Fair Order

IN THE DEBTS RECOVERY TRIBUNAL AT MADURAI
DATED THIS 14TH DAY OF OCTOBER 2026
PRESENT: SEEMA SINHA
[PR. DISTRICT & SESSIONS JUDGE - Retd]
PRESIDING OFFICER

SA No. 1143/2025

1. J. Santhos Naveen Chelliah
S/o Jothi Raj
1673/A, Bharathi Nagar
Sankarankoil – 627 756
Tenkasi District ..... **Applicant**

-Vs-

1. M/s Bajaj Finance Limited
Rep. by its Authorized Officer
Unit No. 804, 805, 806, Delta Wing
8th Floor, Raheja Tower
177, Anna Salai, Chennai – 600 002

2. The Chief Judicial Magistrate
District Court Buildings
Old Govt. Hospital stop
Ayiraperi Road
Tenkasi – 627 811

3. K. Loganathan (MS No. 3098/2011)
Advocate / Commissioner
23D, 1A, Periya Medical House
NGO Colony, 6th Street

Melagram – 627 803
Tenkasi District

4. JMRC Fuel Service
Rep by its Proprietor
299, Sernthamaram Road
Sankarankoil – 627 756
Tenkasi District

5. U.V. Baby Kousalya
W/o C. Jothiraj
1673/B, Bharathi Nagar
Sankarankoil – 627 756
Tenkasi District

6. C. Jothiraj
S/o Chelliah
1673/B, Bharathi Nagar
Sankarankoil – 627 756
Tenkasi District **..... Defendants**

Appearance of Advocates:
M/s M. Gurudas ---- Counsel for the Applicant
Mr. I. Suthakaran ---- Counsel for the Defendant Financial Institution

This Application was heard in the presence of M/s M. Gurudas, Counsel for the Applicants and Mr. I. Suthakaran, Counsel for the Defendant Financial Institution 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 by the applicants praying that this Hon'ble Tribunal may be pleased to pass an order to set aside Impugned Order passed in Cr. M.P.260 of 2025 dated 15.04.2025 by the Ld. Chief Judicial Magistrate, Tenkasi under section 14 of the SARFAESI Act.

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

A. The Applicant submitted that the property situated in Tenkasi District, Sankarankovil Taluk, Kalappakulam Village, Ward No. 5, Bharathi Nagar, Ayan Punja in Survey No. 587/2B3B to an extent of 0.40.50 Hectares (equal to 1 Acre) and Survey No. 587/2BC3 to an extent of 0.93.50 Hectares (equal to 38 Cents), measuring East-West on the Northern side 46.59 meters, Southern side 31.20 meters, and North-South on the Western side 36.90 meters, Eastern side 39.40 meters, total admeasuring 1,534.4555 square meters, along with the building constructed thereon bearing Door Nos. 5/1673A and 5/1673B, Bharathi Nagar, Kalappakulam Village, Sankarankovil, Tenkasi, bounded on the North by the site of Sankaravel Mudaliar etc., East by Elavankulam Road, South by East-West Street, and West by the site owned by the Applicant, was originally owned by one Palaniyandi Mudaliar, son of Shankara Subbu Mudaliar. The Applicant further submitted that his paternal grandfather, late J.M.R. Chelliah, son of Ramasamy, purchased the above-mentioned property measuring 2 Acres 30 Cents and an additional 1 Acre of land (totaling 3 Acres 30

Cents) from the original owner Palaniyandi Mudaliar through two registered Sale Deeds bearing Document No. 774/1987 dated 16.09.1987 and Document No. 462/1985 dated 25.02.1985 for valuable consideration. The Applicant's paternal grandfather J.M.R. Chelliah was in peaceful possession and enjoyment of the said property along with other properties acquired under the aforementioned Sale Deeds.

B. The Applicant submitted that his paternal grandfather J.M.R. Chelliah gifted/donated 90 Cents of land to his first two sons, namely C. Amal Raj and C. Rajendran. After bequeathing 90 Cents of land to his two sons, the Applicant's paternal grandfather retained 2 Acres 40 Cents of land in his possession and enjoyment. Under such circumstances, the Applicant's paternal grandfather arranged for the marriages of his children, provided them with both immovable and movable properties, cash, jewels, and business concerns for their livelihood and future betterment, and spent substantial sums of money on their marriages and settlement.

