Date of Filing	11	06	2026
Date of Registration	11	06	2026
Date of Disposal	20	07	2026
Disposal Period	**09**	**1**	**0000**
	D.	**M.**	**Y.**

सत्यमेव जयते

IN THE COURT OF HONORABLE CHIEF JUDICIAL MAGISTRATE, MODASA, DIST.ARVALLI.

CRIMINAL MISC. APPLICATION NO. 334 OF 2026

Exh.:

APPLICANT(S):

Muthoot Finance Limited

HAVING IT'S REGISTERED OFFICE AT- BY SOLAN INDIA
Muthoot Chambers, Kurian Tower, Banerji Road, Emakulam North, Kochi-682018.

AND HAVING IT'S CORPORATE OFFICE AT-MUTHOOT FINANCE LIMITED
The Ruby, 19th Floor, 19 NE Near Ruparel College, No.29, Senapati Bapat Marg, Tulsi Pipe Road, Dadar West, Mumbai-400 028, Maharashtra Ph.:-022-41010999.

AND HAVING IT'S BRANCH OFFICE AT-MUTHOOT FINANCE LIMITED
306, 3rd Floor, Third Eye 2 Building, Opp. Parimal Garden, CG Road, Ahmedabad 380006

THROUGH ITS AUTHORISED OFFICER, MR. Amar Patil

VERSUS

OPPONENTS:

1. Kantibhai Bharvad (Applicant)

2. Januben Bharvad (CO-APPLICANT)

AT- House No 22, Rampur, Siplicad Shinavad Sabarkantha Gujarat Modasa Rampur Shinavad B.O Gujarat-Pin Code 383315

Also at; House No-27, Bharvadvas, Rampur, (Shinavad), Ta-Modasa Shinavad B.O Gujarat-Pin Code 383315

APPEARANCE:

Mr. M.R. Panchal LEARNED ADVOCATE FOR APPLICANT.

Sub. : An Application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI ACT) against the above opponents most respectfully herewith.

:: JUDGEMENT ::

1) Present application has been filed by the applicant under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (hereinafter to be referred to as SARFAESI ACT) on the ground that, the opponents approached the applicant for availing the financial Assistance/Housing Loan/Loan against property and the applicant had sanctioned the said facility to the tune of Rs. 3,50,5439/- Opponents had mortgaged the property, which is situated within the jurisdiction of this court (as per description of the property mentioned in the present application), against the said facility.

2) The details of the property owned by the opponent is mentioned hereinunder: Immovable Property being House No. 27, Bharvadas, Rampur, (Shinavad), Tal. Modasa, Shinavad, B.O. Gujarat Pincode 383315.

East: Road

West: Open Land

North: Jivabhai Bhagabhai Bharvad House

South: Open Land and Hiraben Dahayabhai Bharvad House

3) The applicant has submitted that opponents have failed to make repayment of the dues therefore, account of the opponents has been classified as Non-Performing Asset on 22.01.2026.

4) The applicant issued notice under Section 13(2) of the SARFAESI Act on 28.1.2026. The said notice was duly served upon the opponents. That by way of the said notice the opponents were called upon to pay the due amount with further interest and charges till the date of realization of payment within the statutory period of 60 days from the date of the said notice, is due as outstanding. However, the borrowers have failed to repay the same.

5) Heard learned advocate for the applicant. Perused the Record.

6) Section 14(1) of the SARFAESI ACT reads as under:

> *"Where the possession of any secured assets is required to be taken by the Secured Creditor.......xxxx*
>
> *Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or Chief Metropolitan Magistrate, as the case may be shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets [within a period of thirty days from the date of application]......xxx"*

7) In view of the judgement of Hon'ble Bombay High Court, in the case of *Trade Well v/s. Indian Bank* reported in 2007 Cri LJ 2544 opined;

2... CMM/DM acting under Section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party.

3. He has to only verify from the bank or financial institution whether notice under Section 13(2) of the NPA Act is given or not and whether the secured assets fall within his jurisdiction. There is no adjudication of any kind at this stage.

4. It is only if the above conditions are not fulfilled that the CMM/DM can refuse to pass an order under Section 14 of the NPA Act by recording that the above conditions are not fulfilled. If these two conditions are fulfilled, he cannot refuse to pass an order under Section 14.

