

WP.(MD)Nos.13025 & 14160 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 11.06.2026

Pronounced On : 23.06.2026

CORAM

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

WP.(MD)Nos.13025 & 14160 of 2026

and

W.M.P.(MD)Nos.9778 & 10574 of 2026

Prabakaran

... Petitioner in both WPs.

Vs.

Hinduja Housing Finance Limited,
Rep., through its Authorised Officer,
No.2/3, GV Highets 2nd Floor,
Theni Main Road,
Opposite to TVS industries,
Madurai-625016

... Respondent in both WPs.

PRAYER in WP.(MD)No.13025 of 2026: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the entire records connected with the order dated 27.03.2026 in Cr.M.P.No.1884 of 2026 passed by the learned Chief Judicial Magistrate, Madurai and quash the same.

PRAYER in WP.(MD)No.14160 of 2026: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of



WP.(MD)Nos.13025 & 14160 of 2026

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Certiorari, to call for the entire records connected with the sale auction notice dated 27.04.2026 issued by the respondent and quash the same.

For Petitioner : Mr.S.Malaikani
(in both WPs.)

For Respondent : Mr.R.Ajay Janarthana
(in both WPs.)

COMMON ORDER

(Common Order of this Court was delivered by **M.JOTHIRAMAN J.**)

The petitioner has filed the writ petition in WP.(MD)No.13025 of 2026 challenging the order passed by the learned Chief Judicial Magistrate, Madurai in Cr.M.P.No.1884 of 2026 dated 27.03.2026 permitting the Bank to take over the possession of the property mentioned therein under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter referred as 'SARFAESI Act']. He has also filed another writ petition in WP.(MD)No.14160 of 2026 challenging the sale auction notice issued by the respondent herein dated 27.04.2026.

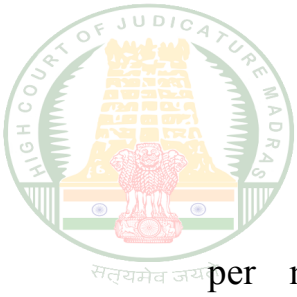


WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

2.It is the case of the petitioner that in December 2024, he obtained home loan to the tune of Rs.13,00,000/- from the respondent finance company by depositing the title deed. He was properly paying the installments of the loan. Due to health and family situation, he was unable to pay the installments. On 05.09.2025, his account was classified as non-performing asset. Thereafter, the respondent finance company issued demand notice under Section 13(2) of SARFAESI Act. Subsequently, he approached the respondent finance company and requested them to regularize and restructure the installment. However, the respondent finance company filed an application under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Madurai in Cr.No.1884 of 2026 and the same has been ordered on 27.03.2026, without issuing notice to him. Thereafter, a sale auction notice dated 27.04.2026 has also been issued by the respondent finance company . Hence, these writ petitions.

3.The learned counsel appearing for the petitioner would submit that being non-banking housing finance company at the time of loan, as



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

per notification dated 12.02.2021 of the Ministry of Finance, Government of India, if the outstanding was below of Rs.20,00,000/-, they cannot invoke the provisions of SARFAESI Act. The respondent finance company, being housing company and declared as other finance institutions under Section 2(l)(m)(iv) of SARFAESI Act cannot invoke the provisions of SARFAESI Act. When the Government by notification has fixed such a criterion for the respondent to invoke the provisions of SARFAESI Act, invoking such provisions from SARFAESI Act by the respondent finance company is non-est in law. To strengthen his contention, he has relied upon the decision of the Hon'ble High Court at Calcutta in FMA.No.161 of 2026 dated 09.04.2026 in ***Piramal Capital & Housing Finance Limited & Ors*** to show that the Ministry of Finance, Government of India, specified that the non-banking finance companies, which fell within the definition of Section 45-I(f) of the RBI Act being a financial institution, would be entitled to proceed under the SARFAESI Act to recover secured debt of Rs. 50 lakhs and above, which was later reduced to 20 lakhs upon granting the housing finance companies the status of a financial institution.



