MHAU030124242026

Cri. M.A. No.1862/2026
Hero Housing Finance Limited
Vs
Azhar Akbar Shaikh

ORDER BELOW EXH.1

1) The applicant Finance Company has filed this application for seeking assistance for taking possession as per section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as SARFAESI Act).

2) Heard learned counsel for the applicant. Perused application. Perused documents. The application is supported by affidavit of the Authorized Officer of the applicant Finance Company. It contended that the non-applicants have approached the applicant Finance Company for availing loan facility. Therefore, the applicant has granted loan amount of Rs.25,05,000/- Sanction letter on dated 31.03.2024. The non-applicants have executed Loan agreement. The non-applicants have executed mortgage of the secured assets mentioned in the application, for securing repayment of the loan. However, non-applicants have failed and neglected to repay the loan. Therefore, the debt of non-applicants had been classified as Non-performing Assets by the applicant on 05.07.2025. The applicant Company has issued demand notice to non-applicants on 24.10.2025 under section 13(2) of SARFAESI Act calling them to pay

Rs.27,02,210/- along with contractual interest till realization by speed post. The applicant has also published the same two daily newspaper dated 31.10.2025. Despite the demand notice, non-applicants have not complied the notice. They have also not filed any objection.

3) In ***The High Court of Judicature at Bombay Civil Appellate Jurisdiction in Phoenix ARC Private Limited Vs. The State of Maharashtra and others, Writ Petition No.9749/2021, decided on 3rd August 2022***, the Hon'ble Court has observed that, while considering an Application filed by a secured creditor under Section 14 is only required to ascertain as follows :-

1. Whether the immovable property falls within its jurisdiction ?
2. Whether notice of demand under Section 13(2) has been served on Borrower ?
3. Whether a duly affirmed Affidavit accompanying said application filed by the authorized officer of the secured creditor contains the declaration as required in Clauses (I) to (IX) of Section 14 of the SARFAESI Act ?

The Hon'ble Court has further observed that, Section 14 does not contemplate the following :

1. Any notice to be given to either Borrower or a Third Party.
2. Borrower or a Third Party to file any reply to the application.
3. Borrower/Third Party to be heard.
4. Adjudication as to the legality or validity of the mortgage.
5. Adjudication as to the quantum of the debt claimed by the secured creditor.

6. Adjudication of any issues such as limitation, etc.

4) From on perusal of record, it appears that the immovable property situated at Karim Nagar, Kannad, Tal. Kannad, Dist. Aurangabad. Therefore, the secured asset is within the jurisdiction of this Court. It also appears that the applicant Company has served demand notice on non-applicants under section 13(2) of SARFAESI Act. Nothing on record to show that the non applicants preferred any application under section 17 of the said Act. Nothing on record to show that that any stay given by any court restraining applicant that from taking measures under the act. It appears that the applicant finance company has complied requirements of clause (i) to (ix) of section 14 of the said Act. Therefore, there is no impediment in granting the necessary assistance to the applicant in taking possession of the secured asset as per section 14 of the said Act. Hence, I proceed to pass following order.

ORDER

1.	The application is allowed.
2.	The applicant Finance Company to take possession of property more particularly described in **all that piece and parcel of house / milkat old No.2/343 or house / milkat new No.2/368-A, admeasuring area of 92.93 Square meters out of admeasuring 188.70 square meters area, lane No.4 Karim Nagar, Kannad, Tal. Kannad, Dist. Aurangabad Maharashtra and bounded as :-** **East – Plot of Vinod Kanhaiyalal & Bharat Kanhaiyalal,** **West – 20 Ft. Road,**

	North – Remaining land of plot, **South – House No.2/344** of the application by taking such steps and using such force as may be legally necessary.
3.	The Court Commissioner Advocate **Ajay N. Deshmukh** is hereby appointed to take and assist to take possession of the mortgage property to applicant. The Court Commissioner shall take the possession of the mortgage property by taking all appropriate steps, if the mortgage property is locked, then by breaking the lock by following procedure.
4.	The In charge Police Officer of the concerned Police Station, within whose jurisdiction the property is situated, is directed to provide necessary police protection for the execution of the aforesaid possession warrant, at the cost of the applicant Bank .
5.	The applicant Bank shall have to bear the requisite Court Commissioner fees i.e. Rs.10,000/- (Rs.Ten Thousand only) as per rule.
6.	Issue writ accordingly.

MANJUSHA MANIKRAO ALONE

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Date: 2026.06.11 17:24:19 +0530

(M. M. Alone)
Additional Chief Judicial Magistrate
(Court No.10), Aurangabad.

Date:-11.06.2026