C. The Applicant submitted that his father, C. Jothi Raj (arrayed as the 6th Defendant), is the youngest son of his paternal grandfather. The 5th Defendant is the mother of the Applicant. The marriage between the 5th and 6th Defendants was solemnized in the year 1996, and the Applicant was born to them in the year 1997. Although the 6th Defendant was the son of J.M.R. Chelliah, his conduct and attitude were unsatisfactory to his father, as he was spendthrift, extravagant, generous, liberal, high-rolling, reckless, and careless in his financial affairs, having no permanent source of income and depending entirely on the properties given by his father. The 5th Defendant, being the wife of the 6th Defendant and mother of the Applicant, acted as a "yes-woman" who yielded to all actions of her husband, remaining a dutiful

wife but failing as an effective homemaker for the family. Understanding the situation and foreseeing the future, the Applicant's paternal grandfather J.M.R. Chelliah, while in a sound disposing state of mind and without any undue influence or inducement, executed a Last Will and Testament in the presence of witnesses on 27th May 1998 in favour of the Applicant (who was then an infant child). He appointed the 5th Defendant's father, U. Velaudham Udayar (the maternal grandfather of the Applicant), as the custodian of the Will. Under the Will, absolute rights over the schedule property were bequeathed to the Applicant, to take effect after the lifetime of the testator J.M.R. Chelliah. The crucial excerpt of the Will written in Tamil translates as follows:

D. *"After your grandfather delivers this Will to you, you shall take absolute possession and enjoyment of the property described in the schedule with full rights of absolute ownership, to be enjoyed by you and your lineage from generation to generation. Your father or my other legal heirs shall have no right, title, or continuous claim over this property. This document shall come into force after my lifetime. I reserve full rights to alter or cancel this document during my lifetime. I hand over the original title document obtained by me today..."*

E. The Applicant's maternal grandfather, U. Velaudham Udayar, passed away on 28.09.2023. While sorting and preserving his belongings, chattels, and holdings, the Will executed by the Applicant's paternal grandfather in favour of the Applicant on 27.05.1998 was discovered and brought to the knowledge of the Applicant. The testator J.M.R. Chelliah had passed away on 01.06.1999, and the Will came into effect upon his death; however, its existence became known to the Applicant only after the death of the custodian, U. Velaudham Udayar. Thus, as per the Will, the Applicant is the absolute owner of the schedule property. Unaware of the Will, the 5th and 6th Defendants (parents of

the Applicant and owners of the 4th Defendant) continued in possession and enjoyment of the suit property under the mistaken impression that J.M.R. Chelliah had died intestate. Consequently, the 6th Defendant executed a Settlement Deed in favour of his wife (the 5th Defendant), registered as Document No. 2344/2017 in the office of the Sub-Registrar, Sankarankovil, on 30.10.2017. The Applicant gained knowledge of this Settlement Deed only in April 2025, as he was abroad for higher studies and employed out of station. Within three years from gaining knowledge, well within the prescribed period of limitation, the Applicant filed a civil suit in **O.S. No. 247/2025** before the Principal District Judge, Tenkasi, seeking a Declaration of absolute ownership over the suit property by virtue of the Will dated 27.05.1998, a Permanent Injunction restraining Defendants 1, 5, and 6 from interfering with or alienating the property, and declaring the Settlement Deed dated 30.10.2017 (Doc. No. 2344/2017) null and void. The suit is pending and posted for hearing on 12.01.2026.

F. The Applicant submitted that in the interim, the 1st Defendant filed a petition under Section 14(1) & (2) of the SARFAESI Act, 2002 before the Chief Judicial Magistrate, Tenkasi, and obtained an order in **Cr.M.P. No. 260/2025 on 15.04.2025** behind the Applicant's back, attempting to dispossess the Applicant from the property. The learned Chief Judicial Magistrate, Tenkasi, failed to afford the Applicant an opportunity to present his case and ventilate his grievances, passing the order arbitrarily and unilaterally by treating the 1st Defendant's statements as gospel truth. The order was passed under Section 14 of the SARFAESI Act without affording a hearing to the Applicant, who was in physical possession of the premises when the application was made. The legality and validity of taking possession can only be decided

after proper inquiry and issuing due notice to the affected party/real owner of the property.