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

4.Per contra, the learned counsel appearing for the respondent finance company would submit that housing finance companies will be categorised as financial institutions, not by virtue of their being non-banking financial companies, but because of their falling under the phrase ‘any other institution’ as mentioned under Section 2 (1)(m)(iv). The notification issued by the Ministry of Finance is pertaining to non-banking financial Companies and the same is not apply to housing finance companies. The respondent finance company can very well invoke the provisions of SARFAESI Act and the petitioner can challenge the same before the Debt Recovery Tribunal and not before this Court under Article 226 of the Constitution of India. To strengthen his contention, he has relied upon the decision of the Hon'ble High Court of Madhya Pradesh in WP.No.3745 of 2024 dated 22.05.2024 in ***Virendra Rathore and others Vs. Tehsildar Distt. Mandsaur (Madhya Pradesh) Srg Housing Finance Limited Through An Authorised Person and others*** to show that the Government of India issued notification pertaining to the non-banking finance companies and not applied to housing finance companies.



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

5.We have considered the submissions made on either side and perused the available records carefully.

6.The writ petitioner questioned the jurisdiction and authority of the respondent finance company to institute SARFAESI proceedings as secured creditor of the loan amount lent by a financial institution under SARFAESI Act. It is seen from the typed-set of papers placed by the respondent finance company that the respondent is a registered housing finance company under Section 29A of the National Housing Bank Act, 1987. National Housing Bank is wholly owned by the Reserve Bank of India, in the year 2015, in certificate No.09.0129.15 dated 30.09.2015. Therefore, the company is having valid registration certificate dated 30.09.2015 issued by the National Housing Bank under Section 29A of the National Housing Bank Act, 1987.

7.According to the writ petitioner, the respondent finance company being housing finance company and declared as other finance institutions under Section 2(l)(m)(iv) of SARFAESI Act cannot invoke the provisions of SARFAESI Act. At this juncture, it is relevant to refer



WP.(MD)Nos.13025 & 14160 of 2026

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Section 2(1)(m)(iv) of SARFAESI Act, which reads as under:-

"(m) 'financial institution' means—

(iv) any other institution or non-banking financial company as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934), which the Central Government may, by notification, specify as financial institution for the purposes of this Act;

8.It is to be noted that Section 29A of the National Housing Bank Act, 1987 says about the requirement of registration and net owned fund for housing finance companies. The above provisions stipulates about housing finance institution which intends to commence and operate the business of housing finance in the country. It also provides host of preconditions for any company, intending to venture into the business of housing finance, whilst also laying down the net worth and the minimum capital, it must possess in its balance and audit sheets, prior to engaging in such business.

9.It is pertinent to mention that the Reserve Bank of India Act, 1934, governs running of banking activities in the country. Chapter III-B



WP.(MD)Nos.13025 & 14160 of 2026

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deals about provisions relating to non-banking institutions receiving deposits and financial institutions, which contains various provisions regulating entities and institutions indulging into receiving of deposits. Section 45-I is the definition clause, specially enacted for Chapter III-B, where under vide Section 45-I (c) 'Financial Institution' is defined; vide Section 45-I (e) 'Non Banking Institution' is defined, and vide Section 45-I (f), 'NBFC' is defined.

10.It is also pertinent to mention that the Ministry of Finance, Department of Financial Services, New Delhi issued a notification bearing no. S.O. 856 (E) dated 24.02.2020, fixing the minimum threshold amount for applicability of section 2(1)(m)(iv) of SARFAESI Act, 2002 to Rs.50 Lakhs and above to loans/ borrowings extended by NBFCs. However the net owned worth of the non-banking financial companies was laid down to be a minimum of Rs. 100 Crores & above. The Ministry of Finance, Department of Financial Services, New Delhi issued another notification bearing no. S.O. 652(E) dated 12.02.2021, amending the previously issued notification dated 24.02.2020 on the same subject fixing the minimum threshold limit for SARFAESI Act applicability to a



