy is duly received which is produced at Pg.16 and 17 of counter. In spite of receipt of Sec.13(2) demand notice as the borrower and the guarantor did not liquidate the liability within 60 days and nor raised any objections to the demand made, the respondent bank has proceeded further under the Act.

24. The respondent issued the Sec.13(4) Possession Notice on 08.07.2024 sent through Registered Post with Acknowledgment, which was not served borrower and guarantor, wherein the RPAD cover at Page No. 20 and 21 reflects the endorsement as "Unclaimed" "Left India Return to sender". However, the notice sent to V.G. Kaliyamoorthy was duly served,

as evidenced at Page 22. The possession notice is also published in two newspapers one in English "The Hindu" and another one in Tamil "Dinathanthi" both dated 10.07.2024 and affixture of possession notice is produced at pg.23 and 24 of respondent bank's typed set.

25. Further applicant admits the issuance of notice by the Advocate Commissioner and the Applicant's wife sought 15 days' time from 03.01.2026 which has admittedly expired. When the query was posed to the counsel for applicant whether the guarantor had given any change of address after leaving India. It was admitted by the Counsel that no such communication or change of address was intimated to the bank or to the postal authorities.

26. However, the bank issued the notice to the address available as per the bank records and the applicant's wife who has available at the property has received the Advocate Commissioner notice and admittedly have also given the letter, seeking time to vacate as per letter at Page No.16 of SA Book, seeking for 15 days' time to vacate the premises. Hence, Section 13(2) and Section 13(4) returned as the Guarantor left India, without any intimation of change of address is deemed service.

27. The records reflects that the bank has sold the property and sale certificate is issued on 28.02.2025 which is produced at Page No.27-40 of counter.

28. The respondent bank has filed an application u/s.14 in CrI.M.P.No.615.2025 along with the affidavit and supporting documents

The Ld. CJM vide order dated 12.11.2025 allowed the application and appointed the Advocate Commissioner to take the physical possession of the property which has been challenged in the present SA.

29. It is seen from the records the bank has taken the physical possession of the property on 24.03.2026 and the prayer in the SA has been rendered infructuous, nothing survives for further adjudication and the other challenges to the measures is not within the period of 45 days as required under S.17 of the Act.

30. Now considering the challenge to S.14 Order, 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 under Section 14 does not involve any element of quasi-judicial function nor it requires any application of mind.

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 12.11.2025 in Cr.M.P. No.615/2025 passed by the Hon'ble CJM, Tiruvarur 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 12.11.2025 in Cr.M.P. No.615/2025 passed by the Hon'ble CJM, Tiruvarur 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 06.11.2023 and S.13[4] Possession Notice dated 08.07.2024 are held as valid notices issued under the Act.

36. For the foregoing reasons, the present SA is only to be dismissed. Accordingly, SA stands 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 02nd day of July, 2026)

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Documents No.
1.	Copy of the passport.	A-1
2.	Copy of the warrant served by the Advocate Commissioner dated 12.11.2025.	A-2
3.	Copy of the letter by the applicant wife of the Advocate Commissioner dated 03.01.2026.	A-3
4.	Impugned order by Hon'ble CJM, Thiruvarur in Crl.M.P.No.615 of 2025 dated 12.11.2025.	A-4

LIST OF DOCUMENTS PRODUCED BY THE RESPONDENT

Sl. No.	Description of Documents	Documents No.
1.	CERSAI Registration Certificate.	R-1
2.	Demand Notice issued by the respondent bank with returned cover and postal acknowledgements dated 06.11.2023.	R-2
3.	Possession Notice issued by the respondent bank with returned covers from the applicant another and postal acknowledgement from the guarantor dated 08.07.2024.	R-3
4.	Affixture of the possession notice on the property dated 08.07.2024.	R-4
5.	Paper publication of the possession notice in two newspapers namely the Hindu and Dhinathanthi dated 10.07.2024.	R-5
6.	Sale Certificate issued by the bank to the purchaser duly registered dated 28.02.2025.	R-6
7.	Affidavit filed by the bank Crl.M.P.No.615 of 2025 dated 07.10.2025.	R-7
8.	Statement of accounts dated 03.02.2026.	R-8

SCHEDULE OF PROPERTY

All that part parcel of residential RCC building Number D.No.2/80 in a land measuring 35 cent (15,246 Sq.ft) situated at New R.S.No.114/24 (old R.S.No.114/12) in Vadugakudi Village, Kodavasal Taluk, Thiruvarur District. Peralam Sub Registry, Thiruvarur Registration District.

Boundaries

North by: Street

South by: Pattu Achi Property

East by: Sadasivam's Property

West by: Sengagam Ammal Property

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