IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 02nd day of September, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

SA No. 92 of 2025

Mrs. M. Anitha,
W/o A.R. Muthu,
No.4/330, Plot No.16,
Shyamala Street, CLRI Nagar Extension,
Neelangarai, Chennai – 115.

…Applicant

-Vs-

The Authorised Officer,
Can Fin Homes Limited,
No.52, 1st Floor, Raj Kamal Complex,
Gandhi Road,
West Tambaram – 600 045.

…Respondent

Counsels on record / appeared:

Counsel for Applicant	:	M/s. David Abraham Counsels
Counsel for Respondent	:	Mr. RA. Gopinath

ORDER ON SA 92/2025

The present Securitization Application [SA] is filed 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].

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2. The applicant has challenged the Section 14 order dated 31.12.2024 in Crl.M.P.No.4629 of 2024 before the Ld. CJM, Chengalpattu and the outstanding amount due as per Section 14 order is 35,20,421/- as per the impugned order.

3. The applicant has approached the respondent for sanction of education and housing loan, however the bank has sanctioned Rs.20,00,000/- and Rs.15,00,000/- in the year 2016 and 2017. Further, the applicant has deposited the title deeds vide Doc.No.2255/2016 & 8946/2017 on 30.03.2016 and 07.12.2017.

4. It is submitted that the applicant was regular in repayment, due to covid 19 pandemic and loss in the business, applicant has defaulted in the repayment of interest portion and the loan accounts were classified as NPA. The respondent bank has failed to register the security interest before the central registry and issued Demand Notice dated 06.05.2024 calling upon the applicant to pay Rs.35,20,421/- which was not served to all the parties.

5. The respondent bank has issued Possession notice dated 01.08.2024 which was not served to all the parties and the bank has charged heavy interest which is in violation of RBI guidelines. Further, the respondent bank has failed to produce statement of account even after the demands made by the applicant and the applicant is ready to settle the loan accounts, if proper statement of accounts is produced by the bank.

6. The payments made by the applicant were not given proper credit into the loan account and the classification of loan accounts into NPA is in

violation of RBI guidelines. The Ld. CJM/CMM is only empowered to take physical possession of the property with the assistance of police and the respondent bank has misused the order without knowledge of LD. CJM/ CMM. Further, the respondent bank without issuing proper demand notice and possession notice, has proceeded under Section 14 of the Act.

7. The respondent bank has failed to follow Point No.(ix) in Section 14 of SARFAESI Act. In the grounds, it is contended that the respondent bank failed to issue Section 13(2) Demand Notice dated 06.05.2024 and failed to comply with Rule 3A of Act. It is submitted that the respondent bank has not provided the right of the applicant under Section 13(3A) of the Act.

8. Subsequently, the respondent bank has failed to affix and serve the possession notice to the applicant and also failed to publish the same in two Newspapers which is in violation of Rule 8(2) of SIE Rules. The schedule property does not contain proper measurement and the classification of loan account as NPA is in violation of RBI guidelines. The possession Notice issued by the respondent bank is in violation of Rule 8 of SIE Rules and the outstanding amount is not crystallized before the issuance of Section 13(4) Possession notice.

9. The respondent bank has included agricultural land in the section 14 application which is in violation of SARFAESI Act and on these grounds, the applicant prays to set aside the Section 14 order dated 31.12.2024 in Crl.M.P.No.4629 of 2024 before the Hon'ble CJM, Chengalpat.

10. The counsel for respondent bank has filed a detailed counter, inter alia contending that the averments made by the applicant is denied and submits that the applicant has availed Rs.20,00,000/- on 30.03.2016 and Rs.15,00,000/- on 01.12.2017. Further, the applicant has accepted terms and conditions and also created equitable mortgage by way of depositing title deeds on 30.03.2016 and 07.12.2017 vide Doc.No.2255/2016 and 8946/2017 before the SRO, Neelangarai to secure the repayment of the credit facilities availed.

