BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2026

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R.POORNIMA

W.P.(MD)No.29795 of 2024

M/s.Shriram City Union Finance Ltd.,
Through its Authorised Officer,
D.Shanmugavadivelu,
Door No.14A, South Phase,
Industrial Estate, Guindy,
Chennai – 600 032. ... Petitioner

Vs.

1. P.Kannan
2. Kumarasakthi
3. Kaliyammal
4. Gayathiri ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders dated 19.09.2024 passed in Crl.M.P.No.20 of 2023 on the file of the Chief Judicial Magistrate, Kumbakonam at Thanjavur and memo in Crl.M.P.No.20 of 2023 and quash the same and consequently to restore the petition and reviving the order dated 30.01.2023.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.R.Venkatesan for R-1.

No appearance for R-2 to R-4.

* * *

ORDER

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The private parties herein availed loan from the petitioner. They committed default. Hence, the petitioner took action under the SARFAESI Act after issuing possession notice. Petition was filed under Section 14 of the Act before the Chief Judicial Magistrate, Kumbakonam at Thanjavur. In the meanwhile, the borrower Thiru.Kannan filed W.P.(MD)No.11985 of 2023. The said writ petition was disposed of on 18.05.2023 in the following terms:-

> "4. It is seen that the outstanding amount as per the respondent as on 16.03.2022 is Rs. 27,48,000/-. Therefore, the petitioner is directed to pay 50% thereof, namely, 25% within a period of two weeks and another 25% within a period of two weeks thereafter. Needless to mention that if the petitioner makes any default, the respondent is at

liberty to proceed in accordance with law."

3. This order could only have been an interim order. But by mistake, it was typed as "the writ petition itself is disposed of". Thereafter, the petitioner herein filed W.M.P.(MD)No.23645 of 2024 seeking clarification. The WMP was disposed of on 25.02.2026 in the following terms:-

> "6.Taking into consideration the plea, this Court has given such reprieve to the writ petitioner to pay 50% of the amount due and payable, so the residential area will not be taken possession and put to auction. It does not mean that it is suffice to pay 50% towards full quit and satisfaction of the entire loan amount. Hence, the financier is entitled to proceed in accordance with law for the recovery of the balance amount. The only impediment for him to pursue the old application filed under Section 14 of the SARFAESI Act, which should reflect the amount payable and recoverable as Rs. 28,48,000/- and due to the intervening facts, there will be a substantial change in the amount recoverable. Hence, we make it clear that if at all the petitioner is inclined to recover the amount to initiate fresh proceedings reflecting the duty

payable as on date, if it is permissible."

In the meanwhile, the petition filed under Section 14 of the Act was closed by the learned Chief Judicial Magistrate, Thanjavur. By the impugned order dated 19.09.2024, the Chief Judicial Magistrate had stated that since the writ petitioner had complied with the condition set out in the order dated 18.05.2023 in W.P.(MD)No.11985 of 2023, the application under Section 14 of the Act has become not maintainable. Challenging the same, this writ petition has been filed.

4. Two facts are beyond dispute. The writ petitioner is a secured creditor and the first respondent is a borrower. The petitioner is entitled to take action under the SARFAESI Act to recover the default amount. We cannot endorse the stand that since he has paid 50% of the liability, that would be the end of the matter. The borrower is expected to clear his liability in full as per the agreement entered into between the parties. It is open to the secured creditor to pursue his action under the SARFAESI Act.

5. The petitioner has not brought the property to auction sale and he only wants to take physical possession of the secured asset.

Therefore, the Chief Judicial Magistrate need not be concerned as to whether the figure mentioned in Section 14 application reflects the current liability of the borrower.

6.Be that as it may, since the Hon'ble Division Bench in its clarificatory order dated 25.02.2026, has indicated that it is open to the petitioner to initiate fresh proceedings reflecting the dues payable as on date, we permit the petitioner herein to file fresh petition under Section 14 of the SARFAESI Act before the Chief Judicial Magistrate, Kumbakonam at Thanjavur. The learned Chief Judicial Magistrate, Kumbakonam at Thanjavur is directed to dispose of the same on merits and in accordance with law. This writ petition stands disposed of accordingly. No costs.

(G.R.SWAMINATHAN, J.) & (R.POORNIMA, J.)
15th June 2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

G.R.SWAMINATHAN, J.

AND

R.POORNIMA, J.

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