In the court of Anoop Singh,
Chief Judicial Magistrate, Ferozepur
(UID Code PB0364)

CRM/4998/2026 CNR No.PBFZ03-013271-2026

HDFC Bank Limited, having its registered office at HDFC Bank House, Senapati Bapat Marg, Lower Parel (West), Mumbai-400013.
and

Area office at First Floor of M.C No. B-35-922-K, Sunder Nagar, Near MBD Mall, Ferozepur Road, Ludhiana-141012

Through its Authorized Officer; Parshant Kumar

…..Applicant

Versus

Pawan Pal son of Jugal Kishore r/o H.No.44, ward no. 11, Gali no. 9 Khoo Cha Parsia, Village Satiye Wala, Basti Tanka Wali, Ferozepur, District Ferozepur-152001

Pawan Pal son of Jugal Kishore M/s Pawan Paint Works through its proprietor ward o. 11, Gali no. 9, Ferozepur District Ferozepur-152001

….Borrower

Pusha Rani wife of Pawan Pal r/o H.No.44, ward no. 11, Gali no. 9 Khoo Cha Parsia, Village Satiye Wala, Basti Tanka Wali, Ferozepur, District Ferozepur-152001

….Co-Borrower

Present: Sh.Ajay Latawa, Advocate counsel for applicant-bank.

Order:-

1. Heard on the application filed by applicant-bank under sub-section 1,(1A) and 2 of Section 14 of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (hereinafter referred as SARFAESI Act) for appropriate directions for taking over the possession of the secured assets and handing over the same to secured creditor.

2. Learned counsel for applicant argued that the present petition is filed by the applicant through its authorized officer Shri Parshant Kumar, authorized Officer of the applicant, who has been appointed and authorized to act as authorized officer under the above act and to file this application, having been conferred with the necessary powers vide appointment letter as authorized officer dated 10.07.2023. It is further argued that the applicant-bank has granted two loans to borrowers **in terms of loan agreement for a total sum of Rs. 6,09,483/- under Loan Account No. (LAC) 628567768, 629250656**, on the terms and conditions more particularly recorded in the documents executed by the borrowers. In order to secure the said loan together will all its related dues, respondents/borrowers created mortgage in favour of applicant-bank by **way of deposit of title deeds of his following flat/plot/house/secured asset " property measuring 2.5 marla or say 76 sq yards or say 63.28 sq meter out of total land mesuring 7 kanal 7 marla comprised of khewat no. 496, khasra no. 12, killa no. 15(7-7) situated Khuh Chah Parsiya, Dakhi village Satiye Wala, Tehsil**

and District Ferozepur bounded by East:Street 16 feet Bahi 33.7 inch west:self ownership Bahi 24'x7-3' north:Gali street 16 feet Bahi 24'x9-1/2' feet south:self ownership Bah 23'x 3-1/4', registered in favour of Pawan Pal son of Jugal Kishore vide sale deed dated 27.06.2013 bearing vasika no. 2302 and inter alia deposited he documents i.e. sale deed dated 27.06.2013 bearing vasika no. 2302 executed by Pritam Kaur widow of Jagir Singh in favour of Pawan pal son of Jugal Kishore and Non-Encumbrance Certificate. The above-referred respondents failed to repay the loan amount. On account of the continuous and persistent defaults, the said facility and non payment of them, all the aforesaid credit facilities were classified as a Non-Performing Asset (NPA) in accordance with the directions/guidelines issued by the National Housing Bank and Reserve Bank of India. The applicant-bank issued a notice Under Section 13 (2) of the Securitisation Act,2002 dated **11.01.2024**, calling upon to them to pay a sum of **Rs. 4,65,871/- due upto 30.11.2023** together with further interest thereon at the applicable rate, incidental expenses, costs, charges incurred/to be incurred **w.e.f 01.12.2023** till payment and or realization. Thereafter, newspaper publications were also got effected in two newspapers i.e. **Hindustan Times and Rozana Spokesman on dated 26.01.2024**. Besides, the said demand notice was also got pasted on the conspicuous part of the house. However, despite the issuance of publication of the said demand notice, respondents failed and neglected to comply with it. In view of the failure of respondents/borrowers to settle/clear their account even after having been granted sufficient opportunities, the HDFC Ltd, decided to take possession of said flat/plot/house/secured asset which is mortgaged in favour of the HDFC Ltd. On the day of appointment fixed, the authorized officer alongwith the Pancha's assembled at the secured asset. At the time of visit the main gate of the property was open but no one came out. Later the A.O has taken the symbolic possession and the entire activity was properly videographed and photographed the same was also published in two newspapers dated **03.12.2024**. It is further contended that the respondents are witholding the physical possession of the secured asset while the applicant is well within its right to take over the physical possession of the secured asset in accordance with the provision of the Act as respondents have failed to make the payment in accordance with the notice under Section 13(2) of the SARFAESI Act. To understand the legal proposition, reference is made to Section 14 of the Securitization Act and same is reproduced as under:-

1. *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 this 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, and the Chief Metropolitan Magistrate or as the case may be the District Magistrate shall on such request being made to him.