11. The applicants have failed to repay the monthly instalments which resulted in classification of loan account as NPA on 30.04.2024 and issued Demand notice dated 06.05.2024 calling upon the applicant to discharge their outstanding amount within 60 days which was duly served on the applicant. The respondent bank has proceeded further and issued Section 13(4) possession notice on 01.08.2024 which was published in two Newspapers on 07.08.2024 in "Business standard" (English) and "Dinakaran" (Tamil).

12. The possession notice was affixed on the property and the security interest was registered before the central registry vide Registration ID No.400012375060. The respondent bank has charged the interest as per the loan agreement and sanction letter and also issued vacant notice dated 18.01.2025 by providing sufficient time for applicant to vacate the schedule property. Hence, the respondent bank prays for dismissal of the present SA.

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

13. The applicant is the borrower who has availed educational loan and Housing loan of Rs.20,00,000/- and Rs.15,00,000/- in the year 2016-2017 and to secure the repayment of the credit facilities availed, the applicant has created equitable mortgage on 30.03.2016 & 07.12.2017 vide Doc.Nos.2255/2016 & 8946/2017 in favor of the respondent bank. The availing of credit facilities and execution of equitable mortgage in favor of the bank are undisputed facts by the applicant.

14. The applicant has raised specific contention that the respondent bank has failed to register the security interest before the central registry which is contrary to the document produced by the bank at Page No.114 to 118 of respondent's counter which reflect that the security interest is registered before the central registry vide Registration ID No.400012375060.

15. Due to default in the repayments for a period of 90 days, the respondent bank has classified the loan accounts as NPA on 30.04.2024 as per the RBI guidelines. Further, the applicant has raised contention that the classification of loan account as NPA is in violation of RBI guidelines which is in contrary to the submission of the applicant at Para No.2 where the applicant admits that due to default in the repayment, the loan accounts were classified as NPA. Hence, the contention of the applicant with regard to the classification of loan account as NPA fails.

16. After classifying the loan account as NPA, the respondent bank has proceeded further and issued Section 13(2) Demand Notice dated 06.05.2024 which was served to all the parties as evident from the postal receipts and postal track reports produced at Page No.85 to 90 of respondent's counter. Hence, the contention of the applicant with regard to the issuance of Section 13(2) Demand notice fails.

17. Even after the receipt of Demand notice, the applicant has neither discharged their liability within the period of 60 days nor made any representation to the demand made by the bank. Hence, the respondent bank has issued Section 13(4) Possession notice dated 01.08.2024 which returned unserved and the bank has affixed and published the same in two Newspapers as per Rule 8 of SIE Rules. The photograph of affixture and paper publication of possession notice is evident from Page No.93 to 95 of respondent's counter. Hence, the contention of the applicant with regard to the issuance of Possession notice and non-compliance of Rule 8 is not sustainable and fails.

18. Subsequently, the respondent bank has obtained the section 14 order dated 31.12.2024 before the Ld. CJM, Chengalpat which is challenged by the applicant, firstly contending that the respondent bank has charged heavy interest which is duly countered by bank, that the interest rate is charged as per the loan agreement and sanction letter. Hence, the contention of the applicant with regard to charge of heavy interest fails.

19. Secondly, the respondent bank failed to produce statement of accounts which is disproved by the bank who has produced the statement of accounts at Page No.96 to 106 of respondent's counter. Hence, the contention of the applicant with regard to the non-production of statement of account fails.

20. Thirdly, the respondent bank has misused the CJM order and tried to throw out the applicant is duly countered by the bank, that the impugned Section 14 order is only administrative order assistance in taking physical possession of the property and there is no attempt of throwing out the applicant from the property, further the bank has issued vacant notice dated 18.01.2025 to the applicant by providing sufficient time to vacate the property. Hence, the contention of the applicant that the respondent bank has misused the order of Hon'ble CJM is not sustainable and fails.

21. Fourthly, it is contended that there is no proper measurement and identification of the secured asset and the outstanding amount is not crystallized is also not sustainable, as the schedule property is properly described in Possession notice dated 01.08.2024 is as per Appendix IV of Rule 8 of SIE Rules, further the total outstanding amount was crystallized to Rs.35,20,421/-. Hence, the contention of the applicant with regard to the identification of property and total outstanding amount fails.

