

GJMR020045732026



Received on : 29/04/2026
Registered on : 29/04/2026
Decided on : 06/06/2026

Exhibit :

**IN THE COURT OF 2nd ADDITIONAL SENIOR CIVIL JUDGE
& ADDITIONAL CHIEF JUDICIAL MAGISTRATE, MORBI.**

Criminal Misc. Application No. 441/2026

APPLICANT :-

- AU SMALL FINANCE BANK LIMITED
(FORMERLY KNOWN AS AU FINANCIERS
(INDIA) LIMITED)**

Having its REGISTERED OFFICE AT-
19-A, DHULESHWAR GARDEN, AJMER ROAD,
JAIPUR 302001, RAJASTHAN

AND HAVING IT'S BRANCH OFFICE SITUATED AT -
J1 COMPLEX, 3RD FLOOR, NR. BALAJI HALL, 150
FEET RING ROAD, RAJKOT-4

THROUGH ITS AUTHORISED OFFICER,
MR. KULDIPSINH ZALA
Age 38

Vs.

OPPONENTS :-

- M/s. Shiv Lifters (Borrower)**
Add.- Shop No.19 Ground Flr., Trajpar Survey No.33 P P1
No.1 P Parishram Com-1, Lakhdirpur Road, Morbi,
Gujarat 363642
- Kanani Parth Bharatbhai (Co-Borrower)**
Add. Hanuman Mandir Same Sheri No.1 (Pasakayara)
Kachchh-370135

Also at:-

Shree Parthkumar Bharatbhai Kanani
Add.- Property situated at: Plot No.1, Rev. S. No.33 Paiky,
Godown No.19, Parishram Complex-1, Trajpar, District
Morbi, Gujarat.

3. **Smt. Poojaben Parthkumar Kanani (Co-Borrower)**
Add. 601 Sagam Residency Tower C, Nirmala School Ni
Pachal, Ravapar, Morbi-363641

**Subject - Application U/s. 14 of Securitization &
Reconstruction of Financial Assets & Enforcement of
Security Interest Act, 2002.**

Advocates:-

Learned Advocate for the Applicant : **V. J. Lakkad**

None for the opponent.

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

[1] Read the application along-with documents and heard learned advocate for the applicant.

[2] Applicant has made the application under Section-14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short SARFAESI ACT, 2002), opponents had taken loan on their property and failed to pay loan amount and though notice was issued under Section-13(2) of SARFAESI ACT, opponents failed to make payment of loan amount and therefore, present application is made under Section-14 of SARFAESI ACT for appointing Court Commissioner and getting physical seizure of that property and returning it to the applicant.

[3] Keeping in mind the documents of the present case, **Property Situated at Plot No.1, Revenue Survey No.33 Paiky,**

**Godown No.19, Parishram Complex-1, Trajpar, Morbi
Admeasuring 22 Square**

Owned By: Parthkumar Bharatbhai Kanani

Which is having four boundaries :-

North: This Plot No.1 Paiky other owner property.

South: Open Land thereafter Road, Shutter.

East: Godown No.18.

West: Survey No.33 Paiky owner property.

On this property, opponents got loan from applicant and failed to pay the loan amount and got NPA on **09.12.2025**. Therefore, applicant issued notice on **15.12.2025** u/S. 13(2) of SARFAESI ACT, which was served to opponent. R.P.A.D. acknowledgment receipt and affidavit are produced in that respect, however opponent has not paid the outstanding loan amount and therefore, the present application has been made for physical seizure of that property.

[4] In the present case, according to the principles established in the judgment of **Madras High Court** in the case of **Indian Overseas Bank, K. Abhishekpuram Branch V. Shri Arvind Steel Ltd., AIR 2009, Madras,10**, application u/S. 14 of the Security Act, court shall not issue notice to the opponents. Court has only to keep in mind whether opponents are issued notice u/S. 13(2) by secured creditors. From the principle established in the aforesaid judgment, there is no need to issue notice to the opponents. Heard learned advocate for the applicant and present case is taken for order.

[5] Perusing the documents produced by the applicant, opponent has failed to pay the dues, applicant issued notice u/S. 13(2) of SARFAESI ACT, which was served to opponents,

however opponents have not paid the outstanding loan amount. Therefore, present application for physical seizure of property u/S. 14 of SARFAESI ACT is liable to be allowed. Relying upon para 48 of judgment of **Hon'ble Supreme Court** in the case of ***Authorized officer Indian Bank V. V.D. Vishalashi & Ors. Civil Appeal No.6295/2015*** wherein it has been stated that C.J.M. Court has the jurisdiction to determine the application u/S. 14 of SARFAESI ACT, therefore, this court has the jurisdiction to pass the determine the application and hence, the following order :

:- FINAL ORDER :-

- [1] The application preferred by the applicant is hereby allowed.
- [2] The Court Commissioner is hereby authorized under Section 14(1-A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the “SARFAESI Act”).
- [3] The applicant, after depositing the remuneration amount of Rs. 20,000/-, as per the provisions of Section 14(1-A) of the Act, may move an application before the Court for appointment of a Court Commissioner to assist in the recovery of the secured assets.
- [4] The Court Commissioner is directed to obtain peaceful and secure possession of the property mentioned in the application and hand over the same to the Authorized Officer of **AU SMALL FINANCE BANK LIMITED**.
- [5] If the secured asset is found in a closed condition, the Court Commissioner may take possession of the secured asset by

breaking/opening the lock or by taking any other steps as he/she may deem fit.

- [6] After taking possession of the secured asset, the Court Commissioner shall prepare an inventory of the articles and documents, if any, found in the secured asset and hand over the same to the applicant.
- [7] The concerned 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, as per the Circular of Home Department, Bearing No. SB-II, GNH/112017/998-PART FILE Dated 03rd December 2020. As per said circular when the question of giving police protection under the SARFAESI Act, arise, at that time, the police authority shall not record any statement of any person nor should call any person to police station for recording the statement and police shall provide the police assistant to the secured creditor on production of the copy of this order before the concerned police station. The Police Inspector of the concerned Police Station, shall provide police protection within 30 days from the receipt of the copy of this Court order. The Applicant Bank shall complete the 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 her opinion be necessary.

- [8] The applicant shall bear all expenses incurred in taking possession of the secured asset and shall provide all necessary assistance to the Court Commissioner in taking possession of the secured asset.
- [9] The applicant shall deposit the remuneration amount of Rs. 20,000/- towards the Court Commissioner within 15 days from the date of this order. Upon deposit of the said amount in the Court, the Court Commissioner is directed to complete the proceedings within 90 days or within such extended time as may be granted by the Court and to submit a compliance report upon completion of the proceedings.
- [10] Court Commissioner has to do the legal proceedings on non-working day or on working day before or after working hours.
- [11] The order under this application is passed as prayed for by the applicant, and upon submission, the report of the Court Commissioner shall be annexed to this order.

Signed and pronounced in the open Court today on this 06th day of June, 2026 at Morbi.

Date : 06/06/2026

Mr. V. R. Chaudhari

Place : M o r b i

2nd Additional Senior Civil Judge &
Additional Chief Judicial Magistrate

M o r b i

(U. I. C. No. GJ00815)

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