

GJSK020265192025



**Order below Exh. 1
in
Criminal Misc. Application No.1582/2025**

Applicant : HDFC Bank Ltd.

Through its authorised officer

Mr. Ritesh Parikh

Branch office: HDFC Bank Ltd.,

Mithakali Six Roads, Navrangpura,

Ahmedabad

// Versus //

Opponents: 1.

Pandya Sunil

Also At: Flat A8/403,

Floor no.4 Maple Crystal-Block A8

Plot no.1 to 4, S no.871/9/P,

Nr. Medistar Hospital,

Sahakari Jin Cross Roads, Motipura Road,

Off National Highway no.8,

Himmatnagar – 383001

Also At: D/2 Mamta Complex,

New Mrudul Park Society-1,

Sattadhar X Roads, Sola Road,

Ghatlodia, Ahmedabad-380061

Also At: Zaptech Solutions 1, Ahmedabad,
14, Sigma 1 Corporates Bodakdev
Opp. Mann Part Plot, Thaltej,
Ahmedabad-380054

2. Mrs. Pandya Nehal Sunil

Also At: Flat A8/403,
Floor no.4 Maple Crystal-Block A8
Plot no.1 to 4, S no.871/9/P,
Nr. Medistar Hospital,
Sahakari Jin Cross Roads, Motipura Road,
Off National Highway no.8,
Himmatnagar – 383001

Also At: D/2 Mamta Complex,
New Mrudul Park Society-1,
Sattadhar X Roads, Sola Road,
Ghatlodia, Ahmedabad-380061

01. Read application along-with documents and heard learned advocate for the applicant.
02. Applicant has made the application under Section-14 of The Securitisation 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.

03. Keeping in mind the documents of the present case, all that piece and parcel of the property bearing flat no.A8/403, floor 4 Maple Crystal – Block A8 Plot no.1 to 4, S No.871/9/P, Nr. Medistar Hospital, Sahakari Jin Cross Road, Motipura Road, Off. National Highway No.8, Himmatnagar-383001 and bounded as under:

North: Stair case

East: Common passage and 401

West: Open block of society

South: Unit 402

On this property, opponents got loan from applicant and failed to pay the loan amount and got NPA on 06.05.2025. Therefore, applicant issued notice on 30.05.2025 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.

04. 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.

05. 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 ::

01. The application of the applicant is hereby allowed.
02. The applicant has deposited the remuneration amount of Rs.20,000/- vide entry no. C-125 dated 07.02.2026. Therefore, I authorize, **Mr. P.J. Rathod, Assistant** as Court Commissioner U/Section 14(1-A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. (in short SARFAESI ACT).

03. Court Commissioner is directed to obtain secure possession of property mentioned in Para 5 of the application and give it to authorised officer of **HDFC Bank Ltd.**
04. 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 he may think fit.
05. After taking the 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.
06. 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 his opinion be necessary.

07. 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.
08. 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 from the date of this order.
09. Court Commissioner has to do the legal proceedings on non-working day or on working day before or after working hours.
10. Order under this application is made as prayed by applicant and when the Court Commissioner submits the report, the said report be attached with this order.

**Signed and Pronounced in Open Court on 27th day of
March, 2026.**

Place : Himmatnagar
Date : 27.03.2026

(Amit Bipinchandra Mamtora)
2nd Add.Chief Judicial Magistrate
S.K. @ Himmatnagar.
Judge Code: GJ01059

//vms//