सत्यमेव जयते	Received on	:	17/06/2026
	Registered on	:	17/06/2026
	Decided on	:	03/07/2026
	Duration	:	Y : M: D:

In the Court of Principal Sr. Civil Judge & Additional Chief Judicial Magistrate, Ankleshwar.

CRMA NO. 589 / 2026
EXH.

Applicant : **ICICI Bank Ltd. through its Authorized Officer Hareshbhai D. Panchal**

At : 1st Floor, Geet Prabha Building, Majura Gate, Surat, Gujarat-395002.

Versus

Opponents : (1) **Shantilal Dhuljibhai Garg**

(2) **Garg Bhartiben Shantilal**

At : Flat No. B-104, First Floor, Sun Plaza Complex Co. Op. Housing Society, Opp. Lions School, GIDC, Ankleshwar-393002.

Also At : 5, Shree Mewad Road Lines, Hotel Narmada Gate Compound, Kansiya, Bharuch-393010.

Sub : An application u/s 14 of the SARFAESI Act, 2002 for taking possession of immovable property (Secured assets).

Appearance :

Mr. B. B. Maniya............ Ld. Advocate for the Applicant.

-:: J U D G M E N T ::-

1. The present application has been filed by the applicant against the Opponents under section14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act) for taking possession of secured asset as defined in section - 2(zc) of the SARFAESI Act mentioned in the application and forward it to the applicant.

2. Initially, on perusal and verification of the documentary evidence produced by the applicant, this court has passed order dated 17/062026 and the applicant was directed to deposit a lump-sum amount of Rs. 10,000/- towards the expenses and remuneration of Court Commissioner without fail and however, the applicant has deposited Rs. 10,000/- on 20/06/2026 as directed and therefore in view of the said ordered dated 17/06/2026, the present application is listed before the court for passing final order of appointment of the court Commissioner to act under the provisions of 14(1-A) of the SARFAESI Act, 2002.

3. The concise statement of the applicant's case is that the applicant is secured creditor as defined in Section2(zd) of the SARFAESI Act and the opponents are borrower as defined under section2 (f) of the SARFAESI Act. The applicant has been notified as financial institution for the purpose of the SARFAESI Act. It is

further averred in the application that the applicant has satisfied all the requirement of section14 of the SARFAESI Act and the applicant's authorized officer has submitted his affidavit to that effect. Hence, the present application.

EVIDENCE OF APPLICANT :

4. The applicant has submitted his affidavit along with the application as is required by the first Proviso to Section- 14(1) of the SARFAESI Act and has submitted following documents vide mark - 3/1 to 3/8 in support of his application.

Applicant's Documentary evidence:

Sr. No.	Annx	Particulars of document	Date
1	A	A copy of RBI License & copy of the certificate of incorporation pursuant to change of name issued by Ministry if Corporate Affairs and the Registrar of Companies.	---
2	B	A Copy of Board Resolution (Authority Letter of Authorize Officer)	25/04/2025
3	C	Copies of Loan Documents Like Sanction Letter, Loan Agreement and etc.	21/04/2023 10/05/2023
4	D	Copies of Sale Deed.	07/05/2014
5	E	A Copy of the Demand Notice under section 13(2) of the SARFAESI ACT, 2002 and its compliance.	16/01/2026
6	F	A Copy of the Symbolic Possession Notice u/s 13(4) of the SARFAESI ACT, 2002 and its compliance.	08/05/2026

7	G	Copies of statement of A/c.	10/06/2026
8	H	CERSAI report.	---

Submissions on behalf of the applicant.

5. The Ld. Advocate on behalf of the applicant has argued as per the averment made in the application.

6. Following points are framed for determination of this case :-

-:: I S S U E S ::-

1. Whether the applicant is entitled to the relief claimed in the application? ?
2. What order ?

7. My answers and reasons for the aforesaid issues are as under :-
1. In Affirmative.
2. As per final order.

- : : REASONS : : -

8. Before determination of this case, it would be necessary to refer some of the pronouncements governing the determination of an application filed under section14 of the SARFAESI Act, 2002. The Hon'ble Supreme Court in "Standard Chartered Bank v. V. Noble Kumar" reported in (2013) 9 SCC 620 has held as under ;

21. Under the scheme of Section 14, a secured creditor who desires to seek the assistance of the State's coercive power for 3obtaining possession of the secured asset is required to make a request in writing to the Chief Metropolitan Magistrate or District Magistrate within whose jurisdiction, the secured asset is located praying that the secured asset and other documents relating thereto may be taken possession thereof. The language of Section 14 originally enacted purportedly obliged the Magistrate

receiving a request under Section 14 to take possession of the secured asset and documents, if any, related thereto in terms of the request received by him without any further scrutiny of the matter.

22. However, the Bombay High Court in Trade Well v. Indian Bank [2007 Cri LJ 2544 (Bom)] 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 third 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."(emphasis supplied)

The said judgment was followed by the Madras High Court in Indian Overseas Bank v. Sree Aravindh Steels Ltd. [AIR 2009 Mad 10] Subsequently, Parliament inserted a proviso to Section 14(1) ["Provided that any application 4by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—(i) the aggregate amount of financial assistance granted and the total claim of the bank as on the date of filing the application;(ii) theborrower has created security interest over various properties and that the bank or financial institution is holding a valid and subsisting security interest over such properties and the claim of the bank or financial institution is within the limitation period;(iii) the borrower has created security interest over various properties giving the details of properties referred to in subclause (ii) above;(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non - performing asset;(vi) affirming that the period of sixty days' notice as required by the provisions of subsection (2) of Section 13, demanding payment of the defaulted financial assistance has been served on the borrower;(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for nonacceptance of such objection or representation had been communicated to the borrower;(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the authorised officer is, therefore, entitled to take possession of the secured assets under the provisions of subsection (4) of Section 13 read with Section 14 of the principal Act;(ix) that the provisions of this Act and the 5rules made thereunder had been complied with:Provided further that on receipt of the affidavit from the authorised officer, the District Magistrate or the 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:Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act."]

