Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI
DATED THIS 11th DAY OF AUGUST 2026
PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No. 872/2025

1. Karuppaye .P
D/o Perumal, No. 1/397
Madakudi Lalgudi
Rasaiyan Kovil Street
Tiruchirappalli, Manachanallur
Tamil Nadu – 621 112 ..... **Applicant**

Vs

1. JM Financial Home Loans Limited
Registered Office at No. 7th Floor, Cnergy
Appasaheb Marathe Marg, Prabhadevi
Mumbai – 400 025
Corporate Office Address at 3rd Floor, A-Wing
Suashish IT Park, Building B, C.T.S. No. 68-E
Rajendra Nagar, Office Dattapada Road
Borivali €, Mumbai – 400 066
Represented by its Authorised Officer
Mr. Jeeva P ..... **Defendant**

Appearance of Advocates:
M/s R. Ravichandran ---- Counsel for the Applicant
M/s S. Babu ---- Counsel for the Defendant Finance Co.

This Application was heard in the presence of M/s R. Ravichandran, Counsel for the Applicant and M/s S. Babu, Counsel for the Defendant JM Financial Home Loans Limited 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 order of the Chief Judicial Magistrate, Tiruchirappalli passed in Crl. M.P. No. 21023 of 2025 dated 06.10.2025 under section 14 of the SARFAESI Act, 2002.

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

- **A.** The Applicant submitted that the present Securitisation Application has been filed challenging the order dated 06.10.2025 passed by the Learned Chief Judicial Magistrate, Tiruchirappalli, in Crl.M.P. No.21023 of 2025, whereby an Advocate Commissioner was appointed under Section 14 of the SARFAESI Act for taking physical possession of the schedule-mentioned secured asset.
- **B.** The Applicant submitted that she availed a Home Loan of Rs.39,30,829/- (Rupees thirty nine lakhs thirty thousand eight hundred twenty nine only) from the Defendant Finance Company after executing the necessary loan and security documents and creating an equitable mortgage over the schedule-mentioned residential property as security for due repayment of the loan.

C. The Applicant submitted that, initially, she was regular in repayment of the loan and serviced the instalments promptly. Subsequently, due to serious health issues and adverse family circumstances, the Applicant suffered severe financial hardship and was unable to continue repayment in accordance with the agreed repayment schedule.

D. The Applicant submitted that the Defendant Bank classified the loan account as a Non-Performing Asset (NPA) on 05.12.2024. According to the Applicant, such classification is contrary to the RBI Guidelines governing asset classification and is therefore illegal and unsustainable in law.

E. The Applicant further submitted that the Defendant thereafter issued a Demand Notice dated 06.12.2024 under Section 13(2) of the SARFAESI Act. Upon receipt of the said notice, the Applicant approached the officials of the Defendant Finance Company on several occasions requesting restructuring of the loan account and grant of a moratorium period in view of his financial hardship.

F. The Applicant submitted that, without considering the request for restructuring and without issuing the mandatory Possession Notice under Section 13(4) of the SARFAESI Act or taking symbolic possession of the secured asset, the Defendant directly approached the Learned Chief Judicial Magistrate by filing a petition under Section 14 of the SARFAESI Act.

G. The Applicant further submitted that the Learned Chief Judicial Magistrate, Tiruchirappalli, allowed the petition in Crl.M.P. No.21023 of 2025 by order dated 06.10.2025 and appointed an Advocate Commissioner to take physical possession of the schedule-mentioned property, which is the Applicant's residential dwelling house.

H. Aggrieved by the aforesaid proceedings and alleging that the Defendant has violated the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002, the Applicant has preferred the present Securitisation Application seeking appropriate relief before this Hon'ble Tribunal.

