IN THE DEBTS RECOVERY TRIBUNAL-III, CHENNAI

Dated this the 17th day of September, 2026

Present: SMT. S.V. GOWRAMMA
Presiding Officer

SARFAESI APPLICATION No. 572 of 2024

1. M/s. Thiru. Travel Service,
   Rep by its Proprietor Mr. Raghukumar,
   No.52, Shop No.46, 1st Floor, Ankur Plaza,
   G N Chetty Road, T. Nagar,
   Chennai-600 017

2. Raghu Kumar,
   Son of Mr. Loganathan,
   No.5, Visva Flats, Kumutham Nagar,
   East Main Road,
   Moggalivakkam, Chennai-600 125

3. Mrs. M. Indhumathi,
   Wife of Mr. Raghukumar,
   No.5, Visva Flats, Kumutham Nagar,
   East Main Road,
   Moggalivakkam, Chennai-600 125

   Raghu Kumar and Mrs. M. Indhumathi,
   Flat No.8D, 8th Floor, Block No.A5,
   Olympia Grande, GST Road,
   Pallavaram, Chennai-600 043

   Raghu Kumar and Mrs. M. Indhumathi,
   Flat No.8D, 10th Floor, Block No.D,
   Olympia Grande, GST Road,
   Pallavaram, Chennai-600 043. ….Applicants

-Vs-

M/s. Omkara Assets Reconstruction Private Ltd.,
Registered Office at
No.9, M.P. Nagar, 1st Street,
Kongu Nagar Extn, Tirupur-647 607
Branch Office at
No.397, Precision Plaza, Third Floor,
Anna Salai, Teynampet, Chennai-600 018.
Rep. by its Authorised Officer,

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Mr. Rajesh B Jumani ….Respondent

Counsels on record / appeared:

Counsel for Applicant : M/s. P. Jesus Moris Ravi, G. George Raja Selvan

Counsel for respondent : M/s. Ramalingam & Associates

ORDER ON SA 572/2024

1. The present Securitization Application [SA] is filed on 27.08.2024 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 Sec.14 order dated 12.07.2024 in C.M.P. No.1520 of 2024 passed by Chief Judicial Magistrate, Chengalpattu and the outstanding amount due as per Sec.14 order is Rs.84,59,987.45/-

2. The Applicants availed a Mortgage Loan of Rs.1 Crore from IndusInd Bank by mortgaging two residential flats, promptly servicing the loan and making regular repayments towards the outstanding loan amount, despite which the secured creditor, declared the Applicants' loan account as NPA.

3. It is submitted that the secured creditor, without following the due process of law, has assigned the loan account to the respondent institution. Subsequently, the respondent institution issued a Demand Notice U/s.13(2) of the SARFAESI Act, which was published in the newspaper on 13.05.2022.

3.1 The Respondent without following the mandatory provisions of the Act, filed a petition U/s.14 before the Ld. CJM, Chengalpattu, in Crl.M.P. No. 7340 of 2022 and obtained an order to take physical possession.

3.2 The applicants, being aggrieved by the Order dated 17.08.2022 passed by the Ld. CJM, Chengalpattu, in Crl. M.P. No. 7340 of 2022,

preferred a SARFAESI Application in S.A. No. 25 of 2023 before this Tribunal. During the pendency of the proceedings pursuant to the order of this Tribunal, applicant has remitted a sum of Rs.29,75,000/- to the respondent institution.

3.3 It is submitted that the Applicants have made sincere efforts to settle the entire loan account taken over by the respondent from the erstwhile creditor, IndusInd Bank and has remitted Rs.29.75 lakhs which is not been duly credited to the loan account. Thereafter, this Tribunal on 01.02.2024, disposed S.A. No. 25 of 2023 setting aside the order of Ld. CJM dated 17.08.2022.

