



Appli. Regi. on	07.03.2026
Appli. Decided on	08.04.2026.
KEPT WITH EX-	

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
SURENDRANAGAR.

CR.M.A NO. 175.2026.

Applicant : Nido Home Finance Limited
(Formerly known as Edelweiss Housing
Finance Limited)
Through It's Authorised Officer
Mr. Divya Mydaliar
Having its Branch Office at:
3rd Floor, 3rd Eye Vision Building, Opp.
Shivalik Plaza, Lim - Panjrapole Road,
Ahmedabad

VERSUS

- (1) Shabbirbhai sultanbhai mir,
Near Ramapir Temple, Behind TB Hospital,
Near Siddhanath Mahadev Temple,
Surendranagar - 363002.
Also At :- C-704, Atishay Residency, Motera
Koteshwar Road, Near Sampad Residency,
Motera, Ahmedabad - 380005.
- (2) Samimben Sultanbhai Mir,
Address :- Near Ramapir Temple, Behind TB
Hospital, Near Siddhanath Mahadev Temple,
Surendranagar - 363002.

RESPONDENTS

1) Learned Advocate for the Applicant : Mr. RISHI DUBEY

2) Learned Advocate for the Opponents : ----

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

ORDER

1. Present Application is submitted 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 Company for availing of Credit facilities and accordingly the applicant Company sanctioned and disbursed the said Facilities aggregating to amount of Cash Credit facility **Rs. 7,23,750/-** and the Opponent has created security interest over the property mentioned in the present application.
2. The Applicant has submitted that opponent has failed to make the repayment of the dues therefore, account of the opponent was / has been classified as **NPA on 04.11.2025**.
3. The Applicant issued Demand notice U/s. 13(2) of the SARFAESI on **18.11.2025**. Though the notice was served. That by way of the said notices the opponents was called upon to pay **Rs. 6,84,205.08/-** as per Application, is due as outstanding. However, the borrower has failed to repay the same.

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 Respondents. In pursuance of such financial assistance Respondents have executed various documents in favour of Applicant to create security interest over the aforesaid secured asset. However, in due course failed to repay loan.
9. Upon perusal of record, I am satisfied that the contents of

the affidavit are fully 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 has not paid the outstanding amount. Hence, considering the above facts of the application and view of the above Judgements of the Hon'ble High Court. Hence, I passed the following order :

ORDER

1. The Application of the applicant is hereby allowed.
2. I authorize **Mr. H.A.CHAUHAN, Assistant, Principal Senior Civil Court, Surendranagar** 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).
3. Court Commissioner is directed to take possession of properties mentioned in the present application.

ALL THAT RIGHT, TITLE AND INTEREST OF PROPERTY BEARING PLOT NO. 11 PAIKI, SUB PLOT NO. 3 LAND ADM. 42.91 SQ.MTRS., BEARING DUDHREJ REVENUE SURVEY NO. 455 PAIKI, SITUATED AT AREA KNOWN AS RAMESHWAR PARK, B/H C.U. SHAH MEDICAL COLLAGE, AT: SURENDRANAGAR, TALUKA: WADHWAN, DISTRICT: SURENDRANAGAR WITHIN THE CORPORATION LIMITS OF SURENDRANAGAR

MUNICIPAL CORPORATION.

BOUNDED AS FOLLOWS:

EAST: MT. 03.00 THIS ROAD SIDE,

WEST: MT. 03.00 THIS SIDE PLOT NO. 11 PAIKI SUB
PLOT NO. 5,

NORTH: MT. 14.33 THIS SIDE PLOT NO. 11 PAIKI
SUB PLOT NO. 4,

SOUTH: MT. 14.33 THIS SIDE PLOT NO. 11 APIKI
SUB PLORT NO. 2.

4. 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.
5. 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.
6. 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. 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 at present to deposit lump sum amount of **Rs. 15,000/-** 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.

9. 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. 08.04.2026.

Date: 08.04.2026

[RUCHITA.V.VAISHYA]

Place : Surendranagar.

Chief Judicial Magistrate,
Surendranagar.

GJ-01149.

M.D.Muliya.