"14. (1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him—(i) to take possession of such assets and documents relating thereto; and(ii) to forward such assets and documents to the secured creditor.(2) For the purpose of securing compliance with the provisions of sub section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.(3) No act of the Chief Metropolitan Magistrate or the District Magistrate any officer authorised by the Chief Metropolitan Magistrate or District Magistrate done in pursuance of this section shall be called in question in any court or before any authority."] by Act 1 of 2013.

25. The satisfaction of the Magistrate contemplated under the second proviso to Section 14(1) necessarily requires the Magistrate to examine the factual correctness of the assertions made in such an affidavit but not the legal niceties of the 6transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of possession of

the secured asset.

09. The Hon'ble Bombay High Court in CA. Manisha Mehta and ors. vs. The Board of Directors of Represented by its Managing Director of ICICI Bank and ors reported in AIRONLINE 2022 BOM 1846 held as under;

8. Pertinently, section 14 of the SARFAESI Act was amended twice, once in 2013 and then again in 2016. If it were the intention of the legislature to extend opportunity of hearing to a borrower before the District Magistrate/Chief Metropolitan Magistrate, as the case may be, it was free to do so. Advisedly, the legislature did not do so, for, it would have militated against the scheme of the SARFAESI Act and more 5902.wpl.841822 particularly section 13 thereof. It is implicit in the scheme of the SARFAESI Act that natural justice, only to a limited extent, is available and not beyond what is expressly provided. There seems to be little merit in the argument advanced by Mr. Nedumpara and we hold that the language of section 14 is too clear and unambiguous, and does not admit of any requirement of complying with natural justice by putting the borrower on notice while an application thereunder is under consideration.

10. The Hon'ble Gujarat High Court in Devani Jagdishbhai Dahyabhai (Third Party) Appellant VERSUS DISTRICT MAGISTRATE SURAT Respondents reported in LAWS(GJH)-20181226 held as under :-

“27. I do not find any merit in the contention that the District Magistrate should have provided an opportunity of hearing to the writ applicant in the proceedings under Section 14 of the SARFAESI Act. The Supreme Court in the case of Harshad Govardhan Sondagar (supra) and Vishal N. Kalsaria vs. Bank of India [(2016) 3 SCC 762] has not laid down the law that the borrower or any aggrieved person 9may also be extended an opportunity of hearing in the proceedings under Section 14 of the SARFAESI Act.”

11. Considering the material produced by the applicant and perusing the affidavit submitted by the authorised officer of the applicant, it transpires to this court that the applicant has satisfied the requirement of section14 of the SARFAESI Act so as to entitle it to have assistance of this Court. The secured asset has been situated withing the jurisdiction of this court. As per the pronouncement of Hon'ble Supreme Court in Indian Bank Case (supra), the Chief Judicial Magistrate is also empowered to entertain the application filed u/s 14 of the SARFAESI Act. So, in view of the aforesaid reasons and discussion, my finding on issue no1 is in affirmative. So far as to issue no2 is concerned, I hereby pass following final order in the interest of justice;

-:: O R D E R ::-

1. The Application of the applicant is hereby allowed.
2. I authorized **Mrs. D. A. Upadhyay, Assistant** of this Court, to act as Court Commissioner under section14(1A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
3. Court Commissioner is directed to take possession of asset and forward such asset to the secured creditor . The description of such asset is as under:

Description of Mortgaged Property/Secured Asset :

"All that piece and parcel of the immovable property bearing Flat No. B/104, 1st Floor, Building No. B, adm 42.51 sq. mtrs of Carpet area, and adm 69.70 sq. mtrs of built up area along with undivided proportionate share in underneath land adm. 27.34 sq. mtrs at “Sunplaza Complex” constructed on land bearing R. S. No. 236 paikee of

Village : Bhadkodra Tal. Ankleshwar, Bharuch. (The said property is owned by Respondent No.1).

Bounded as under :

East by : Soc. Compound wall.

West by : Adj. Flat No. B-101.

North by : Adj. Flat No. B-103.

South by : GIDC Common road.

If the secured assets is found in closed condition, the Court Commissioner may take possession of this secured assets by breaking / opening the lock or may take any other steps he may think fit. After taking the possession of the secured assets, Court Commissioner shall prepare the inventory of any item, Documents relating to the assets if found in secured Assets and handover the same to the applicant.

4. Copy of this Order be sent to the concerned Police Station. The Police Inspector of the concerned police station under whose Jurisdiction, the aforesaid Secured Assets 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 assets.
5. The Applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.
6. The Court Commissioner may take or cause to be taken such steps and use, or cause to be used such force, as may, in her opinion be necessary.
7. Applicant shall bear the expenses incurred in taking possession of the secured assets and shall provide all necessary assistance to the court commissioner in taking

possession of the secured assets. 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.

8. The court commissioner shall carry out the said proceedings on public holidays or except court working hours.

[Signed and pronounced in the open Court on 03/07/2026]

Place : Ankleshwar
Date : 03/07/ 2026

: Yogesh Narendrakumar Patel :
Principal Sr. Civil Judge & A.C.J.M
Ankleshwar
Judge Code : GJ00664

: Seema :