3.4 The respondent, without following and complying with the order dated 01.02.2024 passed by this Tribunal in S.A. No. 25 of 2023, has again approached the Ld. CJM, Chengalpattu, in C.M.P. No. 1520 of 2024, without complying with the mandatory provisions prescribed under the Act. The respondent has represented that it had allegedly taken symbolic possession by issuing a Possession Notice dated 08.03.2024 which is not served, has not been affixed in the conspicuous part of the property as mandated under the Act nor Possession Notice was not published in accordance with law.

3.5 The respondent, without following the mandatory procedures under the Act, has again approached the Ld. CJM, Chengalpattu by filling a petition U/s.14 of the Act, seeking to dispossess the Applicants from the schedule mentioned property. The Ld. CJM, Chengalpattu without verifying the petition and the typed set of documents, without ascertaining whether

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a valid affidavit accompanied the petition, without examining the genuineness of the annexed documents, and whether respondent has followed the mandatory provisions under the Act, has passed a mechanical, arbitrary order dated 12.07.2024 in CMP No. 1520 of 2024.

3.6 The applicants contends that the respondent bank has not preferred any affidavit along with the petition u/s.14 of the Act before the Ld. CJM at Chengalpattu, which is mandatory under the Act. In the absence of a valid Demand and Possession Notices, the subsequent proceedings initiated under the SARFAESI Act are liable to be quashed and set aside, with exemplary costs imposed on the respondent.

3.7 One these grounds, the applicant prays to set aside the Sec.14 order passed by Ld. CJM, Chengalpattu dated 12.07.2024.

4. The Respondent Institution has filed its counter along with typed set of documents, contending that the Applicants have availed a loan of Rs.1,00,00,00/- from M/s. IndusInd Bank, the Assignor of the Respondent. To secure the said loan facility, the 2nd Applicant, being the absolute owner of the schedule mentioned property, deposited the original title deeds with the Assignor Bank on 23.05.2016. The 2nd Applicant also executed a Memorandum of Deposit of Title Deeds dated 23.05.2016, which was registered as Doc. No. 4449 of 2016 on the file of the SRO, Pallavaram. Subsequently, the security interest was duly registered with CERSAI.

4.1 The applicants failed to repay the loan. Consequently, the loan account was classified as NPA on 11.02.2021. Thereafter, vide an

Assignment Agreement dated 25.06.2021, M/s. IndusInd Bank Limited assigned the loan account of the Applicants, along with the underlying securities, to the Respondent. Consequently, the Respondent had stepped into the shoes of the Assignor and became entitled to recover the outstanding dues, together with further interest and costs.

4.2 To recover the outstanding dues, the Respondent initiated measures under the SARFAESI Act by issuing a U/s.13(2) Demand Notice dated 20.04.2022, calling upon the Applicants to repay the outstanding amount within the statutory period of 60 days. The Demand Notice was duly served upon the Applicants.

4.3 Upon receipt of the Demand Notice, the Applicants neither replied nor cleared the outstanding dues within the statutory period of 60 days. Accordingly, the Respondent Bank proceeded further and issued a Possession Notice dated 08.03.2024. The Possession Notice was duly sent by post to the Applicants and same was returned with the endorsement "Unclaimed" in respect of certain addresses, the notice was duly served upon the Applicants.

4.4 However, the same is deemed to have been duly served in the eyes of law. The Possession Notice was affixed at a conspicuous place on the secured asset and was also published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 12.03.2024.

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4.5 The Respondent Institution has approached the Ld. CJM, Chengalpattu, for obtaining orders U/s.14 of the Act. The order was passed by the Ld. CJM, in C.M.P. No. 1520 of 2024 dated 12.07.2024 appointing an Advocate Commissioner to take physical possession of the secured asset and hand over the same to the Respondent Bank.

4.6 Aggrieved by the order dated 12.07.2024 passed U/s.14 of the Act, the Applicants filed the above S.A. and obtained a conditional order dated 29.08.2024 from this Tribunal, where by the Applicants were directed to deposit 10% of the amount due within one week; and equal amount to be deposited within 30 days thereafter which has been complied.

