GJJM020073142026

सत्यमेव जयते

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Exh.	:	**7**

IN THE COURT OF 3RD ADDITIONAL CHIEF JUDICIAL MAGISTRATE, AT: JAMNAGAR.

Criminal Misc. Application No. 1500 of 2026

M/s. Mas Rural Housing & Mortgage Finance Ltd
Through its Authorized Officer
Mr. Shaktidan Rajeshdan Detha
Having its Adm. Office at:
4th Floor, Narayan Chambers,
B/h. Patang Hotel, Ashram Road,
Ahmedabad - 380009.

...Applicant

V E R S U S

1. **Beepin Vasram Parmar**
2. **Mamta Bipinbhai Parmar**

Both are same Address:
001, Opp. FCI Godown, At: Dared,
Tal. & Dist.: Jamnagar.
Also at:-
21/1, Murlidhar 5, B/h. Wheat Godown,

At: Dared, Tal. & Dist.: Jamnagar.

...Opponents

Sub:- Application u/Sec. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Appearance :-

Learned Advocate Mr. N. K. Shukla for the Applicant.

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

1. The facts of the present application in brief are as under:

1.1. The 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, (***"SARFAESI ACT"***) against the opponents. The applicant had sanctioned Housing Loan of ***Rs.9,60,000/-***. The Opponents had executed necessary documents towards mortgage of immovable property mentioned in the present application.

2. He has stated that the opponents have failed to make the repayment of the dues, therefore, the account of the respondents has been classified as Non-Performing Assets i.e. **NPA on 16/07/2025**.

3. The applicant issued notice under Section 13(2) of the SARFAESI Act, with further interest on 01/12/2025 as prescribed under the Act, which was sent by RPAD and to all the opponents. That by way of the said notice, the opponents were called upon to pay outstanding amount.

4. Applicant has also submitted affidavit in support of his case, as per the law.

5. Regarding Power of CMM/DM under Section 14 SARFAESI Act, it is necessary to consider Para-25 to 28 of Judgment of **Hon'ble Supreme Court of India, (Division Bench)** ***Standard Chartered Bank*** **Vs.** ***Noble Kumar & Ors. (2013) 9 SCC 620 with Senior Manager, State Bank Of India Versus R. Shiva Subramaniyan,*** Criminal Appeal No. 1218 of 2013; Criminal Appeal No. 1217 of 2013; Decided on 22/08/2013.

> 25. However, the Bombay High Court in the case of ***Trade Well Vs. Indian Bank*** MANU/MH/0195/2007: [2007 CriLJ 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."

25.1 The said judgment was followed by the Madras High Court in the case of ***Indian Overseas Bank Vs. Sri Aravindh Steels Ltd.*** MANU/TN/1022/2008 [AIR 2009 Mad. 10]. Subsequently, Parliament inserted a proviso to Section 14 (1) and also sub-section 1 A13 by Act 1 of 2013.

26. We must make it clear that these provisions were not in existence on the date of the order impugned in the instant proceedings. These amendments are made to provide safeguards to the interest of borrower. These provisions stipulate that a secured creditor who is seeking the intervention of the Magistrate under section 14 is required to file an affidavit furnishing the information contemplated under various sub-clauses (i) to (ix) of the proviso and obligates the Magistrate to

pass suitable orders regarding taking of the possession of the secured assets only after being satisfied with the contents of the affidavits.

27. An analysis of the 9 sub-clauses of the proviso which deal with the information that is required to be furnished in the affidavit filed by the secured creditor indicates in substance that (i) there was a loan transaction under which a borrower is liable to repay the loan amount with interest, (ii) there is a security interest created in a secured asset belonging to the borrower, (iii) that the borrower committed default in the repayment, (iv) that a notice Contemplated under section 13 (2) was in fact issued, (v) in spite of such a notice, the borrower did not make the repayment, (vi) the objections of the borrower had in fact been considered and rejected, (vii) the reasons for such rejection had been communicated to the borrower etc.

28. 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 transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of possession of the secured asset.

6. Considering the above facts of the application and in view of the above judgment of Hon'ble Supreme Court, While disposing of the application under Section 14 of the SARFAESI Act, no element of quasi judicial function or application of mind would require. The Magistrate has to adjudicate and decide only the correctness of the information given in the application. hence, I passed the following order:

-:: O R D E R ::-

1. The present application is hereby allowed.

2. **Mr. V. B. Rohadiya** (Assistant), in the Court of 3rd Additional Senior Civil Judge, Jamnagar is hereby appointed as Court Commissioner under Section 14(1)-A of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. The Applicant has deposited **Rs. 12,000/- vide Register G - 157 on 02/06/2026** towards the expense and remuneration of the Court Commissioner.

4. Court Commissioner is directed to take possession of the property mentioned in the present application under the heading description of the mortgage property/ Secured Assets.

-: Details of the Mortgaged Property :-

All That Piece & Parcel of said land bearing Sub Plot No. 21/1, Adm. 38.50 Sq. Mtrs., along with construction thereon in scheme known as "Murlidhar Park-5" situated at Revenue Survey No. 58/Paiki-1, Plot No. 21 (Sub Plot No. 21/1 to 21/5) At: Dared, Tal. & Dist.: Jamnagagr.	
East	**Plot No. 21/2**
West	**Plot No. 20**
North	**Plot No. 22**
South	**9.00 Mtrs. wide Road**

5. 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.

6. 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, handover the same to the applicant-authorized officer.

7. The Court Commissioner may take assistance of the concerned police station and may take or cause to be taken such steps and use, or cause to be used such force, as any, in his opinion be necessary.

8. The applicant shall bear the expenses incurred in taking possession of the secured assets and shall provide all necessary assistant to the Court Commissioner in taking possession of the secured assets.

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

10. The Court Commissioner is directed to complete the said procedure within 30 days or within the time limit extended by the Court and submit the compliance report of completion of proceedings.

11. The Court Commissioner shall carry out the said proceedings on public holidays or after Court working hours.

Signed and pronounced in open Court today on this 12th day of June, 2026.

Date : 12/06/2026
Place: Jamnagar

[S. I. Patel]
3rd Addl. Chief Judicial Magistrate,
Jamnagar.
UIC-GJ-01096