GROUNDS

a) The order dated 06.10.2025 passed by the Learned Chief Judicial Magistrate in Crl.M.P. No.21023 of 2025 is arbitrary, illegal and liable to be set aside.

b) The Defendant Bank classified the loan account as NPA contrary to the RBI Guidelines, rendering the subsequent proceedings under the SARFAESI Act illegal.

c) The Applicant was entitled to consideration of restructuring of the loan account in accordance with the applicable RBI Guidelines, but the Defendant failed to consider the same.

d) The Defendant initiated proceedings under Section 14 of the SARFAESI Act without first complying with the mandatory requirements under Section 13(4), thereby vitiating the entire proceedings.

e) The Defendant failed to strictly comply with the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 while initiating enforcement proceedings.

f) The application filed before the Learned Chief Judicial Magistrate was not supported by complete and proper particulars as contemplated under Section 14 of the SARFAESI Act.

g) The impugned proceedings are arbitrary, unreasonable, without jurisdiction and contrary to the principles of natural justice.

DESCRIPTION OF THE IMMOVABLE PROPERTY

All that piece and parcel of land situated at Trichy District & Registration District, Mannachanallur Sub Registration District, Mannachanallur Taluk, No. 23, Kalpalaiyam Village, Ayan Punjai Surey No. 63/9 – Hec. 0.64.0 Ares or 1.58 Acres of property divided into housing plots as "Radha Nagar B", Plot No. 86 – 1200 sq.feet., of property with the following:

Boundaries :

South of	:	Plot No. 87
West of	:	Property allotted for Temple
North of	:	East West Mangammal Road
East of	:	North South Road

Within these four boundaries measuring East West 40 feet on both sides, North South 3 feet on both sides totalling 1200 sq.feet., of property and the building constructed thereon with EB Service connection and its deposit with all pathway and easement rights. Sub Division Survey No. 63/9A1 B2 Patta No. 2549. The property is situate within Manachanallur Panchayat Union, Kalpalaiyam Village Panchayat limit.

List of Documents filed by the Applicant:

Sl. No.	Date	Particulars
1.	06.12.2024	13(2) Demand Notice
2.	---	Payment Receipts
3.	06.10.2025	Order passed in Crl.M.P. 21023 of 2025 by the Hon'ble CJM, Tiruchirappalli
4.	16.10.2025	Notice issued by the Advocate Commissioner to taken Possession

3. On the other hand, the Defendant Finance Company appeared and filed Reply Statement along with typed set wherein it has been submitted that the applicant availed a Housing Loan for a sum of Rs. 39,30,829/- (Rupees thirty nine lakhs thirty thousand eight hundred twenty nine only). The Applicant executed the necessary loan and security documents and other connected papers in favour.

- The Defendant submitted that save and except those allegations and averments which are specifically admitted herein, all the allegations, averments and contentions contained in the Securitisation Application are false, frivolous, misconceived, contrary to the records and the provisions of law, and are therefore denied. The Applicant is put to strict proof of each and every allegation made in the application.
- The Defendant submitted that the Applicant approached the Respondent Finance Company seeking financial assistance and accordingly availed a Home Loan facility of Rs.39,30,829/- (Rupees thirty nine lakhs thirty thousand eight hundred twenty nine only) after executing all the necessary loan documents, security documents and other connected documents in favour of JM Financial Home Loans Limited.
- The Defendant submitted that the Applicant voluntarily created an equitable mortgage over the schedule-mentioned immovable property by depositing the original title deeds as security for the due repayment of the loan together with interest, costs, charges and other contractual dues.
- The Defendant submitted that after availing the loan facility, the Applicant committed persistent defaults in repayment of the monthly instalments, thereby violating the terms and conditions of the Loan Agreement and other loan documents executed in favour of the Respondent Finance Company.

