

Complaint Registered on	24	02	2026
Complaint Decided on	24	02	2026
Disposed on Date	12	03	2026
Duration			



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**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE &  
 ADDL. CHIEF JUDI. MAGI., JHALOD, DIST. DAHOD**  
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**CR.MA.NO. 82/2026**  
**Exh.04**

**In the matter of :**

**STATE BANK OF INDIA  
 OFFICE SITUATED AT**

**Regd. Office: STATE BANK OF INDIA.  
 RACPC GODHRA (64206), GROUND AND  
 FIRST FLOOR, DAHOD ROAD, PANCHMAHAL,  
 GODHRA-389001. GUJARAT.**

**Through its Authorized Officer  
 Mr.Gangesh P.Choudhary**

**...Applicant**

**Versus**

- 1. WIFE/SON/DAUGHTER/HUSBAND OF MR.HIMMATBHAI LALABHAI GOHIL (SINCE DECEASED) AND OTHER KNOWN AND UNKNOWN LEGAL HEIR(s), LEGAL REPRESENTATIVE(S), SUCCESSORS AND ASISGNES OF**

MR./MRS./MS. MRS.GOHIL SHANTABEN HIMMATBHAI.  
(SINCE DECEASED)

AT:- GELOT (MORI) FALIYA, LIMDI, TALUKA-  
JHALOD, DISTRICT: DAHOD: 389180. GUJARAT.

2. WIFE/SON/DAUGHTER/HUSBAND OF MR.HIMMATBHAI  
LALABHAI GOHIL (SINCE DECEASED) AND OTHER  
KNOWN AND UNKNOWN LEGAL HEIR(s), LEGAL  
REPRESENTATIVE(S), SUCCESSORS AND ASISGNES OF  
MR./MRS./MS. MR.GOHIL JASHVANTBHAI HIMMATBHAI.  
(SINCE DECEASED)

AT:- GELOT (MORI) FALIYA, LIMDI, TALUKA-  
JHALOD, DISTRICT: DAHOD: 389180. GUJARAT.

3. WIFE/SON/DAUGHTER/HUSBAND OF MR.HIMMATBHAI  
LALABHAI GOHIL (SINCE DECEASED) AND OTHER  
KNOWN AND UNKNOWN LEGAL HEIR(s), LEGAL  
REPRESENTATIVE(S), SUCCESSORS AND ASISGNES OF  
MR./MRS./MS. MR.GOHIL SAHIL HIMMATBHAI. (SINCE  
DECEASED)

AT:- GELOT (MORI) FALIYA, LIMDI, TALUKA-  
JHALOD, DISTRICT: DAHOD: 389180. GUJARAT.

...Opponents

Ld. ADVOCATE FOR THE APPLICANT: J.K.DAMOR

Ld. ADVOCATE FOR THE OPPONENTS: --

**SUB: An application U/s.14 of the Securi-  
tization and Reconstruction of Financial  
Assets and Enforcement of Security  
Interest Act 2002 (SARFAESI ACT)for taking  
Possession of Immovable Property(Secured  
Assets)**

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**- : ORDER : -**

- (1). The applicant has preferred the present application  
under Section- 14 of the Securitisation and  
Reconstruction of Financial Assets and Enforcement of

Security Interest Act, 2002 (hereinafter referred as "the SARFAESI Act, 2002" for convenience) for taking possession of secured assets.

(2). The brief facts of the application are that :

- i. The Applicant State Bank of India, a Company duly incorporated under Provision the Companies Act, 1956, and having its Regd. Office situated at, **Regd. Office: STATE BANK OF INDIA, RACPC GODHRA (64206), GROUND AND FIRST FLOOR, DAHOD ROAD, PANCHMAHAL, GODHRA-389001. GUJARAT.**
- ii. Mr.Gangesh P.Choudhary the Authorised Officer of State Bank of India - Godhara Branch having been authorised to exercise the powers of secured creditors under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act).
- iii. It is submitted that, Himmatbhai Lalabhai Gohil (Since Deceased) had availed home Loan facilities from applicant State Bank of India from their branch aggregating to Rs. 16,29,000/- (Rs. Sixteen Lacs Twenty Nine Thousand Only) under Loan Account No. 22377014.
- iv. That the opponents committed default in repayment of the Financial Assistance and the borrowers failed and neglected to operate the accounts and failed to pay the interest as and when accrued due, the dues

were not paid the repayment was irregular and the credit facilities account was not in order, the applicant has classified the account of the borrowers as "Non-Performing Asset" on Dt. 08/05/2025 under loan Account: 22377014.