G. The Applicant submitted that he is a complete third party to the financial transaction between the 1st Defendant on one side and the 4th and 5th Defendants on the other side regarding the Applicant's property. In this context, the Applicant relies on the judgment of the Hon'ble Supreme Court of India dated 03.04.2014 in ***Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited*** (Criminal Appeal No. 736/2014, reported in (2014) 6 SCC 1), wherein it was held:

H. *"25. The opening words of sub-section (1) of Section 14 of the SARFAESI Act make it clear that where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets is required to be sold or transferred by the secured creditor 'under the provisions of the Act', the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof. Thus, only if possession of the secured asset is required to be taken under the provisions of the SARFAESI Act, the secured creditor can move the Chief Metropolitan Magistrate or the District Magistrate for assistance to take possession of the secured asset..."*

I. The Applicant submitted that as a third party to the transaction between Defendants 1, 4, and 5, he is entitled to protection as laid down by the Hon'ble Division Bench of the Madras High Court in ***V. Viswanathan & Ors. v. The District Collector-cum-District***

Magistrate, Coimbatore & Ors. (W.P. Nos. 30199 to 30204 of 2014, order dated 25.02.2015), which held:

J. *"15. Having regard to all facets of the case, one fact is established that the impugned order dated 04.09.2014 was passed by the District Magistrate and District Collector in exercise of power under Section 14 of the SARFAESI Act, without affording an opportunity of hearing to the tenants / petitioners. The petitioners were in possession of the premises in question at the relevant time when application under Section 14 of the SARFAESI Act was made by the secured creditor. The question of applicability and validity of the possession can be considered and decided only after proper enquiry and also after issuing proper notice to the affected parties...*

K. *16. ...we set aside the impugned order and remit back the matter to the first defendant / District Magistrate and District Collector to pass orders in accordance with the law laid down in Harshad Govardhan Sondagar [(2014) 6 SCC 1] and also any other law relevant in the case, after giving an opportunity of hearing to all the parties concerned..."*

L. Hence, having no other effective alternative remedy, the Applicant preferred a Writ Petition before the Hon'ble Madurai Bench of the Madras High Court in **W.P.(MD) No. 36617/2025**, wherein the Hon'ble High Court directed the Applicant to approach this Hon'ble Tribunal. Having exhausted all remedies, including filing the suit for declaration before the Principal District Judge, Tenkasi, the Applicant has preferred this Application before this Hon'ble Tribunal to redress his grievances on the following grounds:

GROUNDS

a. The impugned order passed by the 2nd Defendant (CJM, Tenkasi) in Cr.M.P. No. 260/2025 dated 15.04.2025 is illegal, arbitrary, devoid of reasons, and passed in total violation of the principles of natural justice, and is therefore liable to be quashed.

b. The 1st Defendant (Non-Financial Institutioning Housing Finance Company) had a bounden duty to disclose before the 2nd Defendant (CJM, Tenkasi) that the true ownership of the property vests with the Applicant and not with the 5th and 6th Defendants.

c. The 2nd Defendant (CJM, Tenkasi) failed to scrutinize the title documents or ascertain true ownership of the property, and erred in appointing the 3rd Defendant to assist the 1st Defendant in dispossessing the Applicant.

d. The 2nd Defendant (CJM, Tenkasi) acted without jurisdiction in ordering possession of the property owned and possessed by the Applicant.

e. The 2nd Defendant (CJM, Tenkasi) ought to have held that the Applicant is the absolute owner of the property and consequently dismissed the application filed by the 1st Defendant seeking possession.

f. The 2nd Defendant (CJM, Tenkasi) failed to afford the Applicant an opportunity of hearing during the proceedings in Cr.M.P. No. 260/2025, violating the principles of natural justice.

g. The Applicant reserves his right to raise additional grounds at the time of hearing of this Application.

