



	Date Of Institution	03-06-2026		
	Date Of Registration	03-06-2026		
	Date Of Disposal	06-06-2026		
	Duration	00	00	03
		YY	MM	DD

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**IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE
& ADDITIONAL CHIEF JUDICIAL MAGISTRATE
HALVAD @ MORBI**

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CRMA-J	153-2026
Exhibit	

Applicant:-

1. IDFC FIRST BANK LIMITED

AUTHORIZED OFFICER: SHRI ARIN SHARMA

REGISTERED OFFICE:

KRM Towers, 7th Floor,
No.1, Harrington Road, Chepet,
Chennai - 600 031.

HAVING ITS CORPORATE OFFICE AT:

A Wing 8th Floor, Ashar It Park,
Road No.16z, Wagle Industrial Estate,
Thane (West), Mumbai - 400604.

HAVING BRANCH AT:

B-Wing, 6th Floor, 601-604,
Imperial Heights Opp. Big Bazar,
150 Ft. Ring Road,
Rajkot - 360005.

Versus**opponents:-****1. KHER AJITBHAI KARSANBHAI****HAVING ADDRESS AT:**

MERUPAR GRAM PANCHAYAT, MILKAT NO. 337, AT
VILLAGE: MERUPAR, TALUKA: HALVAD,
DISTRICT: MORBI, SURENDRANAGAR, GUJARAT-
363330

AND/OR

230, DALWADIWAS, MERUPAR, HALVAD,
SURENDRANAGAR, GUJARAT-363330

AND/OR

AT MERUPAR, NR. DALVADI VAS,
SURENDRANAGAR-363330

2. KHER MAYABEN AJITBHAI**HAVING ADDRESS AT:**

MERUPAR GRAM PANCHAYAT, MILKAT NO. 337, AT
VILLAGE: MERUPAR, TALUKA: HALVAD,
DISTRICT: MORBI, SURENDRANAGAR,
Gujarat-363330

AND/OR

AT MERUPAR,
SURENDRANAGAR-363330

AND/OR

20-A DALWADIWAS, MERUPAR, HALVAD,
SUENDRANAAR, GUJARAT-363330

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Appearances:-

Mr. N J Chavda, Ld. Advocate for the applicant.

None for the opponents .

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Subject: Application u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI ACT) for taking possession of immovable property (Secured Assets).

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

1. The present application has been filed by the applicant under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) on the ground that the applicant had initially sanctioned a loan of ₹10,00,000/- to the opponents vide sanction letter dated 09.09.2021. Thereafter, the loan facility was enhanced vide sanction letter dated 22.09.2022, whereby an additional loan of ₹2,15,000/- was sanctioned under the Rural LAP scheme. Thus, a total loan amount of ₹12,15,000/- was granted to the opponents. To secure the repayment of the said loan amount, the opponents executed a mortgage deed in respect of the immovable property in favour of the applicant.

2. The applicant has submitted that opponents have failed to make the repayment of the dues, therefore, account of the opponents s were/have been classified as NPA on 01-11-2025.

3. The applicant issued notice u/s 13(2) of the SARFAESI Act on 04-12-2025 to the opponents for the payment of due amount. The notice was served to the opponents. The applicant take symbolic possession of the property on 22-04-2026. However, they have failed to pay due amount.

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 on the judgements delivered 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 as under :-

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."

Upon perusal of the judgment of the Hon'ble High Court of Gujarat, this Court can not go into the merits of the claim.

7. Upon perusal of record, I am satisfied that the contents of the affidavit are supported by the documents produced. That apart, sufficient time has been given by the applicant to the opponents to make repayment of the outstanding dues but

opponents have 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 **Mr. H. M. Jadeja, Assistant,** 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 Para No. 6 of the present application. The description of the property (Secured Asset) is as under:-

Description of the Immovable Properties(ies)/Secured Asset:

All that the piece and parcel of immovable properties being the residential property bearing Merupar Gram Panchayat Milket/House Aakrani No. 337 & known as Gamtal Plot No. 41, land adm. Sq. Mtrs. 225.75 within the limits of Gram Panchayat, situated at place known as Village-Merupar, Taluka- halvad, Dist. Morbi, Gujarat- 363330, the property belong to Mr. Ajitbhai Karsanbhai Kher.

Four Boundaries:

East: Sheri

West: Sheri

North: Property of Sureshbhai Bhagwanbhai Patel

South: Property of Kher Ratanshibhai Merabhai

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 reasonably 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 this 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 is hereby directed to deposit lumpsum amount of **₹20,000/-** towards the expenses and remuneration of court commissioner, within one month from the date of order. On depositing the above mentioned amount in the Court, the Court Commissioner shall complete the said procedure within 90 days or within the time limit extended by the Court and submit the compliance report on completion of proceedings.
9. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Signed and pronounced in the open court on **06th day of June, 2026.**

Place:-Halvad
Date :-06-06-2026

(Mohitkumar Kirtikumar Shah)
Additional Senior Civil Judge &
Additional Chief Judicial Magistrate
Halvad-Morbi
UID:- GJ01208

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