**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
SOUTH WEST DISTRICT, DWARKA COURT COMPLEX,
NEW DELHI**

Presiding Officer: Neha Priya

SARFAESI PETITION

CC No. 459/2026

In the Matter of :

Aditya Birla Housing Finance Limited

Branch office at:-
3rd Floor, Plot No. C 171/2,
Sector-15, Noida, Gautam Budh Nagar,
Uttar Pradesh-201301

.....Applicant

Versus

1. **Varun Kumar**
2. **Daisy Devi**
3. **Kanaiya Kumar**

All residents of:
240, Pushpa Bhawan, Gali No. E-6A,
Sangam Vihar, Dr. Ambedkar Nagar,
South-Delhi-110062

…..Respondents

ORDER

1. This application has been moved by the applicant under Section 14(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ***(hereinafter referred to as 'SARFAESI Act').***

2. It is stated in the application that the applicant is a secured creditor whereas the respondents are "borrowers" as defined in section 2(1)(f) of the SARFAESI Act. According to the applicant, the property i.e. **"Second Floor (without roof rights) Back Side Left Hand Side Flat, Plot No. 26 area measuring 250 sq. yards (i.e. 209.03 sq. mtrs) out of Khasra No. 17/24 situated in the revenue estate of village Matiala, Delhi State, Delhi area abadi known colony Matiala Extension, Uttam Nagar, New Delhi-110059 bounded as East:- Other property, West:- Back side RHS Flat / other property, North:- Front LHS Flat / Road 20 feet, South:- Gali 10 feet"** is a secured asset, since a "security interest" was created thereon by the borrowers to secure repayment of a loan. The borrowers are stated to have defaulted in repayment of the loan. It is further stated by the applicant that the loan account has been declared as 'non-performing asset'. It is further averred that the secured creditor had issued statutory notice under section 13(2) of the SARFAESI Act on the last known address of the respondents but the respondents failed to discharge their liability in full within the stipulated period of sixty days from the date of notice. As per the applicant, there is no pending objection of the borrowers. It is stated in the application that possession of the asset needs to be taken and orders for that may be passed.

3. Affidavit of the authorized officer of the secured creditor, as required by proviso of section 14(1) of the SARFAESI Act, has also been filed. The affidavit discloses the extent of financial assistance granted and the claim of the applicant as on the date of

filing the application. It reiterates the aforenoted pleas and fulfills the requirements of the said proviso. Original documents relied upon by the applicant were produced for the inspection of the court. After inspection, the original documents were returned.

4. I have heard arguments advanced by the Ld. Counsel for the secured creditor and have perused the application, affidavit of authorized officer, title deeds of the asset and other supporting documents.

5. The aforenoted assertions of the applicant, duly supported by affidavit and documents, demonstrate that the respondents had availed financial assistance from the applicant, that the respondents had created security interest on the asset bearing **"Second Floor (without roof rights) Back Side Left Hand Side Flat, Plot No. 26 area measuring 250 sq. yards (i.e. 209.03 sq. mtrs) out of Khasra No. 17/24 situated in the revenue estate of village Matiala, Delhi State, Delhi area abadi known colony Matiala Extension, Uttam Nagar, New Delhi-110059 bounded as East:- Other property, West:- Back side RHS Flat / other property, North:- Front LHS Flat / Road 20 feet, South:- Gali 10 feet"** that the respondents defaulted in repayment of the loan and a sum of **Rs. 36,56,787/-** remains payable as on 06.11.2025, that the loan account was declared non-performing asset on **01.11.2025,** that the respondents failed to pay the outstanding loan amount even after receiving notice dated **21.11.2025** under section 13 (2) of the SARFAESI Act which afforded a period of sixty days to do

so and that there is no pending objection or representation of the respondents.

6. Therefore, having verified the averments of application along with affidavit from original documents, this Court appoints **Advocate Mr. Mukesh Joshi, Enrl. No. D/6489/2022, Mobile No. 9818395321**, to take possession of the secured asset as stated above, with police aid, including atleast one lady constable.