The District Magistrate or the Chief Metropolitan Magistrate may authorize any officer subordinate to him:-

(a) To take possession of such asset and documents relating thereto and

(b) To forward such assets and documents to the secured creditor provided further that on receipt of the affidavit from the Authorized Officer, the District Magistrate of the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets: Provided also that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same pass the order within such further period but not exceeding in aggregate sixty days.

3. *An analysis of the 9 sub-clauses of the proviso which deals with the information that is required to be furnished in the affidavit filed by the secured creditor indicates in substance that (i) there was a loan transaction under which a borrower is liable to repay the loan amount with interest, (ii) there is a security interest created in a secured asset belonging to the borrower, (iii) that the borrower committed default in the repayment, (iv) that a notice contemplated under section 13 (2) was in fact issued, (v) inspite of such a notice, the borrower did not make the repayment, (vi) the objections of the borrower had in fact been considered and rejected, (vii) the reasons for such rejection had been communicated to the borrower etc.*

The satisfaction of the Magistrate contemplated under the second proviso to Section 14 (1) necessarily requires the Magistrate to examine the factual correctness of the assertions made in such an affidavit but not the legal niceties of the transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of possession of the secured asset. Further Hon'ble Supreme Court of India held in SLP NO. 16013 of 2022 decided on 26.09.2022 observed that while considering an application under

Section 14 of SARFAESI Act, the CMM/DM is not required to adjudicate the dispute between the borrower and secured creditor and or between any other third party and the secured creditor with respect to the secured assets. Once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets. Thus, in view of the scheme of the SARFAESI Act, more particularly, Section 14 of SARFAESI Act and the nature of the powers to be exercised by learned Chief Metropolitan Magistrate/learned District Magistrate, the High Court in the impugned judgment and order has rightly observed and held that the power vested is not by way of persona designata. Thus, the power of exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. It is further averred that Hon'ble Bombay High Court in Liladhar Ladappa Kendole Vs. Solapur Janta Sahkari Bank Limited in Writ Petition No. 7486 of 2021 decided on 09.11.2021, while relying upon Trade Well Vs. Indian Bank 2007 (1) Bom. CR (Cri). 786 (DB) & The Sarsawat Co-operative

Bank Limited Vs. The State of Maharashtra & Anr. (Writ petition no. 4344 of 2011) held that CMM/DM under Section 14 of the SARFAESI Act is only to ascertain whether the secured assets falls within his jurisdiction and to verify from bank or financial institutions whether notice under 13 (2) has been given or not and once these two conditions are fulfilled, the CMM/DM has no option, but to pass the order and therefore, there is no necessity of hearing or even notifying borrower or any third party. It is further averred that it is well settled by now that a District Magistrate is neither vested with any quasi-judicial power nor the obligation cast upon him under Section 14 of the SARFAESI Act involves any adjudicatory process. The nature of the duty assigned to a District Magistrate under this provision is essentially administrative in nature which he has to exercise after due application of mind. The duty entrusted to a District Magistrate is akin to an executing agency designated for the aid and assistance of a Bank or financial institution to secure physical possession of the secured assets when it can not be taken over in the ordinary process under Section 13(4) of the Act. The District Magistrate is vested with no discretion to refuse assistance where the ingredients of first proviso to Section 14(1) are unambiguously satisfied. Further, the hon'ble Karnatka High Court at Bengaluru in HDB Financial Services Limited Vs. M/S Remco

Software Pvt. Limited and other (Writ appeal no. 6330-6337/2017) also held that the borrower has no right of hearing in the proceedings under Section 14 of the SARFEASI Act. Further, in CA Manisha Mehta and ors Vs. The Board of Directors of represented by its MD of ICICI Bank (decided on 20.03.2022) the Hon'ble Bombay High Court held that SARFAESI Act does not remotely suggest compliance with natural justice at the stage when section 13(4) or 14 operates. Thus, in view of the submission made above, the Hon'ble Court has jurisdiction to entertain and try the present application and the properties as detailed in the schedule A and B also situated at District Ferozepur falling within the territorial jurisdiction of this court.

