सत्यमेव जयते

CRIMINAL MISC. APPLICATION NO. 70 OF 2026

ORDER ON APPLICATION FILED UNDER SECTION-14 OF THE SARFAESI ACT, 2002

Applicant	**HDFC BANK LTD.** **Registered Office At :** HDFC Bank House, Senapati Bapat Marg, Lower Parel (West) Mumbai – 400 013 **Branch Office At :** Department for Special Operations, 3rd Floor, C-Wing, Sheetal West park Imperia, Nr. Alpha One Mall, Vastrapur, Ahmedabad -380054 Through Authorised officer **Mr. Anil Sankhla**

Versus

Respondents	**1.**	**N D T Services (Borrower)** **Mr. Devendrasinh Khushwah (Partner** At : 1st Floor, Motilal Estate, Bhairavnath Cross Road, Maninagar, Ahmedabad - 380025
	2.	**Devendrasingh Khushwah** **(Partneer & Guarantor)**

(Narendra Mohanlal Kadoliya)
Addl. Sr. Civil Judge & Addl. C.J.M. at Lalpur
Judge Code: GJ01115

		12, Rangmani Flat, Building No.2, Maninagar, Ahmedabad – 380022
	3.	**Kaushal P. Shah**
	4.	**Pankaj Shah** **Both are Legal Heir of Sunitaben Shah (Guarantor)** At : 11, New Ashish Flat, Nr. Excise, Office Paldi, Ahmedabad – 380015 Also At : 36, Anmol Indraprasth Bunglow, Opp. Management Enclave, Vastrapur, Ahmedabad – 380015.
	5.	**Anil V. Jain** **Legal Heir of Mithilesh V Jain (Guarantor)** At : 102, Faizan Apartment, Ghaswala Estate, 126 S.V.Road, Jogeshwari West, Bombay – 400202. Also At : Rajul, Plot No.21, I.C.Colony, Borivali West, Mumbai - 400120
	6.	**Deepak Kushwah (Guarantor)** At : 11, 4th Floor, Pawanpurtra Apartment, Shringar Society, Bhairavnath Road, Maninagar, Ahmedabad - 380008

<u>J U D G M E N T</u>

1. The present application has been filed by the applicant against the opponents under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “the SARFAESI Act”), praying for the assistance of this Court in taking possession of the secured asset, as defined in Section 2(1)(zc) of the SARFAESI Act, and for forwarding it to the applicant. The concise case of the applicant is that it is a secured creditor within the meaning of Section 2(1)(zd) of the SARFAESI Act, and the opponents are the borrower/guarantors within the meaning of Section 2(1)(f) of the Act. The applicant is a banking company notified for the purposes of the Act. The opponents availed of various credit facilities, lastly renewed by sanction letter dated 08.04.2021, aggregating Rs. 1,51,05,793/-, and in security thereof created a mortgage by deposit of title deeds in favour of the applicant. It is averred that the applicant has satisfied the requirements of Section 14 of the SARFAESI Act, and its Authorised Officer has filed the affidavit contemplated by the first proviso to Section 14(1). Hence, the present application.

EVIDENCE OF THE APPLICANT

2. The applicant has filed the affidavit of its Authorised Officer along with the application, as required by the first proviso to Section 14(1) of the SARFAESI Act, and has produced the following documents in support of the application:

Sr. No.	List of documents
1.	Copy of the Board Resolution authorising the

	Authorised Officer.
2.	Copies of the application, sanction letter, loan agreement and other security documents.
3.	Copy of the Mortgage Deed and title deeds deposited with the applicant Bank.
4.	Copy of the Demand Notice dated 04.05.2022 issued under Section 13(2) of the SARFAESI Act, along with postal receipts and paper publications.
5.	Copy of the objection raised by the borrower and the reply of the Bank under Section 13(3A).
6.	Copy of the possession notice, panchnama and paper publication under Section 13(4).
7.	Statement of account as on the date of filing of the application.

