

MHWS030016202024	 <u>IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, WASHIM.</u> (SHRIRAM FINANCE THROUGH SWAPNIL LONARE Vs. Shankar Shravn Shende+2)
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SHRIRAM FINANCE LIMITED,

(Through it's authorised officer, Mr. Swapnil Lonare)

Swapnil Rajendra Lonare

Regd.Office Address,

A Company incorporated under the provisions
of the Companies Act, 1956.

having it's registered office at Chennai.

Branch address

Shriram Finance Limited,

Shop No.3 and 4 of GF, Sindhi Colony,

Near BOI, Patni Chowk, Washim

Tq.Dist. Washim.

.. PETITIONER.

--Versus --

1. Shankar Shravan Shende,

2. Sunita Shankar Shende,

Both R/o. Near Z.P. School, Gautam Nagar,
Karanja Lad, Tq. Karanja (Lad) Dist. Washim.

Also at Donad-Khurd, Post Kharadgaon,
Tq. Ner, Dist. Yavatmal.

3. Anurag Mohan Thombare,

R/o. Shivaji Nagar, Near Z.P. School

Hanuman Mandir, Karanja

Tq.Karanja (Lad), Dist. Washim.

.. RESPONDENTS.

Claim: Application under Section 14 of The Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002.

Appearance :- Learned Adv.R.G.Chandanani for the petitioner.

The present application under Section 14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (for short 'Securitisation Act') for taking possession of the secured asset described as :-

The property situated at mouje Bhilkheda, Tq.Karanja (Lad), Dist. Washim having plot No.30, admeasuring 1657 sq.fts./154 sq.mtr. out of survey No.38/2, which is at present bounded as under-

To the East	-	Plot No.29
To the West	-	Plot No.31
To the North	-	Plot Nos.26 and 27
To the South	-	Colony road.

2) In short, it is the contention of the petitioner that deceased respondent Nos.1 and 2 are mortgagor/co-borrower and borrower respectively. Respondents have approached to the petitioner for loan financial assistance. The petitioner has sanctioned disbursed & loan of Rs.11,00,000/- to respondents and has disbursed to them an amount of Rs.11,00,000/-. Respondents have executed in favour of the petitioner a mortgage deed No.187/2023 dated 10/01/2023 in respect of secured asset. The secured asset is situated within territorial jurisdiction of this Court. Till the date of filing of this application, the petitioner is holding a valid and subsisting security interest over secured asset. Pursuant to grant of financial assistance & creating of security interest over secured

asset, various documents were executed by respondents in favour of the petitioner. Respondents have committed default in repayment of the financial assistance. Thus, their account has been classified as 'Non Performing Asset'. Therefore, demand notice under Section 13(2) of the Securitisation Act was issued to respondents on dated 11/12/2023, calling upon them to pay an amount of Rs.25,43,795/- which was due from them till dated 16/11/2023. The said demand notice was served upon respondents. Despite service of the said notice, respondents did not pay the aforesaid outstanding amount to the petitioner within stipulated period of 60 days. The possession notice was also published in Newspaper 'Marathi & English' on dated 26/02/2024. Despite that, respondents did not clear up dues of the petitioner. Hence, the petitioner is constrained to file this application.

3) It is pertinent to note that it is settled position of the law that notices are not required to be issued to borrowers & guarantors when application under Section 14 of Securitisation Act is filed. Therefore, notices were not issued to respondents.

4) It is requirement of Section 14 of Securitisation Act that Authorized Officer of petitioner financial institution has to file an affidavit stating therein facts mentioned in Sections 14(1)(b)(i) to 14(1)(b)(ix). Accordingly, Authorized Officer of the petitioner has filed an Affidavit at Exh.10. It is, however, matter of the record that the petitioner has filed copy of resolution, power of attorney dated 19/06/2023, demand notice under section 13(2) dated 11/12/2023, track consignment report, postal receipts, possession notice under section 13(4), paper publication and mortgage deed.

5) Perused the application, affidavit submitted by the Authorized Officer of the petitioner & documents filed on record. Heard learned advocate for the petitioner. It appears that the petitioner has granted the aforesaid financial assistance to respondents. Pursuant to said financial assistance, respondents have executed various documents in favour of the petitioner to create security interest over the aforesaid secured asset. However, respondents failed to repay the loan amount. Thus, the petitioner is constrained to declare borrowers' account as "Non Performing Asset" & constrained to issue Notice dated 11/12/2023 under Section 13(2) of Securitisation Act, demanding total outstanding amount of Rs.25,43,795/-. Respondents did neither pay petitioner's due, nor they did reply the notice within stipulated period of 60 days. Thus, present application came to be filed. It is becomes evident from the record that secured assets is situated within the jurisdiction of this Court & however, it is in possession of respondents. Therefore, I do not find any barrier to pass order in favour of the petitioner under Section 14 of Securitisation Act to take possession of aforesaid secured asset. It is matter of the record that the petitioner has filed the *pursis* at Exh.10 stating therein that learned Adv.J.B.Bajad, Washim be appointed as the Court Commissioner for taking possession of the secured assets. Hence, I proceed to pass the following order:-

ORDER

- i) Application is allowed.
- ii) Learned Adv.J.B.Bajad is hereby appointed as Court commissioner to take possession of the secured asset, more particularly described in para No.1 of this order; and to handover the same to petitioner's Authorized Officer, viz.- Mr.Swapnil Rajendra Lonare,

under *panchnama*.

- iii) The Court Commissioner is empowered to take such steps & use such force including breaking open the lock or any hurdle thereof by taking assistance of Police, if required, at the expenses of the petitioner, and if any articles/documents found in the secured asset, he shall deliver possession thereof to petitioner's aforesaid Authorized Officer after preparing *panchanama* & taking inventory.
- iv) Issue writ of commission accordingly on payment of Rs.5,000/- (Rupees Five Thousand Only) as charges of the Court Commissioner by the petitioner.
- v) Learned Adv.J.B.Bajad is hereby directed to submit his report within 90 days from date of issuance of writ.

Washim.
Date : 01/02/2025

(G.M.Charankar)
Addl. Chief Judicial Magistrate,
Washim.

CERTIFICATE

I affirm that the contents of this PDF file Order are same word to word, as per original Order.

- 1) Name of Stenographer :- R.R.Bharad, Stenographer, Grade -I
- 2) Name of Court :- Jt. Civil Judge (S.D.), Washim.
- 3) Date of order :- 01/02/2025
- 4) Order signed by the :- 01/02/2025
presiding officer on
- 5) Order uploaded on :- 01/02/2025