

GJVD040004922026



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Decided on	05/03/2026
Duration	Y M D
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**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE AT PADRA**

Criminal Misc. Application No. : 49/2026

Exh. No. 04

APPLICANT :

AADHAR HOUSING FINANCE LTD.

is a Housing Finance Company is registered Under Section 29-A of the National Housing Bank Act 1987, and Also Notified as "Financial Institution" by the Department of Finance in exercise of the powers conferred by sub- clause (IV) of clause (m) of sub section (1) of section 2 of the "Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 having it's Registered Office at 2nd Floor, No.3, JVT Towers, 8th A Main Road, S.R.Nagar, Bengaluru-560027

And Its Vadodara, Office at 404, 4th Floor, Atlantis Complex, Opp Petrol Pump, Sarabhai Road, Vadodara- 390001.

Through its Authorised Officer

Mr. MUKESH KUMAR MATHUR, Aged-54 Adult,

Occupation - Service at AADHAR HOUSING FINANCE LTD.

Versus

OPPONENT :

(1) SANJAYBHAI MANUBHAI PATEL (Borrower)

At Address: 19, Narayan Park, Nr.Sharda English School,
Padra, Vadodara, Gujarat-391440

(2) SHITALBEN SANJAYBHAI PATEL (1st Co-Borrower)

At Address: 19, Narayan Park, Nr.Sharda English School,
Padra, Vadodara, Gujarat-391440

Subject : Application u/S.14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 for taking possession of Secured Assets.

Appearance :

Mr. K. D. Variya, Learned Advocate for the applicant.

ORDER BELOW EXH.1

1. The present application has been filed by the **Applicant – AADHAR HOUSING FINANCE LTD. through its authorized officer, i.e. Mr. MUKESH KUMAR MATHUR** against the **Opponent** under Section 14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”) for taking possession of secured asset. The concise statement of the

Applicant's case is that the Applicant is Secured Creditor and the Opponents are the borrower. The Applicant had sanctioned loan facility to the Opponents. It is further averred in the application that the Applicant has satisfied all the requirement of Section 14 of the SARFAESI Act and the Applicant's authorised officer has submitted his affidavit to that effect. Hence, the present application.

2. As per the ratio laid down in the Judgment of *Devani Jagdishbhai Dahyabhai (Third Party) vs. District Magistrate Surat* reported in LAWS (GJH) 26/12/2018 held that, it is not mandatory to issue Notice to other party for the procedure u/s. 14 of the SARFAESI Act and hence, in the present case the proceeding follows as per Section 14 of the SARFAESI Act.
3. The Ld. Advocate for the Applicant has argued as per the averments made in the application at Exh.1 and prayed for allowing the same.
4. Before determination of this case, it would be necessary to refer some of the pronouncements governing the determination of an application filed u/s. 14 of the

SARFAESI Act, 2002 and the relevant paras of the same are reproduced here-in-below :-

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

“52. 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.”

“54. 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.”

- (2) The Hon'ble Gujarat High Court in *Devani Jagdishbhai Dayabhai (Third Party) vs. District Magistrate Surat* reported in LAWS (GJH) 2018-12-26 held as under :

“27. I do not find any merit in the contention that the District Magistrate should have provided an

opportunity of hearing to the writ applicant in the proceedings under section 14 of the SARFAESI Act. The Supreme Court in the case of Harshad Govardhan Sondagar(supra) and Vishal N. Kalsaria V/s Bank of India [(2016) 3 SCC 762] has not laid down the law that the borrower or any aggrieved person may also be extended an opportunity of hearing in the proceedings under section 14 of the SARFAESI Act.”

5. As per the Judgment of Hon’ble Supreme Court of India in case of *M/s. R.D. Jain vs. Capital First Ltd.* Dtd. 27/7/2022, this being Addi Chief Judicial Magistrate is also covered under provision of SARFAESI Act, in terms of “Chief Judicial Magistrate”. Therefore, this Court has been empowered by the said Judgment.
6. Considering the material produced by the Applicant, it is transpires that though the legal notice as per the provisions of Section 13 (2) of the SARFAESI Act has been served upon the opponents, they have not complied to the legal notice. Further, the Applicant has satisfied the requirement of Section 14 of the SARFAESI Act so as to entitle it to have assistance of this Court. The secured asset has been situated within the jurisdiction of this Court. As per the pronouncement of Hon’ble Supreme Court in Indian Bank Case (Supra), the Chief Judicial Magistrate is also

empowered to entertain the application filed u/s. 14 of the SARFAESI Act. Hence, in view of the aforesaid discussion, I hereby pass following Final Order in the interest of justice :-

- FINAL ORDER -

1. The Applicant's present application is hereby allowed.
2. I authorize, **Mr. L. D. Solanki - Assistant, Principal Senior Civil Court, Padra** to act as Court Commissioner under Section 14 (1-A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
3. The applicant is hereby ordered to deposit the Court Commissioner's remuneration amount of Rs.20,000/- (Rupees Twenty Thousand Only) in the Court of Chief Judicial Magistrate, Taluka Padra, Dist. Vadodara within 10 working days from the filing of the said application.
4. Court Commissioner is directed to take possession of asset and forward such asset to the secured creditor.
The description of such asset is as under :-

SCHEDULE OF PROPERTY**Description of the Mortgaged Secured Assets:**

All that Part and Parcel of The Property Bearing No. Survey No.294, Plot No.19, Ground Floor, Plot Admeasuring 90.10 Sq.Mtrs and Road Admeasuring 19.90 Sq.Mtrs, Narayan Park, Padara Ghayaj Road, Moje Village: Padra, District Vadodara, Gujarat-391440.

Bounded as follows:-

East: Margin Space Here

West: Society Common Road

North: Margin Space Here

South: Plot No.18

5. 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 she/ he may thinks fit, which is permitted under the law.
6. After taking 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.
7. Further, the Applicant may entitle for police protection / assistance in this regard on completion the necessary formalities for seeking police assistance /

protection and also bear the expenses thereof.

8. 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. The Court Commissioner is directed to complete the said procedure within 30 days from the issuance of the Commission Patra 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.

Signed and pronounced in the open Court today on this 05th day of March, 2026 at Padra.

Date : 05/03/2026
Place : Padra

(Z. N. Munshi)
Add. Chief Judicial Magistrate,
Ta. Padra. Dist. Vadodara.
(Judge Code No.GJ01034)

MM ASHIF (STENO)