CRMA NO. 200/2026

IN THE COURT OF MR. ARUN SONI, ADDITIONAL CHIEF JUDICIAL MAGISTRATE, IDAR (SABARKANTHA)

APPLICANT	Capri Global Capital Limited, 3rd Floor,BBC Tower, Broadway Business Centre,Law Garden Circle, Netaji Road, Elis Bridge,Ahmedabad-380009 **Through:** Mr. Maulik Shah (Authorised Officer)

VERSUS

RESPONDENT	**1.** Riyajhusen Abdulrajakbhai Mansuri **Residing at**: Uchelija Fali,Uadali,Vadali, Opp:Doodh Dairy, Sabarkantha-383235. ***Also at:*** C/o M/S R King Fashion Point, Commercial old gamtal property,Vadali City Survey No.3651,Nagar Palika Property No.5/650/F,First Floor Shop, Parvana No.133 year 1934-35,West side Park A Paiki,Admeasuring 94.79 Sq.Mtrs,CJ High School Road,Near Nagar Palika,Vadali,Sabarkantha-383235. **2.** Nanjaben Riyajhusen Manusri **Residing at**: Uchelija Fali,Uadali,Vadali, Opp:Doodh Dairy, Sabarkantha-383235. ***Also at:*** Commercial old gamtal property,Vadali City Survey No.3651,Nagar Palika Property No.5/650/F,First Floor Shop, Parvana No.133 year 1934-35,West side Park A Paiki,Admeasuring 94.79 Sq.Mtrs,CJ High School Road,Near Nagar Palika,Vadali,Sabarkantha-383235. **3.** Jarinaben Abdulrajakbhai Mansuri **Residing at**: Uchelija Fali,Uadali,Vadali, Opp:Doodh Dairy, Sabarkantha-383235. ***Also at:*** Commercial old gamtal property,Vadali City Survey No.3651,Nagar Palika Property No.5/650/F,First Floor Shop, Parvana No.133 year 1934-35,West side Park A Paiki,Admeasuring 94.79 Sq.Mtrs,CJ High School Road,Near Nagar Palika, Vadali, Sabarkantha-383235.

APPEARANCE:

FOR APPLICANT: ***Learned Advocate Shri S.S. Bais***

ORDER

1) This is an application Under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act") for taking possession of the secured asset known as :-

Commercial old gamtal property,Vadali City Survey No.3651,Nagar Palika Property No.5/650/F,First Floor Shop, Parvana No.133 year 1934-35,West side Park A Paiki,CJ High School Road,Near Nagar Palika, Vadali, Sabarkantha-383235.
Admeasuring Area: 94.79 Square Meter
Boundaries:
East: Shops Constructed
West: Government Open Land
North: House of Sagar
South: Road way to railway station

2) Brief contents of application are as under: On the request of Respondents, applicant has granted/ sanctioned various credit facilities total aggregating of **Rs.29,97,777/-** to the Respondents. It is contended that, the Respondents executed necessary loan documents such as Mortgage Deed etc. for the repayment of the loan availed; the Respondents have created security interest over their said asset. The documents are furnished *vide* List of Documents.

3) The secured asset is situated within territorial jurisdiction of this Court. Till the date of filing of this application, applicant is

holding a valid and subsisting security interest over secured asset. In due course, borrowers have committed default in repayment of the financial assistance as agreed. Thus, the account of the borrowers have been classified as "Non Performing Asset" on **29/10/2024.**

4) Then, Demand Notice dated **07/11/2024** under Section 13 (2) of the SARFAESI Act was issued to the Respondents demanding total outstanding amount of **Rs.29,14,863/-** calling upon to repay the outstanding amount within 60 days from the date of service of notice. Said demand notice was duly served to the Respondents. Despite, the service of said notice, Respondents have not complied with the requisitions for payment of outstanding loan amounts within stipulated period of 60 days. Hence, Applicant is constrained to file this application, which is well in limitation.

5) Hon'ble Apex Court in ***BALKRISHNA RAMA TARLE DEAD THROUGH LRS v. PHOENIX ARC PRIVATE LIMITED 2022 SCC ONLINE SC 1299*** held that *"The step to be taken by the CMM/DM under Section 14 of the SARFAESI Act, is a ministerial step. While disposing of the application under Section 14 of the SARFAESI Act, no element of quasi judicial function or application of mind would require. The Magistrate has to adjudicate and decide the correctness of the*

information given in the application and nothing more. Therefore, Section 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets".

6) The enquiry under Section 14 by the CMM/DM is restricted to only two aspects; *(i) whether the secured asset falls within his territorial jurisdiction, and (ii) whether notice under Section 13(2) of the Act, 2002 is given or not.* The legal niceties of the transaction is not to be examined by the Magistrate to examine the factual correctness of the assertions made in the affidavit, filed in accordance with the first proviso to sub-section (1) of Section 14 to record his satisfaction to pass appropriate order for taking of possession of the secured asset. Hence, notice is not required to be issued to respondent, Thus No notice issued to respondent.

