



**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE  
& ADDITIONAL CHIEF JUDICIAL MAGISTRATE AT  
KHEDA**

**Criminal Misc. Application No. 54 OF 2025**

**Exh-**

**Punjab National Bank**

having its branch office at  
Circle Sastra, Stock Exchange Building,  
Ground Floor, Fortune Tower, Sayajigunj,  
Vadodara

Through : Mr. Imran Khan Chaudhary

**Applicant**

**V/s**

- 1. M/s. Madhav Trading Company**  
Block No. 356, Malavada Char Rasta,  
Vill. Limbasi, Ta. Matar  
Also at : S.No. 360 Malavda Chokdi,  
Vill. Limbasi, Ta. Matar, Dist. Kheda
- 2. M/s. Patel Falguniben Umeshkumar**  
17, Sangam Green, Jogni Mata Road,  
Arpan, Anand.

**Opponents**

**Subject :** Application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

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

- 1.** The present application has been filed by the applicant finance company against the opponents under section 14 of the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 (herein after referred as (SARFAESI Act) for taking possession of secured asset as defined in section-2 (zc) of the SARFAESI Act mentioned in the application and forward it to the applicant. The concise statement of the applicant's case is that the applicant bank has sanctioned loan of Rs. **78,00,000/-** under the loan application to the opponents on terms and conditions as agreed between the opponents and the Bank against the property situated at **R.S. No. 356, Total Admeasuring Hec.0-40-47 together with construction admeasuring 557 sq.mtrs on Gram Panchayat property No. 1750, 1750/A, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1756, 1751/1, 1852, 1754, within limits of village Limbasi, Ta. Matar, Dist. Kheda.** The opponents availed the aforesaid credit facility and for repayment of the same the opponents herein created a valid mortgage in favour of the applicant company over the property owned by the opponents. The applicant has further stated that owing to the defaults committed by the opponents in discharging their obligation towards the applicant's loan, the loan account of the opponents has been classified as Non-Performing Asset on **30/01/2025** in accordance with the guidelines issued by the Reserve Bank of India. The applicants therefore initiated action under the Secularization Act and issued demand notice dated **31/01/2025** U/s. 13(2) of the Secularization Act calling upon the opponents to pay a total amount of Rs. **74,98,893/-** due as on **30/01/2025** with further interest within period of 60 days from the receipt of the said notice. It is

further averred in the application that the applicant has satisfied all the requirement of section 14 of the SARFAESI Act and the applicant's authorised officer has submitted his affidavit to that effect. Hence, the present application.

1.1. As per the ratio laid down in the judgment of **Devani Jagdishbhai Dayabhai (Third Party) Appellant V/s District Magistrate Surat** respondents reported in LAWS (GJH) 26/12/2018 held that it is not mandatory to issue notice to other party for the procedure under section 14 of the SARFAESI Act and hence, the present case proceeds.

**EVIDENCE OF APPLICANT :**

2. The applicant has submitted his affidavit along with the application as is required by the first Proviso to section-14(1) of the SARFAESI Act and has submitted following documents vide Ex.-3 in support of his application.

<b>Sr. No.</b>	<b>List of Documents</b>	<b>Mark</b>
1	Board Resolution, POA, Authority letter	3/1
2	Loan sanction letter and agreement	3/2
3	Sale deed and mortgage deed	3/3
4	Demand notice u/s. 13(2) along with paper publication	3/4
5	Copy of intimation taking possession u/s. 13(4) with panchnama and paper publication	3/5

**SUBMISSIONS ON BEHALF OF THE APPLICANT.**

3. The learned advocate on behalf of the applicant has argued as per the averments made in the application.

4. Following points are framed for determination of this case : -

#### **Points for determination**

1 Whether the applicant is entitled to the relief claimed in the application ?

2 What order ?

5. My findings for the above issues are as under :

#### **Findings**

1 Affirmative.

2 As per final order.

#### **Reasons For The Decision**

6. Before determination of this case, it would be necessary to refer some of the pronouncements governing the determination of an application filed under section 14 of the SARFAESI Act, 2002. The Hon'ble Supreme Court in **Standard Chartered Bank V/s Noble Kumar reported in (2013) 9 SCC 620** has held under :

"24. Under the scheme of section 14, a secured creditor who desires to seek the assistance of the State's coercive power for obtaining possession of the secured asset is required to make a request in writing to the Chief Metropolitan Magistrate or District Magistrate within whose jurisdiction, the secured asset is located praying that the secured asset and other documents relating thereto may be

taken possession thereof. The language of section 14 originally enacted purportedly obliged the Magistrate receiving a request under section 14 to take possession of the secured asset and documents, if any, related thereto in terms of the request received by him without any further scrutiny of the matter."

