IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,

AT GONDAL, DISTRICT – RAJKOT.

ORDER BELOW EXH.1

IN

CRIMINAL MISC. APPLICATION NO. 178 OF 2026

CRIMINAL MISCELLANEOUS APPLICATION NO. 178/2026

APPLICANT:-

1. **AXIS BANK LTD.**

   REGISTERED OFFICE AT:-

   "Trishul", 3rd Floor Opp. Samartheswar Temple, Nr. Law Garden, Ellisbridge, Ahmedabad - 360006

   BRANCH OFFICE AT:-

   1st Floor, Legal Department, Unit No. 101 & 102, Baleshwar Avenue, Opp. Rajpath Club, S.G.Highway, Ahmedabad, Gujarat - 380054

   THROUGH ITS AUTHORIZED OFFICER,

   MR. TANK KANJI NATHABHAI

V E R S U S

OPPONENTS:-

1. **ARVINDKUMAR BHADABHAI JASANI**

   Add. :- Gundala Road, Near Swaminarayan Gurukul Ram Nagar Sagar House, Gondal, Tal. Gondal, Dist. Rajkot - 360311.

ADVOCATE:

MR. K. H. PADIA, Learned Advocate for Applicant.

Subject : Application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

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

[1] The present application has been filed by the Applicant against the Opponents under Section 14 of *The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002* (hereinafter referred to as "SARFAESI Act") for taking possession of secured asset. The concise statement of the Applicant's case is that the Applicant is Secured Creditor and the Opponents are the borrower. The Applicant had sanctioned loan facility to the Opponent. It is further averred in the application that the Applicant has satisfied all the requirement of Section 14 of the SARFAESI Act and the Applicant's authorised officer has submitted his affidavit to that effect. Hence, the present application

[2] As per the ratio laid down in the Judgment of **Devani Jagdishbhai Dahyabhai (Third Party) vs. District Magistrate Surat** reported in LAWS (GJH) 26/12/2018 held that, it is not mandatory to issue Notice to other party for the procedure u/s. 14 of the SARFAESI Act and hence, in the present case the proceeding follows as per Section 14 of the SARFAESI Act.

[3] The Ld. Advocate for the Applicant has argued as per the averments made in the application at Exh.1 and prayed for allowing the same.

[4] Before determination of this case, it would be necessary to refer some of the pronouncements governing the determination of an application filed u/s. 14 of the SARFAESI Act, 2002 and the relevant paras of the same are reproduced here-in-below :-

(1) The Hon'ble Supreme Court in **"Standard Chartered Bank vs. Noble Kumar" reported in (2013) 9 SCC 620** has held under:

"21. Under the scheme of section 14, a secured creditor who desires to seek the assistance of the State's coercive power for obtaining possession of the secured asset is required to make a request in writing to the Chief Metropolitan Magistrate or District Magistrate within whose jurisdiction, the secured asset is located praying that the secured asset and other documents relating thereto may be taken possession thereof. The language of section 14 originally enacted purportedly obliged the Magistrate receiving a request under section 14 to take possession of the secured asset and documents, if any, related thereto in terms of the request received by him without any further scrutiny of the matter."

"22. However, the Bombay High Court in Trade Well V/s Indian Bank (2007 Cri. Lj 2544(Bom) opined:

"2…CMM/DM acting under section 14 of the NPA Act is not required to give notice either to the borrower or to the third party.

3…He has to only verify from the bank or financial institution whether notice under section 13(2) of the NPA Act is given or not and whether the secured assets fall within his jurisdiction. There is no adjudication of any kind at this stage.

4…It is only if the above conditions are not fulfilled that the CMM/DM can refuse to pass an order under section 14 of the NPA Act by recording that the above conditions are not fulfilled. If these two conditions are fulfilled, he cannot refuse to pass an order under section 14".(emphasis supplied)"

(2) The Hon'ble High Court of Gujarat has in **IDBI Bank Ltd. Through Authorized Signatory vs. District Magistrate" reported at 2011 SCC Online Guj. 1280** held as under:

"5. So far as the first principal contention of the petitioner is concerned, the same merits consideration because the Chief Metropolitan Magistrate and the District Magistrate, under Section 14 of the Securitisation Act are not empowered to decide the question of legality and propriety of any of the actions taken by the secured creditor under section 13(4), which can be assailed under section 17 of the Securitisation Act by the aggrieved person. Under sub-section (3) of section 14, the act of the Chief Metropolitan Magistrate or District Magistrate done in pursuance of the said section cannot be called in question in any court or before any authority. From the aforesaid provisions of law, it is evident that Chief Metropolitan Magistrate or District Magistrate is bound to assist the secured creditor in taking possession of the secured assets."

"6. The authority who is called upon to act under section 14 of the Securitisation Act can only assist, nay is bound t assist the secured creditor in taking possession of the secured asset. As the Chief Metropolitan Magistrate and District Magistrate under section 14 is not empowered to decide the question of legality and propriety of any of the actions taken by the secured creditor under section 13(4), which may be assailed under section 17 of the Act by the aggrieved person, under sub-section (3) of section 14 of the Securitisation Act, the act of Chief Metropolitan Magistrate or District Magistrate done in pursuance of said section cannot be called in question in any court or before any authority. It is evident from the provisions of law that the District Magistrate while bound to assist the secured creditor in taking possession of the secured creditor in taking possession of the secured assets and to take the possession of the documents relating thereto and forward such assets and documents to the secured creditor, he is not empowered to decide the question of genuinity or propriety of such documents, including the document signed or agreed between the borrower and the secured creditor."