7) It is requirement of Section 14 of SARFAESI Act that, Authorized Officer of applicant financial institute has to file affidavit containing therein facts mentioned in Section 14(1)(b) (i) to 14(1)(b) (ix). Accordingly, Authorized Officer had filed Affidavit along with the application. In addition to affidavit, copies of certain documents are placed on record. Apart from that, sufficient time has been given by the applicant to the

opponents to make repayment of the outstanding dues, but the opponents failed to pay the outstanding amount.

8) Before parting with order, I would like to mention here that, this Court has experienced time and again that under the garb of "settlement talks", the applicant bank through its Authorized Officer suggests the Court Commissioner not to comply the writ of commission within stipulated time granted by the Court. Such attempt by Bank/financial institution may amounts to contempt of Court. Thus, such practices have to be deprecated. The Bank/financial institutes have to permit Court Commissioner to comply writ of commission and if any settlement works out then release the property to concerned. But at any cost not the applicant shall not restrain the Court Commissioner from compliance of writ of commission. Thus, I proceed to pass following order;

::ORDER::

1) The present Application Under Section 14 of the SARFAESI Act is hereby allowed and Authorized Officer (As per 'SARFAESI Act') is permitted to take over possession of aforesaid secured asset on behalf of applicant Bank.

2) **<u>Mr. ....</u>**(Assistant/Superintendent/Nazir) is hereby appointed as Court Commissioner to take over possession of the following secured asset:

Commercial old gamtal property,Vadali City Survey No.3651,Nagar Palika Property No.5/650/F,First Floor Shop, Parvana No.133 year 1934-35,West side Park A Paiki,CJ High School Road,Near Nagar Palika, Vadali, Sabarkantha-383235. **Admeasuring Area:** 94.79 Square Meter **Boundaries:** **East:** Shops Constructed **West:** Government Open Land **North:** House of Sagar **South:** Road way to railway station

and hand over to above said Authorized Officer only, under *panchanama*, and not to handover to any other officer of the applicant, who is not Authorized Officer on record in this proceeding.

3) Authorized Officer is hereby directed to furnish his/her full office address, residential address, mobile number, land line numbers of office and residence, in order to facilitate Court commissioner to contact him/her. The Bank/Financial Institute, Authorized Officer are directed not to dictate/direct/suggest to Court Commissioner by any mode to deffer taking over possession of secured asset, unless stay granted by any Competent Court, and if any one does so, then it is subject to appropriate action against him or her whoever may be so.

4) Court Commissioner to issue 15 days advance notice to the concerned party/parties and to take such steps and use such

force including breaking open the lock or any hurdle thereof by taking assistance of police if required at the expenses of the applicant and if any articles/documents found in the secured asset then deliver its possession to the Authorized Officer of the applicant after preparing panchanama and taking inventory.

5) The Police Station Officer within whose territorial jurisdiction secured asset is located, is hereby directed to provide police aid to Court Commissioner if he/she required so for taking over possession of secured asset as per the Circular of Home Department, Bearing No SB-II, GNH/112017/998-PART FILE, dated 03.12.2020. Despite of advance letter from Court Commissioner to provide police aid, if such police officer failed to provide police aid for no reason or petty or unreasonable ground then it will be viewed seriously for taking appropriate legal action. Equally if such police officer gives any ill treatment or insulting treatment to Court Commissioner, then it is also subject to appropriate legal action. Such police officer is also directed not to indulge himself in the issue of legality or illegality of this order.

6) Court Commissioner shall report the compliance within 90 days from the receipt of Writ of the Commission. However, in the meantime, if any Competent Court grants stay to execute

this order then automatically until such stay order will be in force, time to comply writ of commission will be deemed to be extended and no separate application for extension of time for execution of writ of commission will have to be filed before this Court by the Court Commissioner.

7) If any person attempts to seek favour from Court Commissioner in order to delay the taking over possession of secured asset, then Court Commissioner is duty bound to communicate such fact to this Court and provide details of said person, including landline or mobile number of that person if any, to facilitate this Court to take appropriate action against said person.

8) If Court Commissioner found to be indulged in favouring to any person for delay to take over possession of secured asset then such act will be subject to appropriate action for misconduct.

9) If Court Commissioner failed to execute possession warrant for any default on his part, then Court Commissioner fees as well as to and fro charges are subject to refund to applicant along with interest @18% per annum from the date of its receipt. Thus, before receipt of Court Commissioner fees, Court Commissioner to give undertaking accordingly.

10) If any contingency arises in future to refund Court commissioner fees and Court Commissioner failed to repay it to applicant, then it is subject to reference for taking appropriate action for misconduct.

11) Applicant is hereby directed to deposit **Rs.20,000/- (Rupees Twenty Thousand Only)** in the court for taking possession of aforesaid secured asset to the Court Commissioner as a fees as well as to and fro charges to him/her, by Cash/Pay Order/Demand Draft/cheque within fifteen days from the date of this order, and take care that cheque will not be bounced for any reason, otherwise it will be viewed seriously to take appropriate action against the concerned Authorized Officer.

12) On compliance of Clause No. 11, issue Notice. 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. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Order Signed and Pronounced in open Court on 04th Day of July, 2026.

Date: 04/07/2026 **(Arun Soni)**

Place: Idar **Additional Chief Judicial Magistrate**