4.7 The respondent institution denies the allegations in the SA as Applicants had admitted to availing the Loan facility and also creating a mortgage over the Schedule mentioned property. The Loan account was classified as NPA in accordance with the RBI guidelines and due to the default committed by the Applicants.

4.8 It is contended that, all the amount paid by the applicants were duly credited to the loan Account, respondent had strictly followed the provisions of the Act and Rules, while obtaining the Order dated 12.07.2024 from the Ld. CJM, Chengalpattu in C.M.P. 1520 of 2024.

4.9 The Proof of service of the Possession Notice dated 08.03.2024, the affixture in schedule mentioned property, and the paper publication in both English and Vernacular newspapers have been filed along with the counter,

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thereby disproving the allegations made by the Applicants regarding the same.

4.10 It is submitted that the Affidavit filed along with the Sec.14 order has also filed, thereby disproving the allegation made by the Applicants. The Ld. CJM had rightly allowed the Sec.14 order after verifying the documents and compliance of the Respondent Bank. The respondent institution denies all the allegations made in the present SA and also followed all the measures as required. Hence, the respondent institution 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 1st applicant is the borrower, the 2nd applicant is the co-borrower/mortgagor, and the 3rd applicant is the co-borrower. The applicants have availed a loan facility of Rs.1 Crore dated 23.05.2016 from M/s. IndusInd Bank, which is the assignor of the respondent. The applicants 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 2nd applicant has executed the Memorandum of Deposit of Title Deeds, registered vide Doc.No.4449 of 2016 dated 23.05.2016 before the SRO, Pallavaram which is not disputed by the applicants herein and the Memorandum of Deposit of Title Deeds in favor of the respondent bank is at Page No.1-7 of their typed set of documents.

5.1 The equitable mortgage is registered before the Central Registry dated 27.03.2025, as per the CERSAI report duly evidencing registration of the security interest with the central registry which is produced at Pg.8-13 of counter.

5.2 As the borrower and the co-borrowers defaulted in the repayment of the loan, the loan account was classified as NPA on 11.02.2021, in accordance with the RBI directives relating to asset classification. In the meantime, M/s. IndusInd Bank had assigned the borrowers debt, along with the underlying securities, to the Respondent pursuant to an Assignment Agreement dated 25.06.2021.

5.3 Subsequent to the classification, the respondent has issued Section 13(2) demand notice to the applicant, and the co-borrowers on 20.04.2022 calling upon them to pay the outstanding amount of Rs.84,59,987.45/- due as on 02.02.2022 along with other chargers. 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.

5.4 The Sec.13(2) Demand Notice was sent to the Borrower and the Co-borrowers by RPAD. The notices sent to all the applicants at the addresses mentioned in the S.A. were returned with the postal endorsement "Unclaimed," as evidenced at pages 61 to 64 of the Counter. However, the notices sent to all the applicants at their second address, namely, Flat No. 8D, 8th Floor, Block No. A5, Olympia Grande, GST Road, Pallavaram,

Chennai – 600 043, were duly served, as evidenced at pages 69 to 72 of the Counter.

5.5 The contention of the applicants that Demand Notice was not served is disproved by the respondent bank by producing the Acknowledgement Cards and Tracking Consignment Reports evidencing due service of the Demand Notice upon the borrower, guarantor and mortgagor. Accordingly, the contention of the applicants with regard to the issuance of the Demand Notice fails.

5.6 In spite of receipt of Sec.13(2) demand notice as the borrowers and the guarantors did not liqudated the liability within 60 days nor raised any objections to the demand made, the respondent bank has proceeded further under the Act. The applicants have challenged the order passed by the Ld. CJM in Crl.M.P.No.7430 of 2022 dated 17.08.2022, in SA.25 of 2023. During the hearing held on 01.02.2024, the respondent bank fairly conceded that, without issuing a Possession Notice, respondent had proceeded under Sec.14 of the SARFAESI Act and approached the Ld. CJM. Accordingly, this Tribunal, vide its order dated 01.02.2024, set aside the order passed by the Ld. CJM dated 17.08.2022, with liberty to the respondent bank to proceed further in accordance with law.

