

GJMR020052752026



Received on : 20/05/2026

Registered on : 20/05/2026

Decided on : 14/07/2026

Exhibit :

**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE AND
ADDITIONAL SENIOR CIVIL JUDGE, MORBI**

Criminal Misc. Application No. 518/2026

APPLICANT :-

CFM Asset Reconstruction Private Limited.

Having Its registered office at :

Block No. A/1003, West Gate, Near YMCA Club,
S. G. Highway, Makarba, Ahmedabad – 380051.

Having Its corporate office at :

1st Floor, Wakefield House, Sprott Road,
Ballard Estate, Mumbai – 400001.

Through the Authorised Officer : Bhaskar Chaudhary

Vs.

OPPONENT :-

1. Mahesh Nathabhai Parmar

Milkat No. 461, Tankara, Chhatar Village,
Morbi, Rajkot, Gujarat, India - 363 650.

2. Kantaben Maheshbhai Parmar

Milkat No. 461, Tankara, Chhatar Village,
Morbi, Rajkot, Gujarat, India - 363 650.

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

Advocates:-

Learned Advocate for the Applicant : **C. K. Gangani.**

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 Secularization 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, **All that piece and parcel of the Property Situated at Residential Property House No. 461, land 200.00 sq. yards. At Chhattar, Taluka : Tankara, District : Morbi.**

-: Boundaries of property :-

East : Other property of Nathabhai Chanabhai Parmar
West : Other property of Bachubhai Tarshibhai Parmar
North : Road
South : Road

On this property, opponents got loan from applicant and failed to pay the loan amount and got NPA on **03.07.2024**. Therefore, applicant issued notice on **29.01.2026** 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 **Hon'ble 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] In the present case, according to the principles established in the judgment of **Hon'ble High Court of Gujarat** in the case of ***Hi-Tech Sweet Water Technologies Private Limited Through Vijaykumar Shobhalal Shah Versus Bank Of Baroda Through Its Authorized Officer & Anr***, the Court held that under Section 14(1A) of the SARFAESI Act, the Magistrate is empowered to authorize officers subordinate to him for taking possession of secured assets. Merely describing such subordinate court staff as "Court Commissioners" or referring to them generically as "clerks" does not render the appointment illegal. Since the appointees were members of the court establishment, subordinate to the Magistrate, duly qualified and competent to discharge the assigned duties, their appointment was held to be valid. The

Court further held that, in the absence of any demonstrated prejudice, a technical objection regarding designation cannot invalidate the appointment.

[6] 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] I authorize **Mr. H. V. Gohil – Bench Clerk Grade III, Principal Senior Civil Court, Wankaner**, as Court Commissioner under Section 14 (1-A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. (in short SARFAESI ACT).
- [3] 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 **CFM Asset Reconstruction Private Limited**.

- [4] 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.
- [5] 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.
- [6] 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.

- [7] 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.
- [8] 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.
- [9] Court Commissioner has to do the legal proceedings on non-working day or on working day before or after working hours.
- [10] 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 14th day of July, 2026 at Morbi.

Date : 14/07/2026

Place : M o r b i

(B. V. Sanchaniya)

Chief Judicial Magistrate and
Additional Senior Civil Judge, Morbi

U. I. C. No. GJ00745

/HJK/