"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 the possession of the secured asset."

7. The Hon'ble High Court of Gujarat has in *IDBI Bank Ltd. Through authorised Signatory V/s District Magistrate* reported at 2011 SCC Online Guj.1280 held as under :

"5. So far as the first principal contention of the petitioner is concerned, the same merits consideration because 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 propriety 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. Under sub-section (3) of section 14, the act of the Chief Metropolitan Magistrate or District Magistrate done in pursuance of the said section cannot be

called in question in any court or before any authority. From the aforesaid provisions of law, it is evident that Chief Metropolitan Magistrate or District Magistrate is bound to assist the secured creditor in taking possession of the secured assets."

"6. The authority who is called upon to act under section 14 of the Securitisation Act can only assist, and is bound to assist the secured creditor in taking possession of the secured asset. As the Chief Metropolitan Magistrate and District Magistrate under section 14 is not empowered to decide the question of legality and propriety of any of the actions taken by the secured creditor under section 13(4), which may be assailed under section 17 of the Act by the aggrieved person, under sub-section (3) of section 14 of the Securitisation Act, the act of Chief Metropolitan Magistrate or District Magistrate done in pursuance of said section cannot be called in question in any court or before any authority. It is evident from the provisions of law that the District Magistrate while bound to assist the secured creditor in taking possession of the secured creditor in taking possession of the secured assets and to take the possession of the documents relating thereto and forward such assets and documents to the secured creditor, he is not empowered to decide the question of genuinity or propriety of such documents, including the document signed or agreed between the borrower and the secured creditor."

8. As per the recent judgment of Hon'ble Supreme Court of India in case of **M/s R.D.Jain V/s Capital First Ltd. Dtd.27/7/2022**, this court being Additional Chief Judicial Magistrate is also covered under provision of SARFAESI Act, in terms of "Chief Judicial Magistrate". Therefore, this court has been empowered by the said judgment.

9. Considering the material produced by the applicant and perusing the affidavit submitted by the authorised officer of the applicant, it transpires to this court that the applicant has satisfied the requirement of section 14 of the SARFAESI Act so as to entitle it to have assistance of this court. The secured asset has been situated within the jurisdiction of this court. This Court is empowered to entertain the application filed under section 14 of the SARFAESI Act. Hence, in view of the aforesaid reasons and discussion made herein above, my finding on issue no.1 is in affirmative. So far as to issue no.2 is concerned, I hereby pass following final order in the interest of justice.

**::: FINAL ORDER :::**

1. The Application of the applicant is hereby allowed.
2. I authorize, **Mr. M.G. Parmar, Assistant** 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. Court Commissioner is directed to take possession of asset and forward such asset to the secured creditor. The description of such asset is as under : -

**R.S. No. 356, Total Admeasuring Hec.0-40-47 together with construction admeasuring 557 sq.mtrs on Gram Panchayat property No. 1750, 1750/A, 1751, 1752, 1753, 1754, 1755, 1756, 1757, 1758, 1756, 1751/1, 1852, 1754, within limits of village Limbasi, Ta. Matar, Dist. Kheda.**

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/he may think fit.

After taking possession of the secured assets, Court Commissioner shall prepared the inventory of any item, documents relating to the assets if found in secured assets and handover the same to the applicant.

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

5. The Applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.

6. 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/his opinion be necessary.

7. The 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. Applicant shall deposit amount of Rs.15,000/- towards the remuneration of Court Commissioner. 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.

8. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Pronounced and signed in open court today.

Place Kheda

**Nikhil Chandrasen Jadhav**

Date 15-04-2026

Additional Senior Civil Judge & Addl.  
Chief Judicial Magistrate  
Kheda

Code No. GJ01215

R.J. Jadeja