MHNS030055312026	**Cri.M.A./978/2026** **Bank of Maharashtra-Special Agri Hi-Tech Finance branch Thr. Sanket Deshmukh Vs. M/s R. S. Tractor House & Ors.**

ORDER BELOW EXH. NO. 1

This is an application filed by the Authorized Officer of the applicant under **Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002** (hereinafter referred to as "the SARFAESI Act"), seeking assistance of this Court for taking over physical possession of the secured asset, more particularly described in the Schedule below, for the purpose of enforcing security interest.

2. As per the application, at the request of the respondents, the applicant sanctioned credit facility of ₹1,95,00,000/- and Bank Guarantee limit of ₹1,00,00,000/- vide sanction letter dated 18/07/2023. The respondents agreed to repay the said amount with applicable interest as per the loan agreement and other documents executed in favour of the applicant.

3. In order to secure the said financial assistance, the respondents created an equitable mortgage by depositing the original title deeds of the secured asset with the applicant, with an intention to create a valid and enforceable security interest.

4. It is stated that the respondents committed default in repayment of the said loan amount. Consequently, the loan account of the respondents was classified as a Non-Performing Asset (NPA) on 28/01/2026 in terms of RBI guidelines.

5. Thereafter, the applicant issued a Demand Notice dated 31/01/2026 under Section 13(2) of the SARFAESI Act, calling upon the respondents to repay the outstanding amount of ₹2,97,02,338/- within 60 days from the date of notice. The said notice was duly served upon the

respondents, as established through acknowledgment annexed with the application.

6. Despite the service of the said demand notice, the respondents failed to comply and did not repay the outstanding dues. Accordingly, the applicant has taken recourse under Section 13(4) of the SARFAESI Act by issuing possession notice and now seeks assistance from this Court under Section 14 for taking over physical possession of the mortgaged asset.

7. I have heard the learned counsel appearing for the applicant. I have also perused the application, the affidavit filed by the Authorized Officer under the second proviso to Section 14(1) of the SARFAESI Act, and the original documents produced for verification.

8. The affidavit filed by the Authorized Officer clearly affirms compliance with all mandatory requirements under Section 14(1)(i) to 14(1)(ix), namely :

- That the loan was duly sanctioned;
- That the respondents created security interest by way of equitable mortgage;
- That the loan account was classified as NPA;
- That a valid demand notice under Section 13(2) was issued;
- That the notice was duly served upon the respondents;
- That no reply or an unsatisfactory reply was received;
- That no suit or appeal is pending before the Debt Recovery Tribunal or any Court of law restraining the applicant from taking possession;
- That the SARFAESI proceedings are in compliance with the provisions of law;
- That the secured asset is located within the jurisdiction of this Court.

9. Upon perusal of the record and verification of the documents, I am satisfied that the application is genuine, complete, and within the jurisdiction of this Court. There is **no legal embargo** preventing this Court from exercising powers under Section 14.

10. Learned advocate representing the applicant requested to appoint commissioner/receiver to advocate **Shri. Shubham Sunil Kulkarni (Enrollment No.MAH/3578/2020)** for assisting to take possession of the secured asset. Recently, the Hon'ble Supreme Court has held in case **"NKGSB Co-operative Bank Ltd. Vs. Subir Chakravarti and others" 2022 Live Law (Supreme Court) 212,** that "Advocate can be appointed as a 'Commissioner' to assist the court to implement the handing over the possession under the said provision. Therefore, Advocate can be appointed as a commissioner upon the fees of the same".

11. Section 14 of the SARFAESI Act authorizes appointment of any subordinate officer for assisting the applicant for delivery of possession of the secured asset. The property is secured asset and is situated within the local limits. The Advocate can accordingly be appointed as commissioner for completing the task as required by the section 14 of the SARFESI Act. In view of the above referred situation, I pass the following order.

ORDER

1. Application is allowed.
2. Advocate- **Shri. Shubham Sunil Kulkarni (MAH/3578/2020)** is appointed as a **"Court Commissioner"** to take possession of the secured asset viz. **i] All the piece and parcel of Row House/ Apartment No.27** adm. Area 139.40 sq.mtrs built up i.e. adm area 1500 sq.feet in Suyojit Garden Apartment constructed on Plot No.1 out of Survey No.702/2A+702/3 having CTS No.7443, Final Plot

No.427 and 430 situated at Mauje Nashik, Gangapur Road within the limits of Nashik Municipal Corporation, Tal. and Dist. Nashik bounded as per building plan. **ii] All the piece and parcel of Residential Property : Flat No.10** area adm.57.34 sq.mtrs built up (carpet area adm. 47.78 sq.mtrs) i.e. 617 sq.feets on Second floor, in building known as Shivsmruti Co-Operative Housing Society Ltd., constructed on Plot No.57, Final Plot No.439 out of S.No.688/1-11/2, situated at Mauje Nashik, Gangapur Road within the limits of Nashik Municipal Corporation Nashik bounded as East- open space of society, West-Flat No.11, South- Flat No.9, North- open space." as mentioned in the schedule of property, by taking such steps and using such force including breaking open the lock thereof or taking assistance of concerned Police Station, if required, at the expenses of the applicant and shall deliver possession thereof along with documents/articles, if any, found therein to the authorized officer of the applicant after preparing panchanama and taking inventory of the secured asset.

3. Issue writ of commission accordingly on payment of P.F. and ₹10,000/- (Rupees Ten Thousand only) inclusive of traveling expenses towards the commission fee directly to the Court Commissioner within 15 days from the date of writ. Court Commissioner to file the compliance report within 45 days from the date of receipt of the Writ.

4. The applicant to give name and contact details of authorized person within 10 days for co-ordination with the Court Commissioner.

BHARADE MRUNALINI VITHALRAO

Digitally signed by BHARADE MRUNALINI VITHALRAO
Date: 2026.07.21 17:48:54 +0530

Nashik
Date : 21/07/2026

(M.V. Bharade)
Addl. Chief Judicial Magistrate,
(Court no. 7), Nashik