7. For compliance of this order, the Receiver is directed to act as per the following terms :-

7.1 The Receiver shall issue 21 days' notice to respondents and fix the date of taking possession. Possession notice shall also be affixed upon the main door or other conspicuous portion of aforesaid property. The Receiver shall take coloured photographs of aforesaid immovable property showing display of possession notice;

7.2 The Receiver shall be empowered to remove all kind of obstructions including locks, doors, etc., if required, for taking possession of said property and in that eventuality, he shall prepare an inventory of items kept inside the property and hand over one list duly signed by witnesses and receiver to the borrower(s), if present at the site and another copy be submitted in the Court along-with report. Broken locks shall be kept in a sealed cloth pulanda and deposited with concerned bank;

7.3 The entire proceeding of taking over possession of secured asset shall be photographed or videographed;

7.4 The Receiver would ensure that there is no stay order from any Court in respect of aforesaid property before executing this order;

7.5 The Receiver shall forward all the assets (movable as well as immovable property) to the applicant bank through its authorized representative after taking over possession of secured asset;

7.6 SHO concerned shall provide police aid to the Receiver for compliance of directions passed by this Court;

7.7 All miscellaneous expenses for complying with aforesaid directions would be borne by applicant bank; and

7.8 After concluding the entire proceedings, the Receiver would submit his report and coloured photographs along-with pen drive / CD/ memory card in the Court.

8. **The fee of Receiver is fixed at Rs. 70,000/- (Rupees Seventy Thousand only) to be paid to Receiver by applicant** within seven days from today. TDS, if any, shall not be included in the Receiver’s fee. **<u>Payment of fee to the Receiver by the applicant shall be a pre-condition for the Receiver to commence execution of this order.</u>** All the aforesaid terms are acceptable to the applicant. **The applicant bank would furnish all necessary details of aforesaid property and borrowers to the Receiver within 03 days of this order and would extend full co-operation in executing this order.**

9. If the recovery proceedings are stayed by order of Debt Recovery Tribunal or other fora, and in case the stay order is subsequently vacated or the applicant is granted liberty to recover possession of the property, the mandate of the Receiver to recover possession would stand extended and he/she shall be at liberty to recover possession of the secured asset and to hand it over to the applicant notwithstanding the expiry of aforesaid period of one month. For this purpose, the applicant may itself contact the receiver and the receiver shall recover possession on the same terms as are mentioned in this order. There shall be no need for the applicant to approach this court for extension of time or other directions.

10. However, if the applicant of its own, decides not to recover possession, it shall apply to this court to terminate the mandate of the Receiver and it shall not be lawful for it to itself instruct the Receiver to refrain from or to delay the recovery of possession. In case there is delay on the part of the applicant in compliance with this order, the same shall be explained by the applicant by affidavit of the authorized officer.

11. Finally, it is also emphasized that objection, if any, by whomsoever concerned shall not be entertained by this Court and should be made before the Debt Recovery Tribunal as this Court is only required to provide assistance to secured creditors (Financial Institutions) to obtain possession of secured assets in accordance with law and nothing stated in this order shall be

construed as a finding of liability or a judicial determination of the issues in contention between the parties.

12. Report of compliance of the above stated directions shall be filed in the court within 45 days from today.

13. Since the directions sought by the applicant have been passed, nothing survives in the matter. Let file be consigned to record room.

14. Copy of this order be given *dasti* to the Ld. counsel for the applicant and Receiver for compliance. The Ahlmad shall send a copy of this order to the Receiver alongwith copy of the memo of parties by e-mode within two working days from today. Reader of this Court is directed to telephonically inform the Receiver about this order.

15. Application stands disposed off accordingly.

NEHA PRIYA Digitally signed by NEHA PRIYA Date: 2026.04.25 15:39:22 +0530

NEHA PRIYA
Chief Judicial Magistrate
South-West District, Dwarka Courts
New Delhi/25.04.2026