- The Defendant submitted that despite repeated reminders, demands and sufficient opportunities granted by the Respondent Finance Company, the Applicant failed to regularise the loan account. Consequently, the loan account was rightly classified as a Non-Performing Asset (NPA) on 05.12.2024, strictly in accordance with the RBI Guidelines and the applicable banking norms.
- The Defendant submitted that thereafter the Respondent Finance Company issued a Demand Notice dated 06.12.2024 under Section 13(2) of the SARFAESI Act calling upon the Applicant to discharge the outstanding dues within the statutory period.
- The Defendant submitted that even after receipt of the Demand Notice, the Applicant failed to discharge the outstanding dues. Mere oral requests for restructuring of the loan account or grant of a moratorium, without substantial repayment, do not create any legal bar preventing the Respondent Finance Company from initiating proceedings under the SARFAESI Act.
- The Defendant submitted that thereafter the Respondent Finance Company proceeded under Section 13(4) of the SARFAESI Act by issuing the Possession Notice in accordance with law. The Respondent Finance Company duly complied with all the mandatory provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002.
- The Defendant submitted that since the Applicant failed to hand over possession of the secured asset, the Respondent Finance Company filed a petition under Section 14 of the SARFAESI Act before the Learned Chief Judicial Magistrate, Tiruchirappalli, in Crl.M.P. No.21023 of 2025. Upon being satisfied with the statutory compliance, the Learned Chief Judicial Magistrate was pleased to pass the order dated 06.10.2025 appointing an Advocate Commissioner to take physical possession of the secured asset.

- The Defendant submitted that the allegations that the Applicant was regular in repayment and that the default occurred solely due to health issues and family circumstances are specifically denied. Financial hardship, however unfortunate, does not absolve a borrower of the contractual obligation to repay the loan.
- The Defendant submitted that the allegations that the classification of the loan account as a Non-Performing Asset is illegal and contrary to the RBI Guidelines are false and denied. The loan account was classified as NPA only after persistent default and in strict compliance with the applicable RBI Guidelines and banking regulations.
- The Defendant submitted that the allegations that the Respondent Finance Company failed to consider the Applicant's request for restructuring are false and denied. The Applicant failed to regularise the loan account despite repeated opportunities granted by the Respondent Finance Company.
- The Defendant submitted that the allegations that the Respondent Finance Company approached the Learned Chief Judicial Magistrate under Section 14 without issuing a Possession Notice under Section 13(4) are false and denied. The Respondent Finance Company had duly complied with all the mandatory statutory requirements before invoking the provisions of Section 14 of the SARFAESI Act.
- The Defendant submitted that the allegations that the impugned order is arbitrary, unreasonable, suffers from errors apparent on the face of the record and is legally unsustainable are false and denied. The Learned Chief Judicial Magistrate passed the impugned order only after satisfying himself that all the statutory requirements contemplated under Section 14 of the SARFAESI Act had been duly complied with.
- The Defendant submitted that the allegations regarding the alleged improper classification of the loan account as a Non-Performing Asset

are false and denied. The Respondent Finance Company strictly adhered to the RBI Guidelines while classifying the account as NPA and initiating the subsequent recovery proceedings.

- The Defendant submitted that the allegations regarding the Applicant's alleged entitlement to restructuring of the loan account are false and denied. Restructuring is not a matter of right and is always subject to the applicable RBI Guidelines, the lending policy of the Respondent Finance Company and the borrower's eligibility. The Applicant failed to satisfy the necessary conditions for such relief.
- The Defendant submitted that the allegations that the Respondent Finance Company failed to issue the mandatory Possession Notice and did not comply with the provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 are false and denied. The Respondent Finance Company duly complied with all the statutory requirements, and the notices issued are valid and enforceable in law.
- The Defendant submitted that the allegations that the petition under Section 14 was filed without the requisite affidavit and by suppressing material facts are false and denied. The Respondent Finance Company filed the statutory affidavit together with all supporting documents before the Learned Chief Judicial Magistrate as required under Section 14 of the SARFAESI Act.
- The Defendant submitted that the allegations that the order was passed behind the back of the Applicant and in violation of the principles of natural justice are false and denied. Proceedings under Section 14 of the SARFAESI Act are summary in nature, and the Learned Chief Judicial Magistrate passed the order only after being satisfied regarding the statutory compliance by the Respondent Finance Company.
- The Defendant submitted that the allegations) that the Respondent Finance Company acted unlawfully, arbitrarily and contrary to the

principles of natural justice are false and denied. The Respondent Finance Company has acted strictly in accordance with the provisions of the SARFAESI Act, 2002, the Security Interest (Enforcement) Rules, 2002 and the applicable RBI Guidelines.