SUBMISSIONS ON BEHALF OF THE APPLICANT:

3. The learned advocate for the applicant has argued in terms of the averments made in the application and the affidavit of the Authorised Officer. It is submitted that the account was classified as a non-performing asset on 17.05.2021; that a demand notice under Section 13(2) was issued on 04.05.2022 calling upon the borrower to pay Rs. 1,47,05,472.06 outstanding as on 29.04.2022 within sixty days; that the objection dated 08.06.2022 was duly considered and replied to under Section 13(3A) on 22.06.2022; that on 16.02.2024 the Authorised Officer attempted to take possession under Section 13(4), but the mortgagor did not hand over possession, and a panchnama was drawn to that effect; and that the amount outstanding as on the date of the affidavit was Rs. 2,40,36,152.99 as on 16.07.2025, with further interest. The applicant accordingly seeks the assistance of this Court for taking possession of the secured asset and the movables, if any, lying therein.

4. The following points arise for determination:

POINTS FOR DETERMINATION

Sr. No.	Points for determination
1.	Whether the applicant is entitled to the assistance of this Court under Section 14 of the SARFAESI Act, and if so, in respect of which of the secured assets?
2.	What order?

5. My findings on the above points, for the reasons stated hereinafter, are as under:

Sr. No.	Finding
1.	In the affirmative, qua the immovable secured asset situated within the jurisdiction of this Court, and qua the movable secured assets, if any, found therein, to the extent and in the manner indicated in the final order.
2.	As per the final order.

REASONS FOR THE DECISION

6. Before determining the application, it is useful to refer to the pronouncements governing the scope of an application under Section 14 of the SARFAESI Act. In **Standard**

Chartered Bank v. V. Noble Kumar, reported in (2013) 9 SCC 620, the Supreme Court has explained the limited nature of the enquiry. The relevant observations are as under:

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

7. The High Court of Gujarat, in **IDBI Bank Ltd. v. District Magistrate**, reported in 2011 SCC OnLine Guj 1280, has held that the authority acting under Section 14 is not empowered to decide the legality or propriety of the measures taken by the secured creditor under Section 13(4), such grievance being open to challenge under Section 17 of the Act, and that the authority is bound to assist the secured creditor in taking possession of the secured asset.

8. In **Indian Bank v. D. Visalakshi**, reported in (2019) 20 SCC 47, the Supreme Court has held that the Chief Judicial Magistrate is equally competent to deal with an application moved by the secured creditor under Section 14 of the Act, the substitution of the Chief Metropolitan Magistrate by the Chief Judicial Magistrate qua such non-judicial functions being a permissible and purposive construction of Section 14.

9. In **CA Manisha Mehta v. Board of Directors, ICICI Bank**, reported in AIRONLINE 2022 BOM 1846, the Bombay High Court has held that the language of Section 14 is clear and unambiguous and does not require the borrower to be put on notice or heard while an application thereunder is under consideration. To the same effect is the decision of the Gujarat High Court in **Devani Jagdishbhai Dahyabhai v. District Magistrate, Surat**, LAWS(GJH)-2018-12-26, holding that no opportunity of hearing is required to be afforded to the borrower or other aggrieved person in proceedings under Section 14, their remedy lying under Section 17 of the Act.

10. The prayer in the application is laid in respect of both immovable and movable secured assets. As regards the immovable secured asset, the property described as Plot Nos. 18 and 19, collectively admeasuring 912.57 sq. mtrs. with the building thereon, Revenue Survey No. 106 Paiki, 106-3 Paiki, Mouje Jogvad, Sub-District Lalpur, District Jamnagar, is situated within the territorial jurisdiction of this Court. The other immovable property referred to in the application, namely Flat No. 1, Motilal Estate, Mouje

Raipur-Hirapur, Ahmedabad, lies outside the jurisdiction of this Court and is not the subject of the relief granted herein.

11. As regards the movable secured assets, the expression "secured asset" under Section 2(1)(zc) read with "security interest" under Section 2(1)(zf) of the SARFAESI Act is property-neutral and comprehends both movable and immovable property, and Section 14 assistance is not confined to immovable property. At the same time, the assistance of this Court under Section 14 is territorial, and extends only to a secured asset "situated or found" within its jurisdiction. The stock-in-trade and other movables are described in the application in general terms as lying at the premises, factory or warehouse of the borrower, without it being shown that any such movable is situated at the secured premises at Jogvad. It would, therefore, be appropriate to permit possession of such movable secured assets only to the extent that they are found within the secured premises at the time of taking possession, with an inventory being prepared in the manner contemplated by Rule 4 of the Security Interest (Enforcement) Rules, 2002. Insofar as the prayer extends to book debts, receivables, claims and other actionable claims, the same are intangible, are not capable of being taken possession of physically through a Court Commissioner, and are realisable by the secured creditor by notice under Section 13(4)(d) of the

Act; no direction under Section 14 is therefore called for in respect thereof.

