MHAU030098772026

Cri. M.A. No.1467/2026
ICICI BANK LTD.Vs AMIT

ORDER BELOW EXH.1

1) The applicant Bank 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 Bank. It is contended that the non-applicants have approached the applicant Bank for availing loan facility. Therefore, the applicant has granted home loan amount of Rs.17,39,400.00/- vide saction letter dated 12.03.2021. The non-applicants have executed mortage of the secrued 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 application on 11.05.2025. The applicant bank has issued demand notice by registered post to non-applicants on 11.07.2025 under section 13(2) of SARFAESI Act calling them to pay Rs.14,71,271.00/- along with contractual interest till realization. The applicant has also issued notice by paper publication in two news

papers dated 01.10.2025. 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 Tisgaon, Tal. & 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. The applicant has also filed pursis stating name of Court Commissioner and stating that the applicant is ready to bear charges of Rs.15,000/-. Hence, I proceed to pass following order.

ORDER

1.	The application is allowed.
2.	The applicant Bank to take possession of property more particularly described in the application i.e. **Flat No.10, D Type Building "Sara Vihar", near Oaisis Hotel, Gut No.126/p and 127/p Village Tisgaon, Aurangabad, (Admeasuring an area of admeasuring an built up area to the extent of 42.21 Sq. Mtrs. And 12.51 Sq. Mtrs proportionate area of common space, balconies, lobbies,staircase, ducts, boxex, convered paying individual terrace if any and carpet area 37.92 Sq. Mtrs)** **North – Flat No.23, South – Flat No.09, East – Dust and Flat**

	No.07 and West – Side Marginal Space 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.15,000/- (Rs.Fifteen Thousand only) as per rule.
6.	Issue writ accordingly.

MANJUSHA MANIKRAO ALONE

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Date: 2026.06.23 17:26:07 +0530

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

Date:-23.06.2026