

Order below Ex.1

OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED.

THROUGH ITS AUTHORISED OFFICER

MR. PRAGNESH PATNI

V/s

Mr.Dipakbhai Jesabhai Gojiya (Borrower) & Ors.

1. Read application along with documents and heard learned advocate for the applicant.
2. Applicant has made the application under Section 14 of SARFAESI ACT, respondents had taken loan on that property and failed to pay loan **Rs. 10,57,281/-** and though notice was issued under Section 13(2) of SARFAESI ACT, respondents failed to make payment of loan **Rs. 10,57,281/-** and therefore, present application is made under Section 14 of SARFAESI ACT for appointing court commissioner and getting physical seizure of that property and returning it to the applicant.
3. Keeping in mind the documents of the present case, mortgage property being under **Loan Account No LNMEKHB000046782 (OLD) / 80400005648096 (NEW)** **Constructed Property - ALL THAT PIECE AND PARCEL OF LAND AND BUILDING BEARING PLOT NO.28 AREA ADMEASURING 160.66 SQ.NTRS, C.S NO.4386, SHEET NO.56, SITUATED AT REVENUE SURVEY NO.267, 269, 270, TOTAL AREA ADMEASURING 4-27 ACRES, MANTRI SOCIETY, AT BHANVAD TA. BHANVAD DIST. DEVBHUMI**

DWARKA BOUNDED AS FOLLOWS -

- East : Road is situated**
West : Plot no.27 is situated
North : Road is situated
South : Plot no.29 is situated

On this property, respondents got loan from applicant **OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED** and failed to pay the loan Rs. **10,57,281-** and got NPA on **31.05.2021**. Therefore, applicant issued notice on **01.08.2025** u/s 13(2) of SARFAESI ACT, which was served to respondents. RPAD acknowledgment and affidavit are produced in that respect, however respondents have not paid the outstanding loan amount and therefore, the present application has been made for physical seizure of that property.

4. In the present case, according to the principles established in the judgment of Madras High Court in the case of *Indian Overseas Bank, K. Abhishekpuram Branch V/s Shri Arvind Steel Ltd., AIR 2009, Madras,10*, application u/s 14 of the Security Act, court shall not issue notice to the respondents. Court has only to keep in mind whether respondents are issued notice u/s 13(2) by secured creditors. From the principle established in the aforesaid judgment, there is no need to issue notice to the respondents. Heard learned advocate for the applicant and present case is taken for order.
5. Perusing the documents produced by the applicant, respondents have failed to pay the dues, applicant issued notice u/s 13(2) of SARFAESI ACT, which was served to respondents, however respondents have not paid the outstanding loan amount.

Therefore, present application for physical seizure of property u/s 14 of SARFAESI ACT is liable to be allowed. Relying upon para 48 of judgment of Hon'ble Supreme Court in the case of *Authorized officer Indian Bank V/s V.D. Vishalashi & Ors. Civil Appeal No.6295/2015* wherein it has been stated that CJM Court has the jurisdiction to determine the application u/s 14 of SARFAESI ACT, therefore, this Court has the jurisdiction to pass the determine the application and hence, the following order :

::ORDER::

1. Application of the applicant is allowed.
2. **Mr. M. A. RADA** is appointed as Court Commissioner u/s 14 of SARFAESI Act.
3. Court Commissioner is directed to obtain secure possession of property mentioned in para 6 of the application and give it to the authorised officer of **OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED.**
4. If the mortgaged property is closed, Court Commissioner should break the lock and obtain possession.
5. If the possession is obtained after breaking the lock, Court Commissioner should make a list of immovable properties and give it to the authorised officer of **OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED.**
6. Applicant **OMKARA ASSETS RECONSTRUCTION PRIVATE LIMITED** has to obtain police protection at own cost from the nearby police station under jurisdiction. Police Commission/District Superintendent are directed that after

getting application from applicant and payment of fees according to rule, police protection be provided.

7. Applicant to bear the cost of legal proceedings to obtain the possession of property and to help Court Commissioner for that.
8. Applicant should deposit the remuneration amount of **Rs.25,000/-** of Court Commissioner within 30 days from the date of order. If this amount is not deposited within 30 days, then the order shall stand canceled. Only after the deposit of said amount, Court Commissioner has to do the legal proceedings of obtaining possession of secured property and before obtaining the possession, notice be issued to respondents accordingly. So that the respondents get time to transfer their goods and make arrangement for their residence/business. After issuing notice and obtaining possession, Commissioner to give possession to the authorised officer and to submit detailed report of the same in Court.
9. Court Commissioner has to do the legal proceedings on non-working day or on working day before or after working hours.
10. Order under this application is made as prayed by applicant and when the Court Commissioner submits the report, the said report be attached with this order.

Signed & Pronounced in Open Court on 09th day of April, 2026.

Place : Khambhaliya
Date : 09.04.2026

(Kamlesh Chetanbhai Manghani)
Chief judicial magistrate
khambhaliya
Judge Code No.GJ00823