OTHER MISC.CRI.APPLN/860/2026
SRG HOUSING FINANCE LTD VS. SHYAM CHARANDAS LOKHANDE & ORS.

ORDER BELOW EXHIBIT 1
(Passed on 04/08/2026)

This is an application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as “**SARFAESI Act**”) for possession of secured mortgaged property of the non-applicants. The applicants are a 'secured creditor' within the meaning of Section 2(1)(zd) of the said Act.

2. I have heard the learned advocate for the applicant and perused the record.

3. As per submission of the learned advocate for the applicant, all the necessary compliance has been complied. It is further submitted that Commissioner Writ be issued in the name of the advocate whose name is proposed in the pursis at **Exh. 5.**

4. For granting relief by the Court under section 14 of the Act, the Court shall see that the application has been accompanied by an affidavit duly affirmed by the authorized officer of the secured creditor. The affidavit shall declare the aggregate amount of financial assistance and the total claim of the Bank/financial institution as on the date of filing of the application. The affidavit shall further declare that the

borrower created security interest over properties and the Bank or financial institution is holding a valid and subsisting security interest over such property. There must be a declaration in the affidavit that the claim of the Bank or Financial Institution is within the limitation period. Details of the properties over which security interest is created must be supplied. There must be default by the borrower in repayment of the financial assistance and the account of the borrower must be classified as a non performing asset.

5. Notice under section 13(2) of the SARFAESI Act must have or representation has been communicated to the borrower. The affidavit must further declare that objection or re-presentation in reply, if any to the notice has been duly considered and reasons for non acceptance of such objection. The borrower must have failed to make repayment of the financial assistance in spite of the notice under section 13(2) of the SARFAESI Act and therefore, the bank or financial institution must be entitled to take possession of the secured assets.

6. The Hon'ble Supreme Court in **C. Bright Vs. District Magistrate (2021)2 SCC 39**2, has held that "*The provision of the SARFAESI Act empowering District Magistrates/CMM to take possession of secured assets of defaulting borrowers within 60 days period for handing them over to the lending financial institutions is 'directory' and*

not "mandatory" in nature as banks cannot be made to suffer for the delay on the part of the government officers. It is held that inability to take possession within time limit does not render the District Magistrate/CMM 'Functus Officio'.

7. I have gone through the contents of the application, affidavit as required by the proviso to section 14 and the entire record produced with the application. The above referred requirements (section 14 of the SARFAESI Act) are found duly complied. I am satisfied that the respondents are the borrowers of the applicant and have created security interest in the property mentioned in the application/schedule in favour of the applicant. I am further satisfied that the applicant is holding a valid and subsisting security interest over the property mentioned in the application/schedule. The claim of the applicant is within the limitation period. The borrowers are seen to have committed default in repayment of the financial assistance and the account of the borrower has been classified as a non performing asset.

8. Notice under section 13(2) of the SARFAESI Act issued by the applicant and was served on the borrower. It can be seen from the record that even after the service of notice the borrower neither raised any objection to the notice nor has repaid the financial assistance. Hence, the applicant is now entitled to take possession of the secured

assets. As per the provisions of section 14 of the SARFAESI Act, 2002 any subordinate officer or Court Commissioner can be appointed for the purpose of assisting the applicant for delivery of possession of the secured asset. Hence, considering the submissions of the learned advocate for the applicant, I pass the following order.

ORDER

1) The application under Section 14 of SARFEASI Act is hereby allowed and the authorized officer on record of this court is permitted to take over possession of secured asset on behalf of the applicant.

2) Writ be issued in the name of the Court Commissioner whose name is proposed in the pursis **(Exh. 5)** filed by the applicant.

3) The Court Commissioner to take over possession of the secured assets as mentioned in the **Application/Schedule** and handover it to the authorized officer only and not to any other officer of the applicant so also to prepare the panchnama of the same.

4) The Court Commissioner to issue 15 days advance notice to the concerned parties and to take such steps and use such force

including breaking open the lock or any hurdle thereof by taking assistance, if required at the expenses of the applicant bank and if any articles or documents found in secured assets then deliver its possession to the authorized officer of the applicant bank after preparing its panchnama and taking inventory.

5) The Police Station Officer within whose territorial jurisdiction the secured asset is located is hereby directed to provide police aid to the Court Commissioner, if he requires so, for taking over possession of secured assets.

6) The Court Commissioner to give the advance letter to police for police aid, if he requires.

7) If any competent court grants stay to execution of this order, then automatically until such stay order will be in force, time to comply the writ of commission will be deemed to be extended.

8) The Court Commissioner shall not indulged in favoring to any party for delay to take over possession of secured assets.

9) The fees and charges received by the Court Commissioner are subject to refund to the applicant on failure of the Court

Commissioner to execute possession warrant for any default on his part.

10) The applicant to pay directly to the Court Commissioner or deposit in the Court **Rs. 10,000/- (Rs. Ten Thousand)** towards fees and charges of the Court Commissioner.

11) Issue writ of commission accordingly.

MANGALA DEVENDRA KAMBLE Digitally signed by MANGALA DEVENDRA KAMBLE Date: 2026.08.04 14:58:40 +0530

(Mangala D. Kamble)
Date : 04/08/2026 Addl. Chief Judicial Magistrate,
(Court No.2) Amravati