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

debt of more than or equal to 20 Lakh rupees instead of previously fixed limit of Rs. 50 Lakhs for the purposes of Section 2(1) (m)(iv) of the SARFAESI Act. In this connection, it is relevant to refer the judgment of the Hon'ble High Court of Madhya Pradesh in WP.No.3745 of 2024 dated 22.05.2024 in ***Virendra Rathore and others Vs. Tehsildar Distt. Mandsaur (Madhya Pradesh) Srg Housing Finance Limited Through An Authorised Person and others*** wherein it has been dealt about Sections 45-I(f) of the Reserve Bank Of India Act and 29 of the National Housing Bank Act, 1987 for the purpose of interpretation of notification issued under Section 2(1)(m)(iv) of SARFAESI Act, which reads as follows:-

34. Thus, where two interpretations arise out of interplay of two different enactments, Courts must always adopt that interpretation that furthers the intention of the legislature to be applied for; which is also reflected from the legal maxim 'verba ita sunt intelligenda ut res magis valeat quant pereat' (if two constructions of a provision are possible on its face and one would clearly advance the legislative purpose, whilst the other might end up achieving little or nothing, the former should always be preferred).



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

35. *In view of our above exposition of the principal of ‘generalia specialibus non derogant’, clearly the provisions contained under Chapter III-B of the RBI Act, specifically Section 45-I(f) cannot be treated to be applicable in the context of HFI’s/HFC’s established under Section 29A of the NHB, for the purposes of interpretation of notifications issued under 2(1)(m)(iv) of the SARFAESI Act. HFIs/HFCs will be categorised as FI’s not by virtue of their being NBFC’s, but because of their falling under the phrase ‘any other institution’ as mentioned under Section 2(1)(m)(iv). The notifications resultantly issued pertaining to NBFC would therefore on the strength of above reasoning will also not apply to HFC’s/HFI’s.*

11.By applying the above ratio laid down in the above proposition, the respondent is a financial institution under Section 2(1)(m)(iv) of SARFAESI Act and also is a registered housing finance company under Section 29A(5) of the National Housing Bank, 1987. Therefore, the provisions of SARFAESI Act can rightly be invoked by the respondent. The Ministry of Finance issued another notification in S.O.2405(E), dated 17.06.2021, which reads as under:-



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

"In exercise of the powers conferred by sub-clause (iv) of clause (m) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), the Central Government hereby specifies such housing finance companies registered under sub-section (5) of section 29A of the National Housing Bank Act, 1987 (53 of 1987), having assets worth rupees one hundred crore and above, as financial institutions for the purposes of the said Act."

12.The respondent housing finance company is entitled to invoke the provisions of SARFAESI Act by being financial institution under the SARFAESI Act, resultantly being a 'secured creditor' and jurisdictional monetary threshold of Rs.20,00,000/- as applicable in the case of non-banking financial company shall not be applicable to them. In such circumstances, the petitioner has an effective remedy before the appropriate forum and not before this Court under Article 226 of the Constitution of India.



WP.(MD)Nos.13025 & 14160 of 2026

WEB COPY

13. In view of the above reasons, there is no merit in these writ petitions and the same are liable to be dismissed. Accordingly, the writ petitions are dismissed. Since the petitioner has bonafidely pursued the matter before this Court, the writ petitioner is permitted to move the concerned Debts Recovery Tribunal within a period of two weeks from today. No costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]
23.06.2026

NCC : Yes / No
Index : Yes / No
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To

The Chief Judicial Magistrate, Madurai



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WP.(MD)Nos.13025 & 14160 of 2026

N.SATHISH KUMAR,J.
and
M.JOTHIRAMAN, J.

gns

Pre-Delivery Judgement made in
WP.(MD)Nos.13025 &
14160 of 2026

23.06.2026