



WP No. 792 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-01-2026

CORAM

**THE HON'BLE MR JUSTICE R. SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE P. DHANABAL**

**WP No. 792 of 2026 &
W.M.P.Nos.960 and 964 of 2026**

K.Mariyappan
S/o.Kaliyappan,
No.18/25, Gokulam Colony,
Triplicane, Chennai-600 005.

..Petitioner(s)

Vs

1. M/s.Piramal Capital and Housing Finance Ltd.,Rep. by the Authorised Officer Suresh Desaiyya, Kalpathilaka Towers, Fourth Floor, New No.36, Old No.24, Dr.Ambedkar Road, Kodambakkam, Chennai-600 024.
2. Ravikumar
Old No.25, New No.18 Gokulam Colony, Triplicane, Chennai-600 005.
3. Renukadevi R
VIP Facility Management Services
No.57, Radha Nagar Main Chrompet, Chennai-600 044
Address of R2 and R3:
Orchid Chengachery, Block A2/3,
6, Munusamy Street, Ganapathipuram, Chrompet, Chennai-600 004.



WP No. 792 of 2026

4. State rep. By The Inspector of Police, E2,
Royapettah Police Station, Royapettai,
Chennai-14.

..Respondent(s)

Prayer:

Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the learned Chief Metropolitan Magistrate, Egmore, Chennai-8 in Crl. M.P. No.10402 of 2025 dated 03.09.2025 and quash the same

For Petitioner(s): Mr.V.R.Kamalanathan for
Mr.S.Sathish

For Respondent(s): Mr.T.K.M.Sai Krishnan for R1,
Mr.S.John J.Raja Singh for R4
Additional Government Pleader

ORDER

(Order of the Court was made by P.Dhanabal J.)

This Writ Petition has been filed to call for the records relating to the proceedings of the learned Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.10402 of 2025 dated 03.09.2025 and to quash the same.

2. According to the petitioner, the property in Old Door No.25, New Door No.18, Gokulam Colony, Triplicane to an extent of 750 sq. ft., totally belonged to the petitioner. One Premkumar introduced the 2nd



WEB COPY

and 3rd respondents to the petitioner and informed that they are running business and if the petitioner joins them, he would make good income and the said Premkumar represented that the 2nd respondent has got good influence with the bank and he could arrange loan for the petitioner. While so, on 11.12.2015, the petitioner was taken to the Sub Registrar office, Mylapore and the 2nd respondent obtained several signatures from the petitioner and when the same was questioned by the petitioner, the 2nd respondent informed that loan amount will be deposited to his bank account within a period of two days. Thereafter, on 23.09.2017, the agent of M/s Dewan Housing Finance Corporation Limited, in short referred to as 'DHFL' informed the petitioner that EMI for loan amount of Rs.7 Lakhs was not paid and recovery proceedings to be initiated against the 2nd and 3rd respondents on the property of the petitioner, since the property was illegally transferred in the name of the 2nd respondent. The sale deed dated 11.12.2015 was executed without passing of any consideration and the same was made to believe that mortgage deed is executed in favour of the 2nd respondent, instead they obtained sale deed by playing fraud and for that, criminal proceedings has been initiated and Civil Suit also filed in O.S.No.2798 of 2019 on the file of learned XVII Assistant Judge, City Civil Court, Chennai.



WEB COPY

3. Further, the 1st respondent, viz., Financial Institution by suppressing the pending civil suit and criminal case, obtained the present impugned order. Already the 2nd respondent filed an application to reject the plaint and the same was dismissed on 20.11.2025. Further, one more civil suit in O.S.No.6047 of 2021 is also pending on the file of the learned VI Assistant Judge, City Civil Court, Chennai. Immediately after dismissal of the application filed for rejection of plaint, the 1st respondent, colluding with other respondents, on 16.12.2025, attempted to vacate the petitioner from the property. Now only the petitioner came to know about the order passed by the learned Chief Metropolitan Magistrate, Egmore in C.M.P No.10402 of 2025 dated 03.09.2025. The 1st respondent / bank without disclosing the list of the litigation, pendency of the suits, ownership of the property and by suppressing the material facts, obtained the impugned order. Therefore, the impugned order passed by the learned Chief Metropolitan Magistrate, Egmore in C.M.P No.10402 of 2025 dated 03.09.2025 is liable to be set aside.