- The Defendant submitted that the present Securitisation Application has been filed solely with an intention to delay the lawful recovery proceedings initiated by the Respondent Finance Company. The Applicant has not made out any legal or factual grounds warranting interference by this Hon'ble Tribunal, and therefore the application is liable to be dismissed with costs.

<u>Documents filed by the Defendants:</u>

Sl. No.	Date	Particulars of the Document
1.	19.07.2022	Application Form
2.	31.07.2022	Sanction Letter
3.	31.07.2022	Loan Agreement
4.	20.09.2022	Mrs. P. Kauppaye executed the extension of memorandum of deposit of title deeds through Registered Extension memorandum of deposit of title deed in favour of JM Financial Home Loan Limited in the Document No. 5681/2022 dated 20.09.2022
5.	06.12.2024	13(2) Demand Notice / Statutory Notice to the Respondents along with its receipts and Tracking
6.	12.12.2024	13(2) Demand Notice paper publication in Makkal Kural Tamil Newspaper
7.	12.12.2024	13(2) Demand Notice Trinity Mirror English Newspaper
8.	19.02.2025	13(4) Possession Notice to the Respondents along with its Receipt and Tracking
9.	25.02.2025	13(4) Possession Notice Paper Publication in Makkal Kural Tamil Nesspaper
10.	25.02.2025	13(4) Possession Notice Trinity Mirror English Newspaper

Sl. No.	Date	Particulars of the Document
11.	06.10.2025	Order passed by Chief Judicial Magistrate in Crl.M.P. No. 21023/2025

4. ***ON THE BASIS OF ABOVE PLEADINGS THE 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 Applicant has availed Housing Loan for a sum of Rs. 39,30,829/- (Rupees thirty nine lakhs thirty thousand eight hundred twenty nine only). The Applicant executed the necessary loan and security documents in favour of the Defendant and created an equitable mortgage over the schedule-mentioned property by deposit of title deeds as security for the said loan. The Applicant states that she regularly repaid the loan instalments in accordance with the terms and conditions of the sanction but due to health issues and family situations, the applicant was suffering for their livelihood, and as a result there are financial constraints due to which she was unable to continue repayment as agreed. Hence the Defendant Finance Company classified the Applicant's loan account as Non-Performing Assets (NPA) on 05.12.2024 and proceedings under the SARFAESI Act were initiated by issuing a Demand Notice dated 06.12.2024 under Section 13(2) of the SARFAESI Act and demanded a sum of Rs. 40,92,670/- (Rupees forty lakhs ninety two thousand six hundred seventy only) from the Applicant. The said notice sent to the Borrower and the Guarantor by Registered Post with Track consignment. I perused the documents produced by the 1st Defendant Finance Company and I find that the Defendant Finance Company has filed a copy of the Demand Notice relating to the Loan along with Track consignment (**annexed at pages 63 to 75 of the Defendant's typed set of papers)**. Further, I also find that the Applicant has neither submitted any representation nor sent any objection/reply to the Demand Notice under Section 13(3A) of the SARFAESI Act.

6. Thereafter, the Defendant Finance Company issued a Possession Notices dated 19.02.2025 under Section 13(4) of the SARFAESI Act. The Possession Notice pertaining to the Loan demanding a sum of Rs.40,92,670/- (Rupees forty lakhs ninety two thousand six hundred seventy only), It is stated by the Defendant Bank thatThe said notice was sent to the Borrower and the Co-borrower by Registered Post with Track consignment. I also perused the documents produced by the Defendant Finance Company and I find that the Bank has filed a xerox copy of the Possession Notice along with Track Consignment (**annexed at pages 78 to 87 of the Defendant's typed set of papers)** Further, I find that the Defendant Finance Company has failed to produce the Speed Post consignment tracking report in respect of the article sent to Mrs. Karuppaye. P under Consignment No. RM130412294IN. Further, I find that the Defendant Finance Company has published the Possession Notices in two newspapers, namely, "Trinity Mirror" (English) and "Makkal Kural" (Tamil) **(annexed at pages 88 & 89 of the Defendant's typed set of papers)**. However, the copies produced are not legible for proper reading. However, I observed that both the newspapers cannot be said to be leading newspapers having wide circulation in Madurai District because Trinity Mirror publishes a localized edition in Madurai, but it is not considered the leading newspaper in the city. The actual leading daily newspapers in Madurai are major Tamil and English regional publications like Dinamalar, Dinakaran, and The Hindu. While Trinity Mirror provides