DESCRIPTION OF PROPERTIES

Tenkasi Registration District, Sankarankovil Sub Registrar Jurisdiction, Sankarankovil Panchayat Union, Sankarankovil Taluk, Kalappakulam Village and Panchayat Union, Ward No. 5, Bharathi Nagar, Ayan Punja S. No. 587/2, Sub Divison – S.No. 587/2B3B – 0.40.50 Hectare = 1 Acre, S.No. 587/2B3C – 0.93.50 Hectare = 2 Acres 31 cents, Totally 3 Acres 31 cents – in which on the eastern side, northern side – 38 cents measuring East West on the Northern side 46.49 mt., on Southern side 32.20 mt., South North on the Western side 38.60 mt., on the eastern side 39.40mt., admeasuring 1534.455 sq.mt and the building constructed thereon bearing with upstairs D. Nos. 5/1673A, 5/1673B abd uts electric service connection Nos. 041-025-1108, 041-025-168 meter deposit, compound wall of 6ft., 3 grill gate, borewell, latrine and it's all regular right with boundaries:-

North	-	Site of Sankaravel Mudaliar Vagaiyara
East	-	Elavankulam Road
South	-	East West Street
West	-	Site of Jothiraj

Together with all buildings and structures attached to the earth or permanently fastened to anything attached to earth, both present and all easamentary / mamool rights annexed thereto.

The Applicant has submitted the following list of documents in support of their claim in the SARFAESI Act, which are as follows:

Sl. No.	Date	Description
1.	20.02.1985	Sale Deed executed by Palaniyandi Mudaliyar in favour of JMR Chelliah for the extent of 2 acres 40 ¾ cents (D.No. 462/1985)
2.	16.09.1987	Sale Deed executed by Palaniyandi mudaliyar in favour of JMR Chelliah (D. No. 774/1987)

3.	27.05.1999	WILL executed by JMR Chelliah in favour of the petioner
4.	04.06.1999	Death certificate of JMR Chelliah
5.	30.10.2017	Settlement deed executed by the 4th Respondent in favour of the 3rd Respondent
6.	27.02.2017	Birth Certificate of the plaintiff
7.	12.10.2023	Death Certificate of U. Velayutham
8.	19.09.2025	Plaint in OS No. 247/2025 on the file of the Principal District Judge, Tenkasi
9.	03.05.2024	Copy of the Possession Notice of the 1st Respondent
10.	15.04.2025	Impugned order passed by the learned Chief Judicial Magistrate of Tenkasi in Cr.M.P. No. 260/2025
11.	22.12.2025	The Notice for Physical Possession issued by the 3rd Defendant.

3. on the other hand, the Counsel for the 1st Defendant Financial Institution appeared before this Tribunal and filed Vakalat, Typed set of papers & Reply Statement. Wherein he has stated that the Applicants approached the Defendant Financial Institution in respect of the one OCC facility and two Education Loans. The Defendant Financial Institution strongly & vehemently denies the allegations under the headings "Facts of the Case" & "Grounds" of the SARFESI Application.

- It is further submitted that the 5th Defendant, who is also the Proprietor of the 4th Defendant concern, along with her husband, the 6th Defendant, had availed a loan facility of **Rs.51,00,000/-** from the 1st Defendant in the year 2017. Pursuant to their loan application, the loan was sanctioned and a Loan Agreement was duly executed between the borrowers and the 1st Defendant.

- Further submitted that as security for the loan, the 5th Defendant created an equitable mortgage over the secured asset by executing a **Memorandum of Deposit of Title Deeds dated 04.12.2017** in favour of the 1st Defendant. Since the borrowers, namely Defendants 4 to 6, committed persistent default in repayment of the loan and the account remained overdue for more than 90 days, the loan account bearing **LAN No. 1446FBL0702272** was classified as a **Non-Performing Asset (NPA)** on **31.01.2024**. Thereafter, a Demand Notice under Section 13(2) of the SARFAESI Act was issued on **17.02.2024**, demanding payment of **Rs.54,43,138/-** outstanding as on **07.02.2024**. The Demand Notice was also published in newspapers on **02.03.2024**. As the borrowers failed to discharge their liability, the 1st Defendant issued a Possession Notice under Section 13(4) of the SARFAESI Act on **03.05.2024**, which was duly published in one English and one Tamil daily newspaper on **08.05.2024**.

- It is also submitted that even after symbolic possession was taken, the borrowers failed to regularize the loan account or discharge their outstanding liability. Consequently, the 1st Defendant filed an application under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Tenkasi, in **Crl.M.P. No. 260 of 2025**, seeking assistance for taking physical possession of the secured asset. Upon considering the affidavit and documents marked as exhibits, the learned Chief Judicial Magistrate, by order dated **15.04.2025**, allowed the application and appointed an Advocate Commissioner to take physical possession of the secured asset and hand over the same to the 1st Defendant.