5.7 The respondent issued the Sec.13(4) Possession Notice on 08.03.2024 sent through Registered Post with Acknowledgement. The notices sent to all the applicants at their first and second addresses mentioned in the SA were returned with the postal endorsement

"unclaimed" as evidenced at Pg.77-82 of the counter. The notice addressed to the Borrower, M/s. Thiru Travels Service, at the SA address was also returned. However, the notice sent to all the applicants at their third address, namely, Flat No.10A, 10th Floor, and Block No. D, Olympia Grande, GST Road, Pallavaram, Chennai -600 043, were duly served, as evidenced at Pg.87-90 of the counter.

5.8 The possession notice is also published in two newspapers one in English "The New Indian Express" and another one in Tamil "Dinamani" both dated 12.03.2024 and affixture of possession notice is produced at Pg.93 and 94 of respondent bank's typed set. Thus, the service of possession notice is complete as contemplated under the Act and Rules made thereunder.

5.9 The contention of the applicants that Possession Notice was neither served nor published is disproved by the respondent bank by producing the acknowledgement cards, evidencing that the Possession Notice was duly issued and sent to the borrower, guarantor and mortgagor and by producing proof that the notice was published in two newspapers which is produced at Pg.91 and 92 of the counter. Accordingly, the contention of the applicants regarding the non-service, non-publication and affixture of the Possession notice fails.

5.10 The respondent institution has produced the copies of the S.13(2) demand notice and S.13(4) possession notice and its acknowledgement cards for due compliance of the measures taken, and respondent bank has

established the due compliance of the procedures as contemplated under the Act and Rules with supporting documents and have countered all the contention raised by the applicant in the SA.

5.11 As the applicants failed to repay the entire outstanding amount the bank has approached the Ld. CJM, Chengalpattu in u/s 14 of the SARFAESI Act. The Ld. CJM after perusal of the application and the loan documents produced by the respondent bank allowed the S.14 application on 12.07.2024.

5.12 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 12.07.2024 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 12.07.2024 passed by Ld. CJM, Chengalpattu has not pointed out any irregularity in the measures taken by the respondent herein.

5.13 On the other hand, it is seen that the statutory notices, the Demand Notice dated 20.04.2022 and Possession Notice dated 08.03.2024 are issued to the applicants in accordance with the Act and Rules made thereunder.

5.14 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.

5.15 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 12.07.2024 in C.M.P. No.1520/2024 passed by the Hon'ble CJM, Chengalpattu is a valid Order.

5.16 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.

5.17 Thus, the Sec.14 order dated 12.07.2024 in C.M.P. No.1520/2024 passed by the Hon'ble CJM, Chengalpattu 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].

5.18 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.

5.19 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 20.04.2022 and S.13[4] Possession Notice dated 08.03.2024 are held as valid notices issued under the Act.

5.20 It is seen from the records that both Demand Notice and Possession Notice have been issued by the Secured Creditor to the addresses of the borrowers/co-borrowers/guarantors, which all got returned as "unclaimed". Whereas the SA Paper Book, contains the same address as in the Demand Notice and Possession Notice, which gives to prove that applicants are residing in the very same address and evading notices deliberately and has now taken a contention that the notices are not served in accordance to law.

5.21 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 17th day of September, 2026)*

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ANNEXURES

LIST OF DOCUMENTS PRODUCED BY THE APPLICANT

Sl. No.	Description of Documents	Documents No.
1.	Order passed by Learned CJM, Chengalpattu in CMP No.7340 of 2022 dated 17.08.2022	A-1
2.	Payment Proofs for Rs.29.75 Lakhs	A-2
3.	Order of this Hon'ble Tribunal in SA No.25 of 2023 dated 01.02.2024	A-3
4.	Order passed by Learned CJM, Chengalpattu in CMP No.1520 of 2024 dated 12.07.2024	A-4
5.	Vacate Notice affixed on 23.08.2024 dated 16.08.2024	A-5