22. Fifthly, the respondent bank has included the agricultural land in the section 14 application is not supported by any documents and the property

as described in the vacant notice dated 18.01.2025 produced by the applicant reflects the schedule property as under:

…All that piece and parcel of vacant house stie with building situated in Plot No.16 measuring an extent of 1786 sq.ft., comprised in S.No.55/1…

It is seen that the property as described as vacant house with building as per the vacant notice dated 18.01.2025 produced by the applicant at Page No.16 of the SA, hence the contention of the applicant that the bank has included agricultural land in section 14 application is not sustainable and fails.

23. Now considering the challenge to Section 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.

24. Furthermore, the Hon'ble Supreme Court in the matter of **Kotak Mahindra Bank vs Girnar Corrugators Pvt. Ltd. & Others**, held that while exercising power under Section 14 of the SARFAESI Act, even the District Magistrate has no jurisdiction and/or District Magistrate and/or even the Chief Metropolitan Magistrate has no jurisdiction to adjudicate the dispute between secured creditor and debtor."

25. 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".

26. 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 Section 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.

27. Thus, the Section 14 order dated 31.12.2024 in Crl.M.P. No.4629/2024 passed by CJM, Chengalpet 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 Section 14 [i-ix].

28. 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.

29. Consequent to classification of account as NPA has issued Section 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 under Section 13(2) dated 06.05.2024 and Section 13(4) possession notice dated 01.08.2024 are held as valid notices issued under the Act.

30. During the course of arguments, the counsel for applicant submits that they are ready and willing to settle the entire outstanding amount due. Hence, the applicant is at liberty to approach the respondent for amicable settlement as per the terms and conditions of the RBI.

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31. For the foregoing reasons, the present SA fails and accordingly SA stands dismissed. Interim Order extended on 24.02.2025 stands vacated, IA No.1709/2025 filed by applicant, seeking direction stands disposed as infructuous as the bank has produced the statement of account at page No.96 to 106 of respondent's counter and IA No.58/2026 stands dismissed in terms of this final order. No order as to cost.

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

(Dictated to Steno (Mogesh), transcribed by him, corrected, signed and pronounced by me on this the 02nd day of September, 2026)

ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Document No.
1.	Section 14 Online order copy dated 31.12.2024	A-1
2.	Vacate Notice dated 18.01.2025	A-2

LIST OF DOCUMENTS PRODUCED BY THE RESPONDENTS

Sl. No.	Description of Documents	Document No.
1.	Loan Agreement & Loan Sanction dated 31.10.2020	R-1
2.	Copy of Sale Deed dated 14.12.1992	R-2
3.	Copy of Memorandum of Deposit of Title Deed dated 09.04.2021	R-3
4.	Copy of Demand notice issued under Section 13(2) of SARFAESI Act, along with postal proof dated 06.05.2024	R-4

5.	Copy of Possession notice issued under Section 13(4) of SARFAESI Act dated 01.08.2024	R-5
6.	Copy of the photograph of affixture of Possession Notice dated 03.06.2024	R-6
7.	Copy of paper publication in (Tamil and English Daily) dated 03.06.2024	R-7
8.	Statement of account dated 19.04.2025	R-8
9.	Encumbrance Certificate dated 02.10.2025	R-9
10.	Registration of Security Interest Acknowledgement Report dated 19.04.2021	R-10

SCHEDULE OF PROPERTY

All that piece and parcel of vacant house site with building situated in plot No.16 measuring an extent of 1786.6 sq.ft., comprised in Survey No.55/1 as per Patta No.3440 Surve No.51/5D, situated in Plot No.16, CLRI Nagar (shyamala Nagar), Neelankarai Village, Sholinganallur Taluk, Kancheepuram District and bounded on the:

North by: 20 Feet Road

South by: Vacant Land

East by: Grama Natam Land

West by: 24 Feet Road.

Admeasuring:

East to West on the Northern side: 39 feet 9 inches

East to West on the Southern side: 39 feet

North to South on the Eastern side: 45 feet 9 inches

North to South on the Western side: 46 feet 6 inches

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

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