- v. That in pursuance of provisions of the said Act, the authorized officer has proceeded for action under the SARFAESI Act, 2002 and thereafter Original Lender has issued demand notice dated 08/10/2025 to the borrowers under Section- 13(2) of the SARFAESI Act, 2002 the borrowers including the opponent herein to make payment of sum of Rs.13,80,485.54/- as on 08.05.2025 within statutory period of 60 days of the date of notice as prescribed under the Act, failing which it was stated that the applicant bank would be constrained to take recourse under the provisions of the said Act in respect of the secured asset. Therefore, The applicant went to the secured assets on 23/12/2025 and took symbolic possession of the property by affixing a possession notice on the wall of the said premises and publishing the contents of the possession notice in two leading news papers, was taken by the Authorized Officer of the Original Lender and published the Symbolic Possession Notice under Section- 13(4) of the SARFAESI Act, 2002.
- vi. The Applicant intends to take possession of the secured assets for effecting sale, transfer of the said secured assets to recover its secured debt. Hence, the present application is made under section 14 of SARFESI Act, 2002 by the applicant bank. Thus, the applicant has filed the present

application and prayed to pass an order and appoint subordinate officer to take the possession of the property described in Para 5 of the application, as per the provision of section 14 & 14(1-A) of SARFESI Act, 2002 and to deliver the possession to the applicant for the purpose of enforcing the security interest and to realise the secured debt or part thereof by effecting the sale of the secured assets and take all necessary steps including breaking open the lock and to use cause to be used such police force as this subordinate officer to break, open the lock or fix the door and apply its lock.

- (3). Heard learned advocate for the applicant. Perused the record of the case.
- (4). Having perusal of the record of the case, it transpires that the present application has been preferred under Section- 14 of the SARFAESI Act, 2002 for taking possession of Secured Assets, more particularly stated in Para 5 of the application i.e. **ALL THAT PIECE AND PARCEL OF IMMOVEABLE PROPERTY BEING the City Survey No.49, Residential Land and Building thereon at Paiki Private Plot No.5, Admeasuring 66.90 Sq.Mtrs. with GRam Panchayat House No.100 at Gelot (Mori) Faliya, Moje: Limdi, Taluka: Jhalod, District & Sub Registration Dahod- 389151. Gujarat.**

and bounded as under:

East : Approach Road,

West : Approach Road,

North: Property of Ratanbhai Dhulabhai Gohil.

South: Property of Vitthalbhai Nandabhai Mori.

At this juncture, I would like to reproduce Section-14 of the SARFAESI Act, 2002 which is as under:

***“Section-14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset”.***

*1 Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured assets, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or as the case may be, the District Magistrate shall, on such request being made to him.*

*1.a take possession of such asset and documents relating thereto; and*

*1.b forward such asset 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.”*

Thus, considering the Section- 14 of SARFAESI Act, 2002, the Chief Judicial Magistrate is empowered to take possession of such asset and documents relating thereto and forward such asset and documents to the secured creditor.

- (5). The Hon'ble Supreme Court in the case of The Authorised Officer, Indian Bank V/s. D Visalakshi and another, Civil Appeal No.6295/2015 has held that "*Chief Judicial Magistrate is equally competent to deal with the application moved by the secured creditor U/s. 14 of the SARFAESI Act, 2002*".

*i* Hon'ble Gujarat High Court in the case of IDBI Bank Limited V/s. District Magistrate and another, Special Civil Application No.215/2011 has held in para 5 that "*The Chief Metropolitan Magistrate and the District Magistrate, under Section-14 of the Securitisation Act are not empowered to decide the question of legality and property of any of the actions taken by the secured creditor under Section-13(4), which can be assailed under Section-17 of the Securitisation Act by the aggrieved person.*" Further it is held in para 8 that "*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 issues.”*

*ii* Moreover, the Hon'ble Supreme Court in the case of *Standard Chartered Bank versus V. Noble Kumar and others*, Criminal Appeal No.1218/2013 (arising out of Special Leave Petition (Criminal) No.2038/2011 in para 25 has held that “However, the Bombay High Court in the case of *TradeWell v. Indian Bank* [2007 CriLJ 2544].