LIST OF DOCUMENTS PRODUCED BY THE RESPONDNET

Sl. No.	Description of Documents	Documents No.
1.	Memorandum of Deposit of Title Deeds dated 23.05.2016	R-1
2.	CERSAI Certificate	R-2
3.	Assignment Agreement executed in favour of the Respondent dated 25.06.2021	R-3
4.	Demand Notice U/s 13(2) of SARFAESI Act issued by the Respondent to the Applicants dated 20.04.2022	R-4
5.	Returned Covers and Acknowledgement cards of issued Demand Notice	R-5
6.	Possession Notice U/s 13(4) of SARFAESI Act issued by the Respondent in favour of Applicants dated 08.03.2024	R-6
7.	Returned Covers and Acknowledgement Cards of issued Possession Notice	R-7
8.	Paper Publication of Possession Notice in English Vernacular "The New Indian Express" dated 12.03.2024	R-8
9.	Paper Publication of Possession Notice in Tamil Daily "Dinamani" dated 12.03.2024.	R-9
10.	Proof Affixture of Possession Notice.	R-10
11.	Petition filed U/s 14 of the SARFAESI Act by the Respondent before Hon'ble Special Judge/CJM Chengalpattu in CMP. No.1520 of 2024 dated 10.04.2024	R-11
12.	Affidavit filed Respondent before Hon'ble Special Judge/CJM Chengalpattu in CMP. No.1520 of 2024 dated 10.04.2024	R-12

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13.	Order passed by the Hon'ble Special Judge/CJM, Chengalpattu in C.M.P. No.1520 of 2024 allowing Section 14 Application dated 12.07.2024	R-13

SCHEDULE MENTIONED PROPERTY

Item No.1

All that piece and parcel of Residential Flat, bearing Flat No.8D, Block No.A5, 8th Floor of the Building known as "Olympia Grande", GST Road, Pallavaram, Chennai 600 043, having built up area of measuring 1287 sq.ft., with one covered car parking at Basement area, together with 357.50 sq.ft., of undivided share of land out of total land admeasuring 6 Acres and 36 Cents, comprised in Survey Nos. 32, 33/2, 36, 37, 38/2, 33/1 & 39/4B and New T.S.Nos. 2, 4/1, 4/2, 5/1, 5/2, 6/1A, 6/1B, 6/1C, 6/1D, 8/1, 22/1, 23/1 and 24/1 at Block No.15, Ward No.A, GST Road, Situated at Issa Pallavaram Village, Tambaram Taluk, Kancheepuram District,

Bounded on the:-

North by : 30 Feet Road (Kannapiran Street), 6/1D Part, 22/1 Part

South by : Land belonging to T & Publication Pvt Ltd

East by : GST Road

West by : Survey No.39/3

And situated within the Sub-Registrar Office of Pallavaram and Registration District of Chennai South.

Item No.2

All that piece and parcel of Residential Flat, bearing Flat No.10 A, Block No.D, 10th Floor of the Building known as "Olympia Grande", GST Road, Pallavaram, Chennai 600 043, having built up area of measuring 1415 sq.ft., with one covered car parking at Basement area, together with 393.06 sq.ft., of undivided share of land out of total land admeasuring 6 Acres and 36 Cents, comprised in Survey Nos. 32, 33/2, 36, 37, 38/2, 33/1 & 39/4B and New T.S.Nos. 2, 4/1, 4/2, 5/1, 5/2, 6/1A, 6/1B, 6/1C, 6/1D, 8/1, 22/1, 23/1 and 24/1 at Block No.15, Ward No. A, GST Road, Situated at Issa Pallavaram Village, Tambaram Taluk, Kancheepuram District,

Bounded on the:-

North by : 30 Feet Road (Kannapiran Street), 6/1D Part, 22/1 Part

South by : Land belonging to T & Publication Pvt Ltd

East by : GST Road

West by : Survey No.39/3

And situated within the Sub-Registrar Office of Pallavaram and Registration District of Chennai South.

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