IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 19th day of August, 2026

SECURITIZATION APPLICATION No.894/2024

Between

Mohammed Favas,
Karuppamvettil House,
Rahmath Manzil,
Brahmakulam P.O.,
Thrissur – 680 104. …Applicant

And

The Authorised Officer,
Federal Bank,
LCRD, 1st floor,
Chencherry Tower,
Ollur,
Thrissur – 680 306. …Defendant

This Securitization Application having been heard on 01.07.2026 in the presence of Advocate Mr. Sasi N. for the applicant and Advocate Mr.Paul T.G. for the defendant and stood over to this day for consideration, the Tribunal delivered the following:

F I N A L O R D E R

Challenging the securitization proceedings initiated by the defendant under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicant/co-borrower has filed this SA under S.17(1) of the SARFAESI Act seeking relief to set aside the possession notice issued u/s.13(4) of the SARFAESI Act.

Brief facts of the case:

2.1 In the SA the applicant claims that he along with his wife availed housing loan of ₹40,00,000/- on 10.12.2012 by mortgaging the subject matter property of an extent of 9.24 Ares.

2.2. After availing the loan, the applicant remitted considerable amount. But the defendant proceeded with the securitization proceeding followed by issuance of the possession notice u/s.13(4) of the SARFAESI Act. In taking symbolical possession of the secured asset, the defendant did not follow the statutory requirement of Rule 8 of the Security Interest (Enforcement) Rules 2002. Hence, the applicant filed the SA

challenging the securitization proceeding, with a prayer to set aside the possession notice issued u/s.13(4) of the SARFAESI Act.

2.3 Subsequently, the defendant initiated proceeding u/s.14 of the SARFAESI Act before the CJM, Thrissur by filing CMP No.4000/2025. It is challenged in this proceeding by amendment claiming that all the statutory measures in initiating such proceeding are not duly complied and claimed to set aside the proceeding initiated before the CJM.

3.1 The defendant has filed written statement denying the averments and claimed that there is no illegality in the securitization proceeding to interdict. In absence of any illegality in the proceeding u/s.13(4) and u/s.14 of the SARFAESI Act, the SA is liable to be dismissed.

4. From the respective case of the applicant and defendant, the following points emerged for adjudication in this case:

(i) Whether the securitization proceedings initiated by the defendant suffer from any illegality to intervene with the same?

(ii) Whether the applicant is entitled to get any relief in this case?

FINDINGS:

Point Nos.(i) & (ii):

5. Originally this SA was filed in challenging taking of symbolical possession of the secured asset on 25.10.2024 u/s.13(4) of the SARFAESI Act. Subsequently, when the defendant initiated proceeding before the CJM, the applicant filed amendment application in challenging proceeding u/s.14 of the SARFAESI Act. Defendant did not file any additional written statement after amendment of the SA.

6. In this SA, the stay petition filed by the applicant was considered. At the time of passing order, it was found that the learned CJM has passed an illegal order in a printed format which cannot be enforced. Accordingly, the stay petition was allowed in staying the further securitization proceeding. However, the defendant was permitted to proceed afresh before the CJM under Section 14 of the SARFAESI Act.

7. The defendant produced fresh order in the proceeding under sec 14(1) of the SARFAESI Act which was only retyped by the learned Chief Judicial Magistrate. No fresh order was passed by the learned Chief Judicial Magistrate by application of mind to the materials on record. It was already held during consideration of the

stay application that the learned CJM did not apply mind to the materials on record and passed an erroneous order. The defendant ought to have filed fresh application u/s.14 of the SARFAESI Act before the learned Chief Judicial Magistrate in seeking relief to pass fresh order in taking physical possession of the secured asset based upon the materials. Retyping the similar order dated 03.05.2025 cannot be said valid compliance of the statutory requirement. In such premises without considering the other points raised by the applicant, it is held that the proceeding initiated before the CJM u/s.14 of the SARFAESI Act, being not in accordance with the statutory requirement, is not sustainable and cannot be enforced. The defendant cannot proceed with the securitization proceeding to take physical possession of the secured asset based upon such illegal order. However, the defendant may proceed afresh by filing an application u/s.14 of the SARFAESI Act before the Chief Judicial Magistrate in accordance with the law to take physical possession of the secured asset in accordance with the law. In the event of accrual of fresh cause of action, the applicant may raise all contentions in challenging the securitization proceeding which are raised in this proceeding for adjudication in accordance with the law.

Hence it is ordered:-

ORDER

8. In view of the foregoing reasons and with the above observation, the SA is allowed but in the circumstance without costs. The proceeding u/s.14 of the SARFAESI Act initiated by the defendant before the learned Chief Judicial Magistrate is hereby set aside.

(Dictated to my steno, corrected and pronounced by me in the open Tribunal on this 19th day of August, 2026)

[SOVAN KUMAR DASH]
PRESIDING OFFICER

Documents on the part of the applicant

Annexures	Date	Particulars of documents
A1	25.10.2024	True copy of possession notice.
A2	22.04.2025	Certified copies of the CMP 4000/25 with affidavit filed by the defendant bank before the CJM Court, Thrissur.
A3	03.05.2025	Certified copy of the Order in Crl.M.P.4005/2025 of the CJM, Thrissur.
A4	23.05.2025	Notice of the Advocate Commissioner

Documents on the part of the defendants

Annexure	Date	Particulars of documents
B1	05.06.2024	Copy of Section 13(2) notice issued to the applicant.
B2	-	Proof of delivery.
B3	-	Proof of delivery.
B4	-	Copy of the paper publication of the possession notice in Deepika daily.
B5	-	Copy of the paper publication of the possession notice in Hindu daily.
B6	-	Photo of the affixture

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