IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 05th day of August, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

SARFAESI APPLICATION No. 637 of 2024

Mr.R.Suresh,
S/o. M.Ramu,
No.30, Ganga Apartment,
Palayam Bazar,
Woraiyur, Trichy-620003. ....Applicant

-Vs-

The Authorized Officer,
City Union Bank Limited,
"Narayana" Administrative Office,
24-B, Gandhi Nagar,
Kumbakonam-612 001.

Branch at Thiruchirapalli,
Ground Floor, MDS Plaza, 98,
Promenade Road,
Cantonment, Thiruchirapalli-620 001. ....Respondent

Counsels on record / appeared:

Counsel for Applicant : M/s. Om Sai Ram Law Firm LLP. S.T.Raja
G. Sanjeevi, K. Priyadharshini & P. Swathy.

Counsel for respondent : Mrs. V. Rajeswari, Ms. R. Miruthula.

ORDER ON SA 637/2024

1. The present Securitization Application [SA] is filed on 18.09.2024 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 Sec.14 order dated 23.07.2024 in C.M.P. No.10629 of 2022 passed by Chief Judicial Magistrate, Chengalpet and the outstanding amount due as per Sec.14 order is Rs.13,76,202/-

3. The applicant is the borrower availed a Home Loan of Rs.25 Lakhs from the respondent bank in the year 2012 and was making remittance promptly to the loan as contemplated under loan agreement on due date without any delay and default, and had maintained the loan account within limits.

3.1 It is submitted that in order to secure the loan, the applicant created Equitable Mortgage in respect of the schedule mentioned property and had also executed necessary security documents in favour of the respondent. The borrower never allowed their loan account to become NPA and has been remitting the payments well in advance and there was no default for the statutory period so as to classify the loan account as NPA. As per Section 2(o) of the SARFAESI Act, it is mandatory on part of the respondent to classify the loan account as NPA in accordance with the RBI guidelines.

3.2 It is further submitted that the borrower’s business was seriously affected for allied reasons and then the loan account becomes unpaid for some dues. 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.

3.3 The schedule mentioned property is the primary security with regard to the loan availed by the applicant and the respondent does not have any authority to enforce their security interest in over the schedule mentioned property.

3.4 The applicant further submitted that the respondent has claimed that they have issued Demand Notice and Possession Notice, but both notices were not properly served to applicant and Possession Notice is not published in leading newspapers.

3.5 It is further submitted that 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 Chengalpat. The Advocate commissioner issued a notice on 12.09.2024 to the Applicant to vacate the premises and the applicants had approached the Hon'ble CJM at Chengalpat.

3.6 It is specific case of the applicant that without serving the Demand Notice and Possession Notice and without compliance of the statutory requirements, the respondent ought not to have invoked the under sec.14 of the Act. It is contented that without giving a reasonable opportunity to clear the loan dues, the bank had hurriedly taken steps to proceed against the secured asset.

3.7 The respondent has not affirmed Point No(ix) of S.14 of SARFAESI Act in affidavit being filed by the Authorized Officer of the secured creditor that all the sections of the Act, are mandatorily complied before District Magistrate/Chief Metropolitan Magistrate.

3.8 On 12.09.2024, the Advocate Commissioner issued a notice to take possession of the Schedule Property. Until then, the Applicant had no information or knowledge regarding the measures initiated by the respondent under Section 14 of the Act. On these grounds the applicant prays to set aside the Sec.14 order passed by the Ld. CJM, Chengalpat.

4. The respondent has filed a detailed counter contending that the Applicant and his wife, Mrs. Jayanthi Suresh, were jointly sanctioned a Housing loan of Rs.25,00,000/- on 25/10/2012, which was secured by an equitable mortgage over the property described in the schedule to the SA.

4.1 The loan account became irregular in due course and account was classified as a NPA on 23.01.2021. Thereafter, the Respondent Bank issued a Demand Notice dated 29.05.2021 under the SARFAESI Act. Since, the Respondent Bank did not receive the postal acknowledgement, the Demand Notice was published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 20.07.2021 and also affixed on the outer wall of the Applicant's residence.