4. The learned counsel appearing for the petitioner would submit that the 1st respondent has cheated the petitioner and he never executed any deed in favour of the respondents, further, for business



WEB COPY

purpose, the 2nd respondent, obtained signatures from the petitioner and obtained sale deed by playing fraud. Already the petitioner filed a suit to set aside the above said sale and the same is pending, while so, the respondents by colluding each other, in order to grab the property, initiated SARFAESI proceedings and obtained order from the learned Magistrate for taking possession of the property. Since the respondents are playing fraud on the Court in obtaining the order, the said order is liable to be set aside.

5. Per contra, the learned counsel appearing for the 1st respondent would submit that the petitioner sold the property to the 2nd respondent and the 2nd respondent obtained loan from the 1st respondent and due to non payment of the loan, proceedings under SARFAESI Act have been initiated and the property was already been taken possession and already the order has been passed under Section 13(4) of the SARFAESI Act, the petitioner has not challenged that order and subsequently, the petition in Crl.M.P.No.10402 of 2025 has been filed under Section 14 of SARFAESI Act before the learned Chief Metropolitan Magistrate, Egmore seeking assistance of the Court to take possession of the property. Further, without challenging the order under Section 13(4) of the SARFAESI Act, the present petition is not



maintainable, since the present impugned order is consequential to the earlier order passed under Section 13(4) of the SARFAESI Act. The petitioner without approaching the appropriate forum for proper remedy, only to delay the proceedings, approached this Court by way of this Writ Petition and the Writ Petition is not maintainable, therefore the Writ Petition is liable to be dismissed.

6. The learned Additional Government Pleader appearing for the 4th respondent would submit that the Inspector of Police, Royapettah, is the formal party and based on the order passed by the court below, in order to give protection to the 1st respondent in taking possession of the property, they had been added as a party and based on the court order, they have to provide police protection for the 1st respondent.

7. Heard Mr.V.R.Kamalanathan for Mr.S.Sathish, learned counsel appearing for the petitioner, Mr.T.K.M.Sai Krishnan, learned counsel appearing for the 1st respondent and Mr.S.John.J.Rajasingh, learned Additional Government Pleader appearing for the 4th respondent and perused the documents placed on record.



WEB COPY

8. Considering the nature of the relief sought for in this Writ Petition and the main contesting party is the 1st respondent, who appeared today and other respondents are only formal parties, this Court is inclined to pass orders even without issuing notice to the other respondents.

9. In this case, it is an admitted fact that the petitioner executed sale deed in favour of the 2nd respondent on 11.12.2015 and on the same day, after obtaining the sale deed, the 2nd respondent mortgaged the property to the 1st respondent and the amount was also transferred to the account of the petitioner and thereafter, the petitioner filed a Civil Suit challenging the said sale deed executed by him in favour of the 2nd respondent in O.S.No.2798 of 2019 on the file of the learned XVII Assistant Judge, City Civil Court, Chennai seeking declaration of the above said sale deed as null and void and to set aside the deposit of title deeds by the 2nd respondent and the same is pending. After obtaining the loan, the 2nd respondent was irregular in repayment of EMI for the loan amount and thereby the 1st respondent has initiated proceedings under SARFAESI Act. Already an order, viz., Possession Notice, under Section 13(4) of the SARFAESI Act was ordered for taking possession of the property and the said order was passed as



WEB COPY

early as in the year 2020. The said order has not been challenged by the petitioner in the manner known to law. The impugned order has been passed by the learned Magistrate based on the petition filed by the 1st respondent and there is no any illegality or irregularity in passing order by the learned Magistrate ordering for taking possession of the property by appointing Advocate Commissioner. The learned Magistrate has passed a reasoned order by stating that the authorised person of the 1st respondent's Bank has filed an affidavit by satisfying the requirements under Sections 13 and 14 of the SARFAESI Act and thereby ordered for police protection.

10. As rightly contended by the learned counsel appearing for the 1st respondent without challenging the order passed under Section 13(4) of the SARFAESI Act, the petitioner cannot challenge order passed under Section 14 of the SARFAESI Act, which is the consequential order, based on the order passed under Section 13(4) of the SARFAESI Act, therefore, the Writ Petition has no merits and deserves to be dismissed. However, the petitioner is at liberty to challenge the proceedings under Section 13(4) of the SARFAESI Act in the manner known to law.



WP No. 792 of 2026

In view of the above said terms, the present Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

(R.S.K.,J.) (P.D.B.,J.)
12-01-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

ssd

To

The Inspector of Police,
E2, Royapettah Police Station,
Royapettai, Chennai-14.



WEB COPY



WP No. 792 of 2026

**R.SURESH KUMAR, J.
AND
P.DHANABAL, J.**

ssd

WP No. 792 of 2026

12-01-2026