12. Considering the material produced by the applicant, and on a perusal of the affidavit filed by its Authorised Officer under the first proviso to Section 14(1) of the SARFAESI Act, it transpires that the account of the borrower was classified as a non-performing asset on 17.05.2021; that the demand notice under Section 13(2) was issued on 04.05.2022 and served by registered post and paper publication; that the objection of the borrower was considered and replied to under Section 13(3A); that the borrower has failed to discharge the liability; that the applicant holds a valid and subsisting security interest and the claim is within limitation; and that the assertions required by the first proviso to Section 14(1) stand duly made. The factual correctness of the assertions in the affidavit, to the extent of the enquiry permissible under Section 14, is found to be in order. The immovable secured asset is situated within the jurisdiction of this Court, and, in view of **Indian Bank v. D. Visalakshi** (supra), this Court is competent to entertain the application. For the foregoing reasons, my finding on point no. 1 is in the affirmative to the extent indicated, and I proceed to pass the following order on point no. 2 in the interest of justice.

FINAL ORDER

1. The application is allowed to the extent indicated hereunder.

2. ***Mr. Y.B. Vala, Superintendent, Principal Senior Civil Court, Lalpur,*** is hereby authorised to act 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 Court Commissioner is directed to take possession of the immovable secured asset described below, situated within the jurisdiction of this Court, and to forward the same to the secured creditor:

DESCRIPTION OF THE MORTGAGED PROPERTY / SECURED ASSET:

Plot Nos. 18 and 19, collectively admeasuring 912.57 sq. mtrs., with the building thereon, Revenue Survey No. 106 Paiki, 106-3 Paiki, Mouje Jogvad, Sub-District Lalpur, District Jamnagar, owned by NDT Services, bounded as under:

Plot No. 18 — East: Plot No. 17; West: Road; North: Plot No. 19; South: Plot No. 15.

Plot No. 19 — East: Plot Nos. 20 & 21; West: Road; North: Revenue Survey No. 222; South: Plot No. 1.

If the secured asset is found in a closed condition, the Court Commissioner may take possession by breaking open or opening the lock, or may take such other steps as he may think fit.

4. At the time of taking possession of the aforesaid secured premises, the Court Commissioner may also take possession of such movable secured assets and stock-in-trade, if any, as are found within the said premises and are covered by the security interest of the applicant. The Court Commissioner shall prepare an inventory of such movables, and of any documents relating to the secured assets found therein, in the manner contemplated by Rule 4 of the Security Interest (Enforcement) Rules, 2002, and shall hand over the same to the applicant. This order does not extend to book debts, receivables or other actionable claims, which the secured creditor is at liberty to realise in accordance with law.

5. A copy of this order be sent to the concerned Police Station. The Police Inspector of the police station within whose jurisdiction the aforesaid secured asset is situated shall provide the necessary police assistance and protection to the Court Commissioner on the date appointed by the Court Commissioner for taking possession of the secured asset.

6. The applicant Bank shall complete the necessary formalities for seeking police protection and shall bear the expenses thereof.

7. 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.

8. The applicant shall bear the expenses incurred in taking possession of the secured asset and shall render all necessary assistance to the Court Commissioner. The Court Commissioner shall complete the proceedings within ninety days, or within such extended time as this Court may allow, and submit a compliance report.

The Court Commissioner may carry out the said proceedings on public holidays or beyond court working hours.

Pronounced in open Court on this 03th of June, 2026.

Date : 03/06/2026 **(Narendra Mohanlal Kadoliya)**
Place: Lalpur Addl. Sr. Civil Judge & Addl.C.J.M.
at Lalpur Judge Code: GJ01115

(Narendra Mohanlal Kadoliya)
Addl. Sr. Civil Judge & Addl. C.J.M. at Lalpur
Judge Code: GJ01115