4.2 It is submitted that the Demand Notice did not evoke any response, and hence the Respondent Bank was constrained to take symbolic possession of the secured asset on 01.10.2021. The Possession Notice was duly affixed on the mortgaged property and was also published in two newspapers, namely The New Indian Express (English) and Dinamani (Tamil), in compliance of the SARFAESI Act and Rules. The

Possession Notice was also sent to the Applicant; however, the postal covers were returned with the endorsement "Unclaimed."

4.3 The Respondent Bank filed an application before the Hon'ble CJM, Chengalpattu, seeking an order for taking physical possession of the mortgaged property. The application was allowed on 23.07.2024, appointing an Advocate Commissioner to take physical possession of the property, who issued a notice dated 12.09.2024 along with the warrant to the Applicant for taking physical possession, against which the present S.A. has been filed by the Applicant.

4.4 The respondent denies the allegations in the SA, submitting that the Home Loan was sanctioned for Rs.25,00,000/- repayable in 120 monthly instalments of Rs.35149/- each and due to irregularities in repayment, the loan account was classified as NPA as per RBI guidelines. The Applicant had created Equitable Mortgage of the property as security for the loan sanctioned.

4.5 The allegation that Applicant was made to sign blank papers, while availing the loan, is denied, the applicant had clear knowledge about the loan documents had executed is bound by the terms of the documents.

4.6 Further, the Respondent Bank has obtained an order from the Ld. CJM Court for taking Possession of the property and hence all allegations contrary to facts are denied.

4.7 It is submitted that the Demand Notice besides being issued by RPAD was also published in newspapers and affixed on the property, and issuance of Possession Notice was also duly followed as required under the Act. It is submitted that the statutory notice period was duly complied by the Respondent Bank and further time was also granted to applicant to clear the dues. The respondent bank denies all the allegations made in the present SA and also followed all measures as required. Hence, the respondent bank prays for dismissal of the SA.

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

5. It is evident from the records that the applicant and his wife had availed a housing loan of Rs.25 lakhs from the respondent bank, which was sanctioned on 25.10.2012. The applicant had agreed to repay the loan as per the terms and conditions of sanction and also mortgaged the property as security towards the credit facility availed. The applicant has executed the Memorandum of Deposit of Title Deeds, registered vide Doc.No.3777 of 2012 dated 12.12.2012 which is seen from the Sec.14 order.

5.1 Admittedly, the borrower defaulted in the repayment, the loan accounts were classified as NPA on 23.01.2021 as per the RBI guidelines. Subsequent to the classification, the respondent has issued Section 13(2) Demand Notice to the applicant on 29.05.2021 calling upon them to pay the outstanding amount of Rs.13,76,202/- due as on 26.05.2021 along with other charges. 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.

5.2 The Sec.13(2) Demand Notice sent by RPAD, was returned to the sender with the postal endorsement as "No such addressee" which is produced at Page No.4 and 5. Therefore, the Demand Notice is published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 17.07.2021 and affixture of demand notice is produced at Pg.6 and 7 of respondent bank's typed set. Thus the service of Demand Notice is complete as contemplated under the Act and Rules made thereunder.

5.3 In spite of service of demand notice, the applicant neither raised any objection to the demand made under S.13[3A] nor liquidated the entire liability within 60 days, hence the respondent issued the Sec.13(4) Possession Notice on 01.10.2021, the possession notice sent to applicants was returned to the sender with the postal endorsement as "unclaimed", "door locked" which is produced at Page No.12-17 which is deemed service. The possession notice is also published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 01.10.2021 and affixture of possession notice is produced at Pg.18 and 19 of respondent bank's typed set. Thus, the service of Possession Notice is complete as contemplated under the Act and Rules made thereunder.

5.4 The respondent bank has produced the copies of the S.13(2) demand notice and S.13(4) possession notice and its returned covers, paper publications of demand and possession notice for due compliance of the measures taken.

5.5 It is seen that the Advocate Commissioner issued a notice dated 12.09.2024 along with the warrant for taking physical possession which is produced at Pg.21 and 22 of the counter. As the applicants failed to repay the entire outstanding amount the bank has approached the Ld. CJM, Chengalpat 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 23.07.2024.

