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	Date Of Institution	25-02-2026		
	Date Of Registration	25-02-2026		
	Date Of Disposal	09-03-2026		
	Duration	00	00	12
		YY	MM	DD

**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
 & ADDITIONAL CHIEF JUDICIAL MAGISTRATE
 BARDOLI @ SURAT**

CRMA-J	78-2026
Exhibit	04

Applicant:-

1. **DCB Bank Limited** Having its Branch office at G-1 and G-2, Rockford Business Centre, Udhana Darwaja, Ring Road, Surat-395002

Versus

Opponents:-

1. **Mr. Dhuriya Ganeshbhai**
2. **Mr. Dhuriya Sanjay**
3. **Mrs. Dhuriya Rekha**

Add.: ZUP 132, Road No 10, Subhashchandra Vasahat, Udhana Surat Gujarat 394210

Also at: Plot No. 215, Om Villa Residency, Mota, Bardoli, Surat, Gujarat, 394327.

Appearances:-

Mr. S. A. Ghevariya, Ld. Advocate for the applicant.

None for the opponent.

Subject: Application u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI ACT) for taking possession of immovable property (Secured Assets).

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

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 applicant has granted loan of ₹13,00,000/- to the opponents and mortgage deed of the immovable property was executed by the opponents for the purpose of securing the repayment of the loan amount.

2. The applicant has submitted that opponents have failed to make the repayment of the dues, therefore, account of the opponents were/have been classified as NPA on 02-10-2025.

3. The applicant issued notice u/s 13(2) of the SARFAESI Act on 03-11-2025 to the opponents for the payment of due amount. The notice was served to the opponents. The Ld. Advocate for the applicant argued that it is not a mandatory to follow the procedure laid down u/s 13(4) and he relied upon.

4. 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;

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.

Before determination of this case, it would be necessary to refer some of the pronouncements governing the determination of an application filed under section-14 of the SARFAESI Act, 2002. The Hon'ble Supreme Court in "**Standard Chartered Bank v. V. Noble Kumar**" reported in (2013) 9 SCC 620 has held as under;

***A.** 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.*

***B.** However, the Bombay High Court in Trade Well v. 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)*

The said judgment was followed by the Madras High Court in Indian Overseas Bank v. Sree Aravindh Steels Ltd. [AIR 2009 Mad 10] Subsequently, Parliament inserted a proviso to Section 14(1) [“Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—(i) the aggregate amount of financial assistance granted and the total claim of the bank as on the date of filing the application;(ii) the borrower has created security interest over various properties and that the bank or financial institution is holding a valid and subsisting security interest over such properties and the claim of the bank or financial institution is within the limitation period; (iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above;(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset;(vi) affirming that the period of sixty days' notice as required by the provisions of sub-section (2) of Section 13, demanding payment of the defaulted financial assistance has been served on the borrower;(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the authorised officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of Section 13 read with Section 14 of the principal Act;(ix) that the provisions of this Act and the rules made thereunder had been complied with:Provided further that on receipt of the affidavit from the authorised officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets:Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief

*Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.”] and also sub-section (1-A) “14. (1-A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him—(i) to take possession of such assets and documents relating thereto; and(ii) to forward such assets and documents to the secured creditor.(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate 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.(3) No act of **Indian Bank v. D. Visalakshi, (2019) 20 SCC 47** he Chief Metropolitan Magistrate or the District Magistrate any officer authorised by the Chief Metropolitan Magistrate or District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.”] by Act 1 of 2013.*

***C.** The satisfaction of the Magistrate contemplated under the second proviso to Section 14(1) necessarily requires the Magistrate to examine the factual correctness of the assertions made in such an affidavit but not the legal niceties of the transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of possession of the secured asset.*

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

***D.** 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.*

***E.** 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.*

5. Learned advocate for the applicant has also submitted that once the notice was issued and opponents fails to make the payment, then on filing of application u/s 14 of the SARFAESI

Act, even notice to the opponents is not required to be issued. In support of his above submission, he placed reliance on the judgements delivered in the case of **Kotak Mahindra Bank Limited Versus State of Gujarat, decided in R/Special Civil Application No. 12244 of 2022, order dated 18.07.2022** and submitted that as per the ratio laid down by the Hon'ble High Court in the above judgment, no hearing is required to be given to the borrower-opponents.

