Received on : 09.12.2025
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Cr. M. A. No.327/2025

Exhibit -05

IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, MAHISAGAR AT LUNAWADA.

Applicant(s)
State Bank of India
(Through its Authorized Officer **Mr. Vikas Kumar Singh**)
Branch Address : Stressed Assets Recovery Branch, 2nd Floor, "Samyak Status" Opposite D. R. Amin School Diwalipura Main Road, Vadodara -390007

Opponenants

1. M/s Shri Murlidhar Seeds & Pesticides **(Borrower)**
   Shiv Complex, Main Road, Vill; Kothamba,
   Panch Mahal, Gujarat 389220

2. Shri Mukeshkumar Kiranbhai Patel
   (**Proprietor** : M/s Shri Murlidhar Seeds & Pesticides)
   At Raghav Na Muvada, Po.- Kothamba,
   Tal.- Lunawada, Dist.- Mahisagar.

3. Shri Kiranbhai Jethabhai Patel
   (**Guarantor** : M/s Shri Murlidhar Seeds & Pesticides)
   At Raghav Na Muvada, Po.- Kothamba,
   Tal.- Lunawada, Dist.- Mahisagar.

Appearance :-
Ld. Advocate **Mr. S. I. Shaikh** for the applicant.

No any notice has been issued to opponent before passing order as under **Ex-parte.**

Subject :-Application U/sec.14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 taking possession of immovable Property (Secured Assets).

ORDER

(1) The brief facts of the applicant's application is that the opponent No.1 had received the loan of Rs.28,80,000/- while taking loan the opponent had mortgaged his property situated at Kothamba Gram Panchayat House Property No.150 Mouje Village, At Raghav na Muvada, Post: Kothamba, Tal.-Lunawada, Dist.-Mahisagar admeasuring area 900 Sq. feet. Therefore, as per the application, the opponent No.1 mortgaged his property under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred as SARFAESI Act). Moreover, the opponent Nos.2 and 3 are proprietor and guarantor respectively. The applicant further submitted that the opponents failed to make the payment of the aforesaid facility and therefore his account as Non-performing Asset (NPA) on 29/12/2023. On 30/07/2025 Asset Rs.36,49,454.35/- (NPA) on outstanding liabilities upon opponents with interest and therefore notice under Sec.13 as per the Act was issued even though the notice was served the opponents had not paid any amount therefore for the recovery of Rs.36,49,454.35/- due on date. Therefore, the present application filed by the applicant.

(2) With the application, learned Advocate for the applicant had submitted the list of documents and also filed affidavit and in his argument he stated that the notice served to the opponents as per the Act under Sec.13(2) and even though the possession of the suit- property was not handed over by the opponents. Therefore, the applicant filed the present application under Sec.14 of the Act. "CJM is equally competent to deal with the application moved by the secured creditor under section 14 of the SARFASESI Act, 2002". The learned Advocate for the applicant further stated in his argument that there is no requirement to hear the opponents for deciding the application under Sec.14 of the Act as the court can directly allow the application of the applicant as per the Act.

(3) The applicant has filed the affidavit (Mr. Vikas Kumar Singh) along with documents which are as under :-

Sr. No.	Particulars
1.	Letter of Arrangement signed by respondent.
2.	Letter of Arrangement signed by respondent.
3.	Letter of Arrangement signed by respondent.
4.	Supplemental Agreement of Loan cum Hypothecation signed by respondent
5.	Supplemental Agreement of Loan cum Hypothecation signed by respondent
6.	Agreement of Loan cum Hypothecation signed by respondent
7.	Memorandum for recording creation of Mortgage by deposit of title deeds
8.	Guarantee Agreement signed by Respondent
9.	Guarantee Agreement signed by Respondent
10.	Guarantee Agreement signed by Respondent
11.	Guarantee Agreement signed by Respondent

12.	Revival Letter signed by Respondent
13.	Deed of Mortgage
14.	Momorandum of recording extension of mortgage
15.	Demand Notice sent by Applicant Bank
16.	Indian post R.P.A.D Slip & Track Record
17.	Possession Notice & Panchnama
18.	Possession Notice issued in English News Paper
19.	Possession Notice issued in Gujarati News Paper
20.	EB-MSME-CC-USUAL CREDIT Loan A/c Statement
21.	EB-GuarEmercrIn (GECL1.0) Loan A/c Statement
22.	Authority Letter