5.6 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 23.07.2024 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 23.07.2024 passed by Ld. CJM, Chengalpat has not pointed out any illegality in the measures taken by the respondent herein.

5.7 On the other hand, it is seen that the statutory notices, the Demand Notice dated 29.05.2021 and Possession Notice dated 01.10.2021 are issued to the applicants in accordance with the Act and Rules made thereunder. The applicant has taken contention of non-service of Demand Notice and Possession Notice. On perusal of SA paper book, the applicant has given the same address as mentioned in the Demand Notice and Possession Notice which clearly evidences that the borrowers have deliberately evaded the Demand Notice and Possession Notice and now has taken a ground in SA that Demand Notice and Possession Notice is not served.

5.8 The contention of the applicants that Demand Notice and Possession Notice is not served, is disproved by the respondent bank by producing Acknowledgement Cards evidencing service of Demand Notice and Possession Notice to the borrower and co-borrowers. Despite receipt of Demand Notice and Possession Notice, as applicants did not come forward to repay the dues, respondent bank proceeded further under SA and had approached Ld. CJM for taking physical possession of secured asset.

5.9 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.

5.10 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 23.07.2024 in C.M.P. No.10629/2022 passed by the Hon'ble CJM, Chengalpat is a valid Order.

5.11 Additionally, Section 14(3) of the SARFAESI Act statuses that no action taken by the Chief Judicial 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.

5.12 Thus, the Sec.14 order dated 23.07.2024 in C.M.P. No.10629/2022 passed by the Hon'ble CJM, Chengalpat 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].

5.13 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.

5.14 There are no infirmities in the procedure adopted by the respondent bank and the same is found to be in accordance with law. Accordingly, S.13[2] demand notice dated 29.05.2021 and S.13[4] possession notice dated 01.10.2021 are held as valid notices issued in accordance with the Act and the Rules made under. The applicant has failed to make out any case of infirmities or violations in the S.14 Order or in the measures taken by the secured creditor under the Act.

5.15 For the foregoing reasons, the present SA fails and 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 05th day of August, 2026)

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Documents No.
1.	Possession Notice dated 01.10.2021	A-1
2.	Advocate Commissioner Notice dated 12.09.2024.	A-2
3.	Copy of Impugned order passed by Hon'ble CJM in C.M.P.No.10629 of 2022 dated 23.07.2024.	A-3

LIST OF DOCUMENTS PRODUCED BY THE RESPONDNET

Sl. No.	Description of Documents	Documents No.
1.	Demand Notice issued by the applicant bank to the borrower dated 29.05.2021.	R-1
2.	Photograph evidencing affixture of demand notice on the residence of the applicant.	R-2
3.	Paper publication of Demand Notice made in Indian Express and Dinamani.	R-3
4.	Possession Notice issued to the applicants dated 01.10.2021.	R-4
5.	Postal returned covers for the possession notice from the applicants.	R-5
6.	Photograph evidencing affixture of possession notice on the residence of the applicant.	R-6
7.	Paper publication of possession notice made in Indian Express and Dinamani.	R-7
8.	Notice issued by the Advocate Commissioner along with warrant for taking physical possession dated 12.09.2024.	R-8

9.	Statement of account in respect of Housing Loan A/c.No.153012001988319 from 25.10.2012 to 30.01.2025.	R-9

SCHEDULE

Item No. 1

Vacant land measuring 1 Acre 38 cents (54.5), comprised in S No.155/A-1B1 at G.S.T Road, at Kilambakkam Village, Chengalpattu Taluk, Kancheepuram District, situated within the Sub Registration District of Guduvancheri and Registration District of South Chennai, bounded on the East by: G.S.T Road West by: Railway Line North by: Property belongs to M/s Majeed Textiles Dyeing and Printing Mills and Factory South by: Jyothi Cement Pipe works which comprised in S.No.154/B

Item No.2

418 Sq.ft of undivided share of land in schedule A property

Item No.3

Flat No. H in the X Floor, B Block with a plinth area of 1171 Sq ft (inclusive of proportionate share in the common area)

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