6. Section 14(1) reads as under:

“Where the possession of any secured assets is required to be taken by the Secured CreditorXXXX

Provided further that on receipt of the affidavit from the Authorized officer, the District Magistrate or Chief Metropolitan Magistrate as the case may be shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets [within a period of thirty days from the date of application].....xxx

7. In view of the judgment 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 as under :-

8(xi) “All such determination is to be made by the Debts recovery Tribunal including the question whether the asset is a secured asset or not and the Chief metropolitan Magistrate or the District Magistrate has not been empowered to adjudicate such dispute, but is directed only to assist the secured creditor in taking possession of the secured asset. If they are not empowered to adjudicate the dispute, they cannot also call for the secured creditor to produce any document to decide whether

the asset is secured asset or not, which will be futile exercise in absence of power to adjudicate such issue.

Under clauses (a) and (b) of Section 14(1), the Chief Metropolitan Magistrate or the District Magistrate and on request, are bound to take possession of the secured assets as also the documents relating thereto. If the documents are to be obtained by them, the question of asking the secured creditor to produce the document in all cases does not arise. Therefore, they do not have jurisdiction even to call for the documents.”

Upon perusal of the judgment of the Hon’ble High Court of Gujarat, this Court can not go into the merits of the claim.

8. Upon perusal of record, I am satisfied that the contents of the affidavit are supported by the documents produced. That apart, sufficient time has been given by the applicant to the opponent to make repayment of the outstanding dues but opponent has not paid the outstanding amount. Hence, considering the above facts of the application and in view of the above judgments of the Hon’ble High court, I pass the following order:

// ORDER //

1. The application of the applicant is hereby **“ALLOWED”**.
2. I authorize **Mr. Jignesh Natvarbhai Dhara, Assistant**, as Court Commissioner u/s 14 (1-A) of the SARFAESI Act.
3. Court commissioner is directed to take possession of the property mentioned in Para No. 5 of the present application.
The description of the property (Secured Asset) is as under:-

THE PROPERTY BEARING PLOT NO. 215,
ADMEASURING 60.39 SQ. MTRS., ALONG WITH 24.75

SQ.MTRS. UNDIVIDED SHARE IN ROAD AND C.O.P. OF
"OM VILLA RESIDENCY" SITUATED AT
SURVEY/BLOCK NO. 120 ADMEASURING HE.ARE.
1-80/09 SQ. MTRS. I.E. 18009 SQ.MTRS. OF MOJE
VILLAGE MOTA, TAL.: BARDOLI, DIST.: SURAT

Bounded as under:-

EAST :- SOCIETY INTERNAL ROAD,

WEST :- PLOT NO. 198,

NORTH:- PLOT NO. 216,

SOUTH:- PLOT NO. 214.

4. If the secured asset is found in closed condition, the Court Commissioner may take possession of the secured asset by breaking/opening the lock or may take any other steps, he may think reasonably necessary.
5. After taking the possession of the secured asset, Court Commissioner shall prepare the inventory in two copies, of any items or documents, if any, found in secured Asset and handover one copy to the applicant and shall produce a copy in this court as well.
6. The officer in charge 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 asset. The applicant company shall complete 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 reasonably 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 to deposit lumpsum amount of **₹15,000/-** towards the expenses and remuneration of court commissioner, within one month from the date of order. On depositing the above mentioned amount in the Court, the Court Commissioner shall complete the said procedure within 90 days or within the time limit extended by the Court and submit the compliance report on completion of proceedings.
9. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Signed and pronounced in the open court on **09th day of March, 2026.**

Place:-Bardoli
Date :-09-03-2026

(Mohitkumar Kirtikumar Shah)
Principal Senior Civil Judge &
Additional Chief Judicial Magistrate
Bardoli-Surat
UID:- GJ01208