

Presented on : 21.11.2025

Registered on : 21.11.2025

Decided on : 30.03.2026

Duration : ___ years ___ months and ___ days

**IN THE COURT OF
ADDITIONAL CHIEF JUDICIAL MAGISTRATE
AT-Vijapur, Dist. Mahesana**

CRMA-244/2025

Exhibit No.:-

Applicant:

A U Small Finance Bank Ltd.-

Authorized Officer Shree Rajesh Jagdishbhai Jolapara

Age: 44 yrs; Occupation: Job;

Registered Office: Jaipur

Branch Office: Jay Shree Building, above ICICI Bank,
highway road, Mahesana-2.

Versus

Opponents:

1. Mr. Kamleshbhai Maganji Vihol (Mortgagee)

Having address at At-Pilvai, Satmo bhag, Vijapur, Mahesana -
382850

Appearances:

Mr. H.M. Rana, Ld. Advocate for the applicant.

None for the opponents.

Subject: Application u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI ACT) - 2022, Against the above borrower/respondent

:: ORDER ::

1. Present application is submitted by the applicant u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) on the ground that applicant has granted loan of Rs. 3,00,000/- to the opponents and mortgage deed of the immovable property was executed by the opponents for the purpose of securing the repayment of the loan amount.
2. The applicant has submitted that opponents have failed to make the repayment of the dues, therefore, account of the opponents were/have been classified as NPA on 10.04.2025.
3. The applicant issued notice u/s 13(2) of the SARFAESI Act on 17.04.2025 to the opponents which were served to the opponents for the amount of Rs. 2,15,968/- within statutory period of 60 days of the date of notice as prescribed under the Act, failing which it was stated that the applicant company would be constrained to take recourse under the provisions of the said act in respect of the secured asset

which was served to the opponents. However, they have failed to pay Rs. 2,15,968/-.

4. Learned advocate for the applicant has also submitted that once the notice was issued and opponents fails to make the payment, then on filing of application u/s 14 of the SARFAESI Act, even notice to the opponents is not required to be issued. In support of his above submission, he placed reliance in the case of **Kotak Mahindra Bank Limited Versus State of Gujarat, decided in R/Special Civil Application No. 12244 of 2022, order dated 18.07.2022** and submitted that as per the ratio laid down by the Hon'ble High Court in the above judgment, no hearing is required to be given to the borrower-opponents.

5. Section 14(1) reads as under:

“Where the possession of any secured assets is required to be taken by the Secured CreditorXXXX

Provided further that on receipt of the affidavit from the Authorized officer, the District Magistrate or Chief Metropolitan Magistrate as the case may be shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets [within a period of thirty days from the date of application].....xxx

6. In view of the judgment of the **Hon'ble Gujarat High Court as decided in Special Civil Application No. 215 of 2011, in case of IDBI Bank Ltd. Vs. District Magistrate and others**, where in, Para No. 8 (xi) it is held that:-

8(xi) “All such determination is to be made by the Debts recovery Tribunal including the question whether the asset is a secured asset or not and the Chief metropolitan Magistrate or the District Magistrate has not been empowered to adjudicate such dispute, but is directed only to assist the secured creditor in taking possession of the secured asset. If they are not empowered to adjudicate the dispute, they cannot also call for the secured creditor to produce any document to decide whether the asset is secured asset or not, which will be futile exercise in absence of power to adjudicate such issue.

Under clauses (a) and (b) of Section 14(1), the Chief Metropolitan Magistrate or the District Magistrate and on request, are bound to take possession of the secured assets as also the documents relating thereto. If the documents are to be obtained by them, the question of asking the secured creditor to produce the document in all cases does not arise. Therefore, they do not have jurisdiction even to call for the documents.”

Thus, this Court can not go into the merits of the claim.

7. The applicant has also filed nine point affidavit. That apart, sufficient time has been given by the applicant to the opponent to make repayment of the outstanding dues but opponent has not paid the outstanding amount. Hence, considering the above facts of the application and in view of the above judgments of the Hon'ble High court, I pass the following order:

//ORDER //

1. The application of the applicant is hereby allowed.
2. I authorize Ms. P.K. Patel, Assistant, of this Court, as Court Commissioner u/s 14 (1-A) of the SARFAESI Act.
3. Court commissioner is directed to take possession of the property mentioned in the present application. The description of the property (Secured Asset) is as under:-

All that piece and parcel of residential property situated at Pilvai, bearing Gram Panchyat Property No. 1400, Pilvai Gram Panchayat, Pilvai, Taluka: Vijapur, District: Mahesana having total area of 600.00 sq.ft. Boundaries:- North by: House of Kanji Popatji Vihal; South by: Open plot of Maganji Nathuji Vihol and Pathuji Nathuji , East by: Road; West by: Open space.

4. If the secured asset is found in closed condition, the Court Commissioner may take possession of the secured asset by breaking/opening the lock or may take any other steps, he may think necessary.
5. After taking the possession of the secured asset, Court Commissioner shall prepare the inventory in two copies , of any items or documents, if any, found in secured Asset and handover one copy to the applicant and shall produce a copy in the court as well.
6. The officer in charge 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 asset. The applicant company shall complete necessary formalities for seeking police protection and also bear the expenses thereof. 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 reasonably necessary. Copy of this order be sent to the concerned Police Station.
7. 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.

8. Applicant has deposited Rs. 20,000/- (Twenty Thousand Rupees Only) towards the remuneration of Court Commissioner vide C-Entry No. 36-25/26, dated 06/02/2026. The court commissioner is directed to complete the said procedure within 90 days or within the time limit extended by the Court and submit the compliance report of completion of proceedings.
9. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Judgment Pronounced in the open Court today.

Date: 30/03/2026

Place: Vijapur.

(D.A. Patel)

Addl. Chief Judicial Magistrate, Vijapur.

Judge Code:GJ01228