(4) In the case of ***Equitas Small Finance Bank Limited Through its Authorized Signatory Mr. Suryakant Rawat v/s. The State of Madhya Pradesh Principal Secretary Law and Legislature Affairs Vallabh Bhawan Bhopal*** *Writ Petition No.26176 of 2023* it was held by Hon'ble High Court of MP as well as by the Hon'ble Apex Court that the Chief Judicial Magistrate has to consider two aspects before passing an order u/Sec.14 of the SARFAESI Act :-

(1) To determine whether secured assets fall within their territorial jurisdiction?

(2) Whether notice u/Sec.13(2) of the SARFAESI Act has been furnished?

(5) As per the description of the property mentioned by the applicant, it appears that the property situated in the jurisdiction of this court and so far the notice under Sec.13(2) is concerned. The applicant had published a notice in news paper English & Gujarati edition in 'Financial Express' published on 09/07/2025. He had produced that demand notice copy is sent by registered post RPAD to the opponents. So, above two issues are covered but the Sec.14 of the SARFAESI Act which is required to be considered before passing any order under Sec.14 of the Act which is as under :-

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—
>
> (a) take possession of such asset and documents relating thereto; and
>
> (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.
>
> (3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

(6) In the Judgment Shipra Hotels Limited And Anther vs. State of U.P. and 3 Others. Hon'ble Court held that "The CMM/DM/Authorized Officer under Section 14 is only an extended hand of the secured creditor to help the secured creditor in taking physical possession of the secured asset being administrative authorities. Clauses (a) and (b) of sub-section (1) of Section 14 make it clear that the Authorized

Officer/CMM/DM while invoking its jurisdiction is required to take possession of such asset and forward it to the secured creditor.” Moreover, in same judgment in para-15 are as under :- “It was held in V. Noble Kumar (Supra) that since the borrower has no right of hearing when the secured creditor takes possession under Section 13(4), no hearing can be demanded by a borrower when by his action in resisting possession being gained over by the authorized officer of the secured creditor or refusing to deliver possession on his own, he compels such officer to seek assistance of the Authorized Officers under Section 14. The right to approach the tribunal is conferred on a borrower in terms of Section 17, post possession, whether it is symbolic possession under Section 13(4) or physical possession under Section 14 of the Act, 2002. The scheme of SARFAESI Act’ 2002, thus, does not admit of any requirement of complying with natural justice by putting the borrower on notice while an application under Section 14 is under consideration. In view of the efficacious mechanism under the Act being in place, the borrower cannot seek a right of hearing at an intermediary stage.”

(7) The authorized person of the applicant Mr. Vikas Kumar Singh has filed an affidavit and in his affidavit he has stated that the aggregate amount of financial assistance granted is Rs.28,80,000/- to the borrower by the secured creditor and the total claim of the applicant SBI is as on 30/07/2025 towards the borrower is Rs.36,49,454.35/-. It was also stated that they had fixed the notice under Sec.13(2)

SARFAESI Act even though the borrower has not paid the amount. On relying the affidavit of the Authorized Officer of the applicant and documents produced along with application this court has only to perform the administrative act. So far the provision of the SARFAESI Act is applicable and as discussed above the present case to applicant is entitled to get assistance. Therefore, final order accordingly.

O R D E R

(1) The present application of the applicant is hereby allowed.

(2) Mr. D. A. Prajapati, Assistant, Principal Senior Civil Court, Lunawada is appointed as a Court Commissioner for assistance to the applicant for taking the possession from the borrowers of the secured property under Section 14(1A) of the SARFAESI Act.

(3) The applicant is directed to deposit the cost of Rs.15,000/- (Rupees Fifteen Thousand Only) as Court Commissioner's fees within 30 days from this order.

(4) No order as to cost.

(5) Criminal Misc. Application is dispose off accordingly.

Signed and pronounced in the open court today on this 09th Day of April, 2026.

Date : 09-04-2026
Lunawada.

(P. C. Soni)
Add.Chief Judicial Magistrate,
Mahisagar @ Lunawada.
{GJ00848}

DKumar