RECEIVED ON :-06-05-2026
REGISTERED ON :-06-05-2026
DECIDED ON :- 08-06-2026

DURATION :- DD MM YY

IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE, AT :- BODELI

CRMAJ No. 100 OF 2026
Exh. .....

Applicant: **IDFC FIRST Bank Limited**
Having its Branch Office At: Ground Floor Shop no 2 & 2nd Floor, Unit No. 201, Tower - A, Sahyog Atrium, Plot no 23/24, Haribhakti Extension Colony, Old Padra Road, Vadodara. Through its Authorized Officer Mr. Chinmay Acharya, Age-33

VERSUS

Opponents:
1. KANCHANBHAI KESURBHAI VAGHRI
2. SHARDABEN KANCHANBHAI VAGHRI

Both Address:
Property No. 3/8/2/4, TOKARI FALIYU, VILLAGE SANKHEDA TA - SANKHEDA DISTRICT - CHHOTAUDEPUR.
Also At. - Vaghri Vad, Sankheda Vadodara.
Also At. - 4-1-25k, Vaghrivad, Sankheda, Baroda.

Appearance : **(1)Ld. Advocate for the Applicant :**
UMANG Y MEHTA (G/1934/2004)
(2)Ld. Advocate for the Opponents: None

SUBJECT: APPLICATION U/S. 14 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 (SARFAESI ACT)

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

1. Present Application is submitted by the applicant U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT) on the ground that, the opponents approached to the Applicant for availing the Loan of

Rs. 3,00,000.00 vide LOAN ACCOUNT NO. 45129568. The opponent had mortgaged the property as mentioned in the present application.

2. The applicant has submitted that opponent has failed to make the repayment of the dues therefore, account of the opponent was/has been classified as NPA on **04-03-2024.**

3. The applicant issued notice U/s. 13(2) of the SARFAESI on **30-03-2024.** The said notice was duly served upon the opponent. That by way of the said notice the opponent was called upon to pay sum of **Rs.3,01,258.62/-** for loan Amount as on **28-03-2024.** 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 borrower has failed to repay the same.

4. Learned Advocate for the Opponent did not remain present. Perused the Record.

5. **Section 14(1) 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 or Addl. Chief Judicial 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.

6. In view of the Judgment of the Hon'ble Gujarat High Court as decided in **SPECIAL CIVIL APPLICATION NO. 215 OF 2011 IN case of IDBI BANK LTD VS. DISTRICT MAGISTRATE AND OTHERS 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 Addl. Chief Judicial 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.”

7. Upon perusal of the Judgment of the Hon’ble High Court of Gujarat, the Chief Metropolitan Magistrate has very limited scope with respect to the cases U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT). Hence, this Court cannot go into the merits of the claim.

8. Upon perusal of record, I am satisfied that the contents of the affidavit are fully supported by the documents produced. That apart, sufficient time has been given by the applicant to the opponent to make repayment of the outstanding dues but opponent has 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, this court has no power to adjudicate the dispute between the parties. Hence, passed the following order :

ORDER

1) The Application of the applicant is hereby allowed.

2) I authorize, **Mr. Ranjitbhai Rathva Sr. Clerk** as Court Commissioner U/s.14 (1-A), Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. (In short SARFAESI ACT).

3) Court Commissioner is directed to take possession of the properties mentioned in Schedule which attached with the Present Application, The description of the properties are as under:-

Desctiption of Mortgaged Property/Secured Asset:

All That Piece and Parcel of immovable property being Parcel of Property No.3/8/2/4, Property Area 1023 Sq.ft., Situated At- Tokari Faliyu, Village- Sankheda, Tal Sankheda, District- Chhotaudepur, Gujarat-391145, And Bounded As:

North: House of Gopalbhai Khodabhal

South: House of Chandubhai Bhikhabhal

East: Wide Road **West: Farm**

4) 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 she may think fit.

5) 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.

6) The concerned 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, as per the Circular of Home Department,

Bearing No SB-II, GNH/112017/998-PART FILE Dated 03 rd December 2020. As per said circular when the question of giving police protection under the SARFAESI Act, arise, at that time, the police authority shall not record any statement of any person nor should call any person to police station for recording the statement and police shall provide the police assistant to the secured creditor. 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. The Applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof. 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. Copy of this Order be sent to the concerned Police Station.

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.

8) The applicant has been paid a lump sum of Rs. **20,000**/- towards the expenses and remuneration of the Court Commissioner in the **Principal Civil Court Sankheda Criminal C Register No.09/2026-27 Date. 01/06/2026.** On Order the above 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.

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

Pronounced in the open court today on 08-06-2026

Date: 08-06-2026

Place: Bodeli.

[Salimaltaf Namtullakhan Ghasura]
Addl. Chief Judicial Magistrate,
Bodeli, Dist- Chhotaudepur
Code No. GJ00896.