4. Arguments heard in detail. Judicial file is gone through carefully. ***In order to adjudicate upto the application in an judicial manner, reference is made to Civil Appeal No(s). 6295 of 2015 titled as The Authorized Officer, Indian Bank Versus D Visalakshi and another, decided on 23.09.2019 , wherein it was held that*** the Chief Judicial Magistrate equally competent to deal with the application moved by the secured creditor under Section 14 of the SARFAESI Act. ***In another authority titled as "Allahabad Bank versus District Magistrate Ludhiana and others, CWP No 4916 of 2020 decided on September 6, 2021", it was held by Hon'ble Punjab and Haryana High***

Court that Section 14 of the SARFAESI Act, 2002 provides a lawful mechanism to take physical possession of the secured assets which is required to complete the process of transfer as noticed above. The District Magistrate is therefore obligated to provide requisite assistance to the secured creditor on such application having been filed by the secured creditor claiming physical possession of the secured asset subject to the secured creditor filing the 9-point affidavit has been provided by the proviso inserted to Section 14 by the Act 1 of 2013 w.e.f. 15.1.2013. Section 14 further provides that the District Magistrate is required to record his satisfaction on such application and then proceed to pass suitable orders for taking possession of the secured asset. Such recording of satisfaction is only to be restricted with regard to the factual correctness of the affidavit filed by the secured creditor and cannot be stretched to include any quasi- judicial or an adjudicatory function.

5. From record, it is apparent that Sh. Parshant Kumar authorized officer on behalf of secured creditor, in support of claim, has furnished the necessary information required as per above provisions of Section 14 of SARFAESI Act. Same is supported by copy of application form of borrowers, and other loan documents, copy of notice Under Section 13 (2) of Securitization and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002, its receipt, copies of newspaper, copy of possession notice, the NPA account status of the borrower qua the total outstanding amount of **Rs.4,65,871/-** (**as on 30.11.2023**), copy of the account statement for loan **Account No. (LAC) 628567768, 629250656**, prima facie establish that the borrowers/respondents mortgaged the above immovable property to secure above loan transaction and it is further clear that respondents committed default in making repayment of the secured debt and such debt has been classified by the bank/secured creditor as Non-Performing Asset.

6. Then copy of notice dated **11.01.2024** Under Section 13 (2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 requiring the borrowers/respondents to discharge their liabilities, giving detail of the amount payable within 60 days from the date of notice is on the file with postal receipts. It has been specifically averred on behalf of the bank by the authorized officer namely Sh. Parshant Kumar that period of 60 days of notice Under Section 13 (2) of the Act, 2002 had expired but the borrowers have not come forward to repay the secured debt thereby, bank is entitled to take recourse to any of the measures prescribed under Section 14 of the Act, 2002 to recover its secured

debt.

7. The prescribed notice Under Section 13 (4) of SARFAESI Act was issued regarding affixation of possession notice on the outer door of secured assets and also got published in two separate newspapers.

8. Mr. Parshant Kumar, has also mentioned in his affidavit that no objection or representation in reply to the notice has been received from the borrower by the secured creditor. Thus, the present application has been moved. From record which includes copy of relevant affidavit with all necessary averments satisfying the requirements of provisions of Section 14 of SARFAESI Act are established.

9. All the documents detailed hereinabove clearly established the fact that all the pre-requisite conditions as stipulated in proviso appended with section 14 of SARFAESI Act have been complied with in letter and spirit by applicant company at the time of filing the application in hand. Thus, it is evidently clear that case in hand is fit case for issuance of warrants of possession.

10. Let warrants of possession of property in question alongwith copy of this order be issued to the Tehsildar concerned for execution as per law and to deliver its possession to the applicant.

SHO, concerned is also directed to provide police assistance, including use of force if required. A copy of this order be also issued to the SHO, concerned. Report of compliance of the above stated directions shall be filed in the court in due course. Objections, if any, by whomsoever concerned should be made before the Debt Recovery Tribunal.

11. If the applicant, of its own, decides not to recover possession, it shall apply to this court to terminate the mandate and it shall not be lawful for it to itself instruct the Tehsildar concerned, as authorized above, to refrain from or to delay the recovery of possession. In case, there is delay on the part of applicant in compliance with this order, the same shall be explained by the applicant by affidavit of the authorized officer.

12. It is further made clear that the Tehsildar concerned shall not proceed further with delivery of possession taking aid of this order in case the debtor/borrower or any person produce any order passed by any competent court of law/competent authority granting stay/injunction qua possession of property in question and/or recovery of due amount in question etc.

13. Accordingly, the application in hand stands disposed off. One copy of this order be sent to the Tehsildar Ferozepur alongwith warrants of possession. Let, file be consigned to the Judicial Record

Room after due compliance of the order and same be called as and when any application is made by any party with direction to the applicant to inform the Court regarding the taking of possession or regularization of account by respondents or clearing of loan by respondents. File be consigned to the Judicial Record Room, Ferozepur.

Pronounced in open Court:
11.08.2026
Sandeep Kumar
Steno-grapher-1II
(directly dictated on computer).

sd/-(Anoop Singh)
Chief Judicial Magistrate,
Ferozepur
UID No. PB0364.