

GJVD050