- Thereafter, the borrowers (Defendants 4 to 6) filed **S.A. No. 351 of 2025** before this Hon'ble Tribunal challenging the order dated 15.04.2025 passed by the learned Chief Judicial Magistrate, Tenkasi. This Hon'ble

Tribunal granted an interim order of stay on **16.05.2025**, subject to the condition that the borrowers deposit **35% of the outstanding amount in three equal instalments**. However, the borrowers failed to comply with the said conditional order.

- Pending S.A. No. 351 of 2025, the borrowers again filed **S.A. No. 851 of 2025** challenging the very same order dated 15.04.2025 of the Ld. C.J.M. under section 14 of the SARFAESI Act. The 1st Defendant objected to the maintainability of the said application on the ground of **res judicata**. However, this Hon'ble Tribunal, while granting another opportunity to the borrowers, passed an interim order dated **29.10.2025**, directing payment of the entire outstanding amount in **seven equal instalments**. Even this conditional order was not complied with by the borrowers.

- Subsequently, **S.A. No. 351 of 2025** came to be dismissed by this Hon'ble Tribunal by order dated **12.11.2025**. Thereafter, the borrowers filed **I.A. No. 4907 of 2025** in **S.A. No. 851 of 2025** seeking extension of time for payment of the first instalment. Since they had already failed to comply with the earlier conditional order, the said application was dismissed by this Hon'ble Tribunal by order dated **17.12.2025**. Thereafter, the present Securitisation Application has been filed by the Applicant, who is none other than the son of Defendants 4 and 5, on untenable and false grounds.

- It is respectfully submitted that the Applicant has no borrower-creditor relationship whatsoever with the 1st Defendant. The Applicant has filed the present proceedings solely with an intention to delay and obstruct the lawful measures initiated by the 1st Defendant under the provisions of the SARFAESI Act. The present application is frivolous, vexatious and an abuse of the process of law.

- It is further submitted that the Applicant has no locus standi to maintain the present Securitisation Application. The pleadings of the Applicant disclose that the dispute, if any, pertains to alleged family arrangements and internal disputes among family members. Such private disputes cannot be adjudicated in proceedings under Section 17 of the SARFAESI Act against the secured creditor.

- It is submitted that the loan was availed by Defendants 4 to 6, and at the time of sanction of the loan, the 5th Defendant executed the Memorandum of Deposit of Title Deeds in favour of the 1st Defendant after establishing her title and possession over the secured asset. The mortgage was validly created after due verification of the title documents by the 1st Defendant. The borrowers themselves have never disputed the creation of the mortgage. Therefore, the present attempt by the Applicant, being the son of Defendants 5 and 6, to challenge the secured transaction is nothing but an attempt to delay the recovery proceedings lawfully initiated under the SARFAESI Act.

- It is respectfully submitted that, while obtaining the order under Section 14 of the SARFAESI Act, the Authorized Officer of the 1st Defendant personally appeared before the learned Chief Judicial Magistrate, Tenkasi, adduced evidence, and marked documents as **Ex.P1 to Ex.P13**. Only after due verification of the pleadings, affidavit and documentary evidence, the learned Chief Judicial Magistrate passed the order dated **15.04.2025** appointing an Advocate Commissioner to take physical possession of the secured asset. The allegations made by the Applicant against the 1st Defendant as well as against the learned Chief Judicial Magistrate are wholly baseless, reckless and liable to be rejected.

- Without prejudice to the foregoing submissions, it is submitted that the Applicant claims ownership over the secured asset on the basis of an alleged **unregistered Will dated 27.05.1998**, purportedly executed by the father of the 5th Defendant. The Applicant has further stated that the said Will is in the custody of the father of the 4th Defendant. These averments themselves disclose that all the parties concerned are close family members. Therefore, there is every possibility of collusion between the Applicant and Defendants 4 to 6 to defeat the lawful rights of the secured creditor, evade repayment of the outstanding dues and continue in unauthorized possession of the secured asset. Such private disputes cannot override the statutory rights of the secured creditor under the SARFAESI Act. The present application has been filed only to protract the recovery proceedings involving substantial public money and is liable to be dismissed with exemplary costs.