(3) The Hon'ble Supreme Court has in **Indian Bank vs. D. Visalakshi reported in (2019) 20 SCC 47** held as under:

"52. Applying the principle underlying this decision, it must follow that substitution of functionaries (CMM as CJM) qua the administrative and executive or so to say non-judicial functions discharged by them in light of the provisions of the Code of Criminal Procedure, would not be inconsistent with Section 14 of the 2002 Act; nay, it would be a permissible approach in the matter of interpretation thereof and would further the legislative intent having regard to the subject and object of the enactment. That would be a meaningful, purposive and contextual construction of Section 14 of the 2002 Act, to include CJM as being competent to assist the secured creditor to take possession of the secured asset."

"54. To sum up, we hold that CJM is equally competent to deal with the application moved by the secured creditor under section 14 of the 2002 Act."

(4) The Hon'ble Bombay High Court in **CA Manisha Mehta and Ors. vs. The Board of Directors of Represented by its Managing Director of ICICI Bank and Ors. Reported in AIRONLINE 2022 Bom.1846** held as under.

"8. Pertinently, section 14 of the SARFAESI Act was amended twice, once in 2013 and then again in 2016. If it were the intention of the legislature to extend opportunity of hearing to a borrower before the District Magistrate /Chief Metropolitan Magistrate, as the case may be, it was free to do so. Advisedly, the legislature did not do so, for, it would have militated against the scheme of the SARFAESI Act and more 5902.wpl.8418-22 particularly section 13 thereof. It is implicit in the scheme of the SARFAESI Act that natural justice, only to a limited extent, is available and not beyond what is expressly provided. There seems to be little merit in the argument advanced by Mr.Nedumpara and we hold that the language of section 14 is to clear and unambiguous, and does not admit of any requirement

of complying with natural justice by putting the borrower on notice while an application thereunder is under consideration."

(5) The Hon'ble Gujarat High Court in **Devani Jagdishbhai Dayabhai (Third Party) vs. District Magistrate Surat** reported in LAWS (GJH) 2018-12-26 held as under:

"27. I do not find any merit in the contention that the District Magistrate should have provided an opportunity of hearing to the writ applicant in the proceedings under section 14 of the SARFAESI Act. The Supreme Court in the case of Harshad Govardhan Sondagar(supra) and Vishal N. Kalsaria V/s Bank of India [(2016) 3 SCC 762] has not laid down the law that the borrower or any aggrieved person may also be extended an opportunity of hearing in the proceedings under section 14 of the SARFAESI Act."

[5] As per the recent Judgment of Hon'ble Supreme Court of India in case of **M/s. R.D.Jain vs. Capital First Ltd. Dtd. 27/7/2022,** this being Additional Chief Judicial Magistrate is also covered under provision of SARFAESI Act, in terms of "Chief Judicial Magistrate". Therefore, this Court has been empowered by the said Judgment.

[6] Considering the material produced by the Applicant, it transpires to this Court that the Applicant has satisfied the requirement of Section 14 of the SARFAESI Act so as to entitle it to have assistance of this Court. The secured asset has been situated within the jurisdiction of this Court. As per the pronouncement of Hon'ble Supreme Court in Indian Bank

Case(Supra), the Chief Judicial Magistrate is also empowered to entertain the application filed u/s. 14 of the SARFAESI Act. Hence, in view of the aforesaid discussion, I hereby pass following Final Order in the interest of justice :-

:~: F I N A L O R D E R :~:

- The Applicant's present application is hereby allowed.
- I authorize, **Y. K. JADEJA, Gujarati Stenographer, Principal Senior Civil Court, Gondal,** to act as Court Commissioner under Section 14(1-A) of the Securitization and Reconstruction of Financial Assets and Forcement of Security Interest Act, 2002.
- Court Commissioner is directed to take possession of asset and forward such asset to the secured creditor. The description of such asset is as under:-

Description of Mortgaged Property / Secured Assets.
All that pieces and parcels of immovable property in the form residential Bunglow situated at sagar Row House with land admeasuring 216-98 Sq. Mtrs. and bearing Revenue Survey No. 431/3 paiki, 429 paiki plot No.19p Ram Nagar Near Swami Narayan Gurukul Gundala road, Tal. Gondal, Dist. Rajkot - 360311 and in the State of Gujarat in the name of Arvindkumar Bhadabhai Jasani and boundaries as undeR:
The Boundaries of the immovable properties are as under :
North : LAgu Plot No. 19/p South : NA Property of Lagu Survey No. 431/3 North : Road & Lagu Plot No.18 South : Lagu Plot No. 28

- If the secured assets is found in closed condition, the Court Commissioner may take possession of this secured assets by breaking / opening the lock or may take any other steps she/he may think fit, which is permitted under the law.
- After taking possession of the secured assets, 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.
- Further, the Applicant may entitle for police protection / assistance in this regard on completion the necessary formalities for seeking police assistance / protection and also bear the expenses thereof.
- 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. 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.
- The Court Commissioner shall carry out the said proceedings on public holidays or except Court working hours.
- Court Commissioner's Fees of Rs. 25,000/- has already been deposited in the Court.

Signed and pronounced in the open court to day
on this **11th Day of March, 2026 at Gondal.**

Date:- 11/03/2026

Place:- Gondal

(**MS. J. M. GAJJAR**)
Additional Chief Judicial Magistrate,
G O N D A L
(Code No.GJ00921)