Received on	13.02.2026		
Registered on	13.02.2026		
Decided on	11.03.2026		
Duration	Years	Months	Day
	00	00	26

IN THE COURT OF 2ND ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT, PORBANDAR.

CRIMINAL MISCELLANEOUS APPLICATION NO. 148/2026

Exh. 5

Applicant:	**STATE BANK OF INDIA,** **Central Branch Office at:** Madam Cama Road, Mumbai-400021. **Branch Office Situated at:** Home Loan Centre, Ground Floor, The Down Town Building, Near Rajiv Nagar Gate, Shri K.H. Madhvani College Service Road, Porbandar-360544. **Through its Authorized Officer:** **MR. D.P.Chudasama.**
	Versus
Opponents	1. Mr. Hemchand Nanalal Chauhan, Plot No. 9, Paiki Division No. 9-P-A, Radheshyam Park-B, B/h GIDC Vanana, At:- Vanana, Ta:- Ranavav, Dis:- Porbandar-360550.

Appearance:

1) Learned Advocate for the Applicant : **H. V. Bandhiay**

2) Learned Advocate for the Opponent : -

Sub : Application U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT - 2002)

ORDER

1. Present Application has been filed 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, the Opponents approached the Applicant Bank for availing of Home / Mortgage Loan facility from applicant and accordingly the applicant Bank sanctioned and disbursed the said Facility as a **(1) Home Loan of Rs. 05,30,000/- (Rupees Five Lac Thirty Thousand Only) on dated : 25-11-2020, uder Loan Account No. 39826740132 (2) Home Suraksha Laon of Rs. 14,654/- (Rupees Fourteen Thousand Six Hundred Fifty Four Only) on dated : 25-11-2020, under Loan Account No. 39859894683** and the Opponent has created security interest over the property mentioned in the present application.

2. The Applicant has submitted that the opponent has failed to make the repayment of the dues therefore, the account of the opponents have been classified as **NPA on 29.09.2025.**

3. The Applicant issued Demand notice U/s. 13(2) of the SARFAESI on **07.10.2025 and it was served**. However, the borrower failed to repay the amount of **Rs. 05,20,777/- (Rupees Five Lakh Twenty Thousand Seven Hundred Seventy Seven Only) in Home Loan A/c No. 39826740132 & 39859894683** is due as on Dtd. 06-10-2025 and agreegate outstanding claim on date of filing of instant application is **Rs.**

05,32,120/- (Rupees Five Lakh Thirty Two Thousand One Hundred Twenty Only) in Home Loan A/c No. 39826740132 & 39859894683 is due as on Dtd. 13-01-2026

4. Heard the Learned Advocate for the Applicant. Perused the Record.

5. In view of the Judgement 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 :-

   The Chief Judicial Magistrate Court has no power to adjudicate the dispute between the parties. Hence, this Court cannot go into the merits of the claim.

6. Upon perusal of the Judgement of the Hon'ble High Court of Gujarat, the Chief Judicial Magistrate has very limited scope with respect to the cases U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT). Hence, this Court cannot go into the merits of the claim.

7. Perused the application, affidavit submitted by the Authorized Officer of the Applicant and documents filed on record of the case.

8. Taking into consideration the Application, Affidavit and Documents produced on record it is apparent that applicant has granted the aforesaid financial assistance to the Respondent. In

pursuance of such financial assistance Respondent has executed various documents in favour of Applicant to create security interest over the aforesaid secured asset. However, in due course failed to repay the loan.

9. Upon perusal of record, it transpires that the contents of the affidavit are fully supported by the documents produced. Moreover, sufficient time has been given by the applicant to the opponents to make repayment of the outstanding dues but the opponents have not paid the outstanding amount. Hence, considering the above facts and circumstances following order is passed.

O R D E R

1. Present application is hereby allowed.

2. **Mr. H. H. Solanki, Assistant** is hereby appointed as Court Commissioner U/s. 14 (1-A) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT) and accordingly he is directed to take possession of properties mentioned below.

-: SCHEDULE OF THE PROPERTY :-

Details of the Mortgaged Property :

All that part and parcel of immovable property situated at:- Vanana (Virpur) under Ranavav Taluka, Revenue Survey No. 63/2, paiki-3, land 10421.00 Sq. Mtrs. an agruculture covnerted into non-agriculture Residential purpose known as "Radheshyam Park-B" Plot No. 9 Paiki, Division No.9-P-A, Behind GIDC Vanana, Dis:-

Porbandar, land admeasuring 44.80 Sq. Mtrs., with existing structure thereon in the name of Mr. Hemchand Nanalal Chauhan.

Which is bounded as under:

East: Property of Adjoining Plot No. 15 & 16.

South: Property of Plot No.9 Paiki Part No. 9/P-B.

West: 06.00 Mtrs., wide Common Road.

North: Property of Plot No. 10 Paiki Part No.10/P-B.

Hypothecation:

Hypothecation properties viz. Current Assets including Stock-in-Trade, Stock in Trade Receivables Consumable Stores and Hypothecation Movable Plant and Machinery etc. Mentioned in the documents (Nil).

3. If the secured asset is found in closed condition, the Court Commissioner may take possession of the secured assets by breaking / opening the lock or may take any other steps he may think fit.

4. After taking possession of the secured assets, the Court Commissioner shall prepare the inventory of any item, Documents relating to the assets if found in secured Assets and handover the same to the applicant.

5. The 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, arises, at that time, the police authority shall not record any statement of any person nor should call any person to the 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 his opinion, be necessary. Copy of this Order be sent to the concerned Police Station.

6. The 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.

7. Applicant is hereby directed at present to deposit lump sum amount of **Rs.15,000/- (Rupees Fifteen thousand only)** towards the expenses and remuneration of court commissioner, within One Month from the date of Order. On depositing the above said amount in the court, 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.

8. The court commissioner shall carry out the said proceedings on public holidays or except court working hours.

Pronounced in the open court, today i.e. 11/03/2026.

Date : 11/03/2026
Place : Porbandar.

[Komal Kunal Rathod]
2nd Additional Chief Judicial Magistrate,
Porbandar GJ-01130.