4. On the basis of the above pleadings, the following issues have been framed:

(i) Whether actions initiated by the Respondent Financial Institution in respect of the schedule mentioned property under the SARFAESI Act are illegal, void and contrary to the settled principles of Law?

(ii) Whether the applicant is entitled for relief as claimed for?

5. The present Securitisation Application has been filed by the Applicant under Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “the SARFAESI Act”), challenging the order dated 15.04.2025 passed by the learned Chief Judicial Magistrate, Tenkasi, in Cr.M.P. No. 260 of 2025 under Section 14 of the SARFAESI Act, whereby an Advocate Commissioner

was appointed to take physical possession of the secured asset and hand over the same to the 1st Defendant Financial Institution.

5.1 The Applicant contended that the property described in the Schedule to the Securitisation Application originally belonged to his paternal grandfather, J.M.R. Chelliah, who had purchased the property under registered Sale Deeds dated 25.02.1985 and 16.09.1987. It is the further case of the Applicant that his paternal grandfather executed a Will dated 27.05.1998 bequeathing the schedule property in his favour and that the said Will came into effect upon the death of the testator on 01.06.1999. However, the existence of the Will came to the Applicant's knowledge only after the death of its custodian, U. Velaudham Udayar, in September 2023.

5.2 The Applicant further contended that, without knowledge of the aforesaid Will, his father, the 6th Defendant, executed a Settlement Deed dated 30.10.2017 in favour of his mother, the 5th Defendant, in respect of the schedule property. The Applicant challenged the said Settlement Deed by filing O.S. No. 247 of 2025 before the Principal District Judge, Tenkasi, seeking a declaration of his ownership and other consequential reliefs. The said civil suit is stated to be pending.

5.3 According to the Applicant, he is a third party to the loan transaction between the 1st Defendant Financial Institution and Defendants 4 to 6 and is the actual owner of the schedule property by virtue of the Will. He alleged that the learned Chief Judicial Magistrate passed the impugned order under Section 14 of the SARFAESI Act without affording him an opportunity of hearing, despite his alleged ownership and possession of the property. Hence, he sought to set aside the impugned order.

6. The 1st Defendant Financial Institution contended that Defendants 5 and 6, who are the borrowers and the persons connected with the 4th

Defendant concern, availed a loan facility of Rs.51,00,000/- in the year 2017 and that the 5th Defendant created an equitable mortgage over the secured asset by executing a Memorandum of Deposit of Title Deeds dated 04.12.2017.

6.1 The Financial Institution further submitted that, owing to persistent defaults, the loan account was classified as a Non-Performing Asset on 31.01.2024. Thereafter, a demand notice dated 17.02.2024 was issued under Section 13(2) of the SARFAESI Act, demanding payment of Rs.54,43,138/- as outstanding on 07.02.2024. Subsequently, a possession notice dated 03.05.2024 was issued under Section 13(4) of the SARFAESI Act and published in newspapers on 08.05.2024.

6.2 As the borrowers failed to discharge the outstanding liability, the Financial Institution approached the learned Chief Judicial Magistrate, Tenkasi, under Section 14 of the SARFAESI Act. After considering the affidavit and documents produced by the Financial Institution, the learned Chief Judicial Magistrate passed the impugned order dated 15.04.2025, appointing an Advocate Commissioner to take physical possession of the secured asset.

6.3 The Financial Institution further contended that the Applicant claims ownership on the basis of an alleged Will, the genuineness and legal effect of which are disputed and are already the subject matter of the pending civil suit. According to the Financial Institution, the present application has been filed to obstruct and delay the lawful recovery proceedings and is liable to be dismissed.

7. On a perusal of the pleadings and the materials placed before this Tribunal, it is evident that Defendants 4 to 6 availed themselves of the loan facility and that the 5th Defendant created an equitable mortgage over the schedule-mentioned property in favour of the 1st Defendant Financial

Institution by executing a Memorandum of Deposit of Title Deeds dated 04.12.2017. The Financial Institution has further pleaded that the loan account was classified as a Non-Performing Asset (NPA) on 31.01.2024, following which a demand notice was issued under Section 13(2) of the SARFAESI Act, 2002. On scrutiny of the records, I find that the Financial Institution has filed the postal receipt and copies of the paper publications of the Demand Notice dated 17.02.2024 in two leading newspapers, one in English and the other in a vernacular language, which are **annexed at Pages 1 to 12 of the Financial Institution's typed set of papers**.

