




सत्यमेव जयते

	Date Of Institution	26-02-2026		
	Date Of Registration	26-02-2026		
	Date Of Disposal	09-03-2026		
	Duration	00	00	11
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**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
 & ADDITIONAL CHIEF JUDICIAL MAGISTRATE
 BARDOLI @ SURAT**
 =====

CRMA-J	79-2026
Exhibit	04

Applicant:-

- IDFC First Bank Ltd**, having its Branch office at Mezzanine Floor, International Business Centre, Next to Mercedes Showroom, Near Big Bazar, Piplod, Dumas Road, Surat-395007

Versus**Opponents:-**

- Makani Nimesh Bharatbhai**
Add.: Flat No. A/310, 3rd Floor, Building No. A, Rayam Square, Rayam, Bardoli, Surat, Gujarat-394355
Also at: C/O Unlimited Wp, B-101 To 105, Ship Corp, Rajpath Rangoli Road, Thalte, Ahmedabad, Gujarat-380054

Also at: A/51, Here Krishna Society-1, Borda Farm Pase, Choryasi, Surat, Gujarat-395010

2. Makani Ranjanaben Bharatbhai

Add.: Flat No. A/310, 3rd Floor, Building No. A, Rayam Square, Rayam, Bardoli, Surat, Gujarat-394355

Also at: A/51, Here Krishna Society-1, Borda Farm Pase, Choryasi, Surat, Gujarat-395010

Appearances:-

Mr. H. D. Moradiya, 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 ₹14,15,000/- 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 03-10-2025.

3. The applicant issued notice u/s 13(2) of the SARFAESI Act on 06-11-2025 to the opponents for the payment of due amount. The notice was served to the opponents. The applicant

take symbolic possession of the property on 28-01-2026. However, they have failed to pay due amount.

4. 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.

5. 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

6. 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.

7. 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:

// O R D E R //

1. The application of the applicant is hereby **"ALLOWED"**.

2. I authorize **Mr. Dharmendrasinh Bahadursinh Parmar, 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:-

ALL THAT PIECE AND PARCEL OF THE IMMOVABLE PROPERTY BEARING FLAT NO. A-310, ADM. 69.49 SQ. MTRS. OF BUILT UP AREA ALONGWITH UNDIVIDED PROPORTIONATE SHARE IN UNDERNEATH LAND AT "RAYAM SQUARE" BEARING R. S. NO. 292/A/2, 292/A/3/B, BLOCK NO. 499 OF VILLAGE: RAYAM, SUB-DIST. BARDOLI, DIST. SURAT (SAID PROPERTY OWNED BY RESPONDENT NO.1)

Bounded as under:-

EAST :- PASSAGE,

WEST:- OTS,

NORTH:- FLAT NO. 309,

SOUTH:- PLOT NO. 311.

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