English language coverage of Tamil Nadu affairs and regional news, it operates on a much smaller circulation scale compared to the dominant local giants. The rule 8(2) of the Security Interest (Enforcement) Rules, 2002 clearly states that

> … "*The Possession Notice as referred to in sub-rule(1) shall also be published, as soon as possible but any case not later than seven day from the date of taking Possession**, in two leading news papers,** one in vernacular language having sufficient circulation in that locality, by the authorized officer"*

I further find that the Possession Notice was not affixed on the conspicuous part of the secured asset and the Defendant Finance Company has not produced photographs evidencing the affixture of the Possession Notice on the conspicuous part of the secured property, the rule 8(1)states that

> … "*Where the secured asset is an immovable property, the authorized officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property"*

7. In view of the foregoing discussion, I hold that the Defendant Finance Company has failed to produce the speed post Track Consignment as stated above and also failed to establish due compliance with the mandatory provisions of Rules 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002. The Defendant has failed to produce satisfactory evidence to establish that the Possession Notice was duly affixed on the outer door or at any other conspicuous place of the secured asset as mandated under Rule 8(1). Further, the Defendant has also failed to establish that the Possession Notice was published in two leading newspapers, one in the vernacular language having sufficient circulation in the locality where the secured asset is situated, as required under Rule 8(2) of the Rules. Such non-compliance with the mandatory statutory requirements vitiates the measures taken under

Section 13(4) of the SARFAESI Act and the consequential proceedings initiated pursuant thereto.

8. Thereafter, the Defendant Finance Company obtained the impugned order dated 06.10.2025 from the learned Chief Judicial Magistrate, thiruchirappalli in Crl.M.P. No.21023 of 2025 under Section 14 of the SARFAESI Act for taking physical possession of the secured asset. Aggrieved thereby, the Applicant has filed the present Securitisation Application under Section 17 of the SARFAESI Act.

As already discussed, this Tribunal has held that the Defendant Finance Company failed to establish compliance with the mandatory requirements of Rules 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002 while taking symbolic possession of the secured asset under Section 13(4) of the SARFAESI Act., the consequential order dated 06.10.2025 passed by the learned Chief Judicial Magistrate, Madurai, in Crl.M.P. No.21023 of 2025, granting assistance for taking physical possession of the secured asset under Section 14 of the SARFAESI Act, cannot be sustained in the eye of law and is accordingly liable to be set aside.

9. The Applicant has no doubt being a defaulter is liable to pay the loan amount to the Defendant Finance Company and the Finance Company has been given ample power to recover the outstanding loan amount from the borrower by invoking the SARFAESI Act and without the intervention of any Court. But, it shall not allow the Bank to take the Physical Possession of the property of the Applicant without following the due process of law. I also find that the Applicant has failed to comply the conditional stay order dated 29.10.2025 passed by this Tribunal. Thus she has failed to show her bona-fide before the Court.

Under the above facts and circumstances of the case, this Tribunal is of the considered view to allow the ARFAESI Application.

In the result,

1. S.A. No. 872/2025 is allowed. No costs.

2. The Impugned order passed by the Ld. Cief Judicial Magistrate, Tiruchirappalli dated 06.10.2025 in Crl. M.P. 21023/2025 is hereby set aside.

3. All the expenditures incurred in obtaining the order passed by the Ld. Chief Judicial Magistrate, Tiruchirappalli dated 06.10.2026 in Crl.M.P. No. 21023/2025 shall not be included in the loan account of the Applicant.

4. The Defendant Finance Company is at liberty to initiate fresh action against the Applicant for recovery of loan amount following strictly the SARFAESI Acts & Rules.

Consequently, all pending IAs (if any) are also disposed of. No costs.

(Dictated to KKN taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 11th August, 2026).

Sd/-
(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 18.08.2026