7.1 Further, the Financial Institution issued a Possession Notice dated 03.05.2024 under Section 13(4) of the SARFAESI Act, 2002. On perusal of the records, I find that the Financial Institution has filed a copy of the said Possession Notice, the postal receipt, proof of affixture of the Possession Notice on a conspicuous part of the schedule-mentioned property, and copies of the paper publications of the Possession Notice dated 03.05.2024 in two leading newspapers, one in English and the other in a vernacular language. The said documents are **annexed at Pages 12 to 17 of the Financial Institution's typed set of papers**.

7.2 Thereafter, the Financial Institution obtained the impugned order dated 15.04.2025 in Cr.M.P. No. 260 of 2025 from the learned Chief Judicial Magistrate, Tenkasi, under Section 14 of the SARFAESI Act, 2002, for taking physical possession of the secured asset. On perusal of the records, I find that a copy of the said order passed by the learned Chief Judicial Magistrate, Tenkasi, has been filed and is **annexed at Pages 18 to 22 of the Financial Institution's typed set of papers.**

8. In view of the above, I find that the records placed before this Tribunal establish compliance by the Financial Institution with the applicable

statutory requirements and the procedures prescribed under the SARFAESI Act, 2002, and the Security Interest (Enforcement) Rules, 2002, in respect of the issuance of the Demand Notice and Possession Notice and in obtaining the order under Section 14 of the Act from the learned Chief Judicial Magistrate, Tenkasi. Accordingly, no procedural irregularity is established on the basis of the materials discussed above.

8.1 The principal contention of the Applicant is that he is the absolute owner of the schedule property under a Will dated 27.05.1998 executed by his paternal grandfather, J.M.R. Chelliah, and that the subsequent Settlement Deed dated 30.10.2017 executed by his father in favour of his mother is not binding upon him. In support of his claim, the Applicant has referred to the earlier Sale Deeds, the alleged Will and the pending civil suit in **O.S. No. 247 of 2025 before the Principal District Judge, Tenkasi**.

8.2 For the foregoing reasons, this Tribunal is of the view that the Applicant's claim of ownership under the alleged Will and the validity of the subsequent Settlement Deed involve disputed questions of title, which are pending consideration before the competent civil court. No final declaration of ownership can be made in the present proceedings merely on the basis of the rival pleadings.

8.3 The question whether the impugned order dated 15.04.2025 is liable to be set aside must, however, be determined with reference to the statutory requirements of Section 14, the material placed before the learned Chief Judicial Magistrate and the legal effect of the Applicant's claim of independent ownership and possession. The impugned order cannot be set aside merely because the Applicant asserts ownership; equally, the Financial Institution's right to take possession cannot be treated as conclusive proof of its

entitlement against a person who establishes an independent right in the secured asset.

8.3 Accordingly, the relief sought in the present Securitisation Application shall be determined on the basis of the materials on record and the applicable law, without expressing any final opinion on the genuineness or legal effect of the alleged Will dated 27.05.1998 or the validity of the Settlement Deed dated 30.10.2017, which are matters pending before the competent civil court.

8.4 The borrowers (Defendants 4 to 6) had already challenged this order passed under section 14 of the SARFAESI Act, 2002 in **S.A. No. 351/2025** and **S.A. No. 851/2025**, both of which were dismissed by this Tribunal due to non-compliance with conditional orders. The order under Section 14 has attained finality as against the mortgagors, and no fresh challenge by a family member residing in the same unit can be entertained to re-open closed issues.

8.5 The Applicant has failed to make out any valid ground to set aside or stay the order dated 15.04.2025 passed in Cr.M.P. No. 260/2025 or the notice issued by the 3rd Defendant. The Securitisation Application is devoid of merits and liable to be dismissed.

In the result

1. **S.A. No. 1143/2025 Stands Dismissed.**
2. All pending Interlocutory Applications (I.As), if any, stand closed.
3. No order as to costs.

(Dictated to KKN taken down, transcribed, typed by him, corrected and pronounced by me in the Open Court in this the 14th October, 2026).

Sd/-

(SEEMA SINHA)
PRESIDING OFFICER

Uploaded on 23.10.2026