8) Further, in view of the Judgment of the Hon'ble Gujarat High Court as decided in Special Civil Application No. 215 of 2011 in the case of *IDBI Bank Ltd v/s. District Magistrate and Others*, wherein in Para No.8 (xi) it is held that :

> ***8(xi)*** *"All such determination is to be made by the Debts Recovery Tribunal including the question whether the asset is a secured asset or not and the Chief Metropolitan Magistrate or the District Magistrate has not been empowered to adjudicate such dispute, but is directed only to assist the secured creditor in taking possession of the secured asset. If they are not empowered to adjudicate the dispute, they cannot also call for the secured creditor to produce any document to decide whether the asset is secured asset or not, which will be futile exercise in absence of power to adjudicate such issue.*

> *Under Clauses (a) and (b) of Section 14(1), the Chief Metropolitan Magistrate or the District Magistrate and on request, are bound to take possession of the secured assets as also the documents relating thereto. If the documents are to be obtained by them, the question of asking the secured creditor to produce the document in all cases does not arise. Therefore, they do not have jurisdiction even to call for the documents.”*

9) Upon perusal of the judgement of the Hon’ble High Court of Gujarat, it appears that the Chief Metropolitan Magistrate or Chief Judicial Magistrate has very limited scope with respect to the cases under Section 14 of the SARFAESI Act. Hence, this Court can not go into the merits of the claim.

10) Upon perusal of record, I am satisfied that the contents of the affidavit are fully supported by the documents produced. Apart from that, sufficient time has been given by the applicant to the opponents to make repayment of the outstanding dues, but the opponents have not paid the outstanding amount. Hence, considering the above facts of the application and in view of the above judgments of the Hon’ble High Court, I pass the following order :

::O R D E R::

1. The present application is hereby allowed.
2. As per the prevailling practice at Modasa, it is hereby ordered to appoint Court Commissioner under Section 14 (1-A) of SARFAESI ACT as per names mentioned in the commissioner Register of the Court and followed the sequence of serial number, which is mentioned in the register.
3. The Court Commissioner is directed to take possession of

property (secured asset) mentioned in the present application, which is situated within the jurisdiction of this court. Immovable Property being House No. 27, Bharvadas, Rampur, (Shinavad), Tal. Modasa, Shinavad, B.O. Gujarat Pincode 383315.

East: Road

West: Open Land

North: Jivabhai Bhagabhai Bharvad House

South: Open Land and Hiraben Dahayabhai Bharvad House.

4. If the secured asset is found in closed condition, the Court Commissioner may take possession of this secured asset by breaking / opening the lock, or may take any other steps he/she may think fit.

5. After taking the possession of the secured asset, the Court Commissioner shall prepare the inventory of any item, documents relating to the asset, if found in secured asset and handover the same to the applicant.

6. The concerned Police Inspector of the concerned police station, under whose Jurisdiction, the aforesaid secured asset is situated, shall provide necessary police assistance/protection to the Court Commissioner, on the date appointed by the Court Commissioner for taking possession of the secured asset, as per the Circular of Home Department, Bearing No SB-II, GNH/112017/998-PART FILE, dated 03.12.2020. On production of the copy of this order before the concerned police station, the police inspector of the concerned Police Station, shall provide police protection within 30 days from the receipt of the copy of this Court order.

7. The applicant shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.

8. The Court Commissioner may take or cause to be taken such steps and use, or cause to be used such force, as may be necessary, in his/her opinion.

9. Copy of this Order be sent to the concerned Police Station.

10. Applicant shall bear the expenses incurred in taking possession of the secured asset and shall provide all necessary assistance to the Court Commissioner in taking possession of the secured assets.

11. Applicant is hereby directed at present to deposit lumpsum amount of Rs. 5,000/- (Five Thousand only) towards the expenses and remuneration of Court Commissioner, within One Month from the date of Order.

12. On depositing the above said amount in the court, the Court Commissioner is directed to complete the said procedure within 90 days or within the time limit extended by the court and submit the compliance report of completion of proceedings.

13. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Signed and Pronounced in open Court on **20th Day** of **July, 2026**.

Date : 20.07.2026
Place: Modasa

[Mr. P.S. Rathore]
Chief Judicial Magistrate
Modasa
Code No. GJ01134

Bhavya D. Trivedi