(6). Having considered Section-14 as well as the decisions of the Hon'ble Supreme Court and Hon'ble High Court of Gujarat, what is required is that the application by the secured creditor shall be accompanied by affidavit duly affirmed by the authorized officer of the secured creditor and notice under Section-13(2) of the SARFAESI Act, 2002 is to be issued. If both the conditions satisfy then order can be passed under Section-14 of the SARFAESI Act, 2002.

*i* Now looking to the record of the case, it transpires that the applicant is a secured creditor, they published a public notice in daily newspaper in Gujarati and English Language, which is appended in Sr. No. 05 and it also transpires that

the affidavit has also been appended with the application.

*ii* Moreover, looking to the secured asset, which is mentioned more particularly in Para 18 of the Application, it appears that it is within the jurisdiction of this Court. Therefore, this Court is empowered to assist the secured creditor (applicant) for taking possession of secured asset mentioned in Para 18 of the Application.

- (7). Moreover, in the case of Chandramohan and other V/s. Chief Metropolitan Magistrate, Egmore, Chennai, 2015 (3) D.C.R., the Hon'ble High Court has held that "As per Section- 14 of the Act, the secured creditor can approach the Chief Metropolitan Magistrate/District Magistrate to take possession of the assets and documents of the secured creditor. Chief Metropolitan Magistrate, instead of personally visiting the spot to take possession of assets and documents, can very well appoint the Advocate Commissioner to visit on his behalf, as in the case of issuing of commissions under the Civil Procedure Code, as it is not possible for the Chief Metropolitan Magistrate/District Magistrate to visit personally to take possession."
- (8). Moreover, the Hon'ble Gujarat High Court in the case of Kotak Mahindra Bank Limited V/s. S.B.I. and another, Special Criminal Application No.6631/2016 has held that "Having heard the learned counsel appearing for the parties and having gone through

*the material on record, I find substance to a limited extent in the submission of the learned counsel appearing for the applicant bank. In the impugned order, I have notice that, the learned Magistrate has not authorized to appoint an officer subordinate to him to access the secured creditor in taking over the possession of the secured assets."*

*(9). Considering the principles laid down in the aforesaid judgments and Section-14(1)(a) of the SARFAESI Act, 2002, it is very much clear that the Chief Metropolitan Magistrate shall not personally visit the spot for taking possession of assets and documents and can very well appoint the commissioner to visit on his behalf. Thus, commissioner is required to be appointed.*

*(10). In view of the foregoing discussion, I am of the opinion that the present application having merits, is required to be allowed. Hence, the following order.*

**-:: O R D E R ::-**

- 1 The Application of the application is hereby allowed.
- 2 Under Section-14(1)(a) of the SARFAESI Act, 2002, Mr.S.B.Bamaniya, Assistant, 2nd Additional Senior Civil Court, Jhalod is hereby appointed as Commissioner for taking possession of secured assets i.e.

**Property Described as:- ALL THAT PIECE AND PARCEL OF IMMOVEABLE PROPERTY BEING the City Survey No.49,**

**Residential Land and Building theiron at Paiki Private Plot No.5, Admeasuring 66.90 Sq.Mtrs. with GRam Panchayat House No.100 at Gelot (Mori) Faliya, Moje: Limdi, Taluka: Jhalod, District & Sub Registration Dahod- 389151. Gujarat.**

and bounded as under:

East : Approact Road,

West : Approact Road,

North: Property of Ratanbhai Dhulabhai Gohil.

South: Property of Vitthalbhai Nandabhai Mori.

- 3 Court commissioner is hereby directed to draw necessary panchnama in presence of impartial and independent panchas and handover the possession of the said property to the authorized person of the applicant.
- 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 he 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 03rd 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 his 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 Applicant has deposited amount of Rs.25,000/- towards the expenses and remuneration of court

commissioner. And now the Court Commissioner is directed to complete the said procedure within 60 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.

Signed and Pronounced in the open court today on this 12<sup>th</sup> March, 2026 at Jhalod, dist. dahod.

Date : 12/03/2026  
Place : Jhalod

( **Dr. I.S.Bhati** )  
Add.Chief Judi. Magistrate,  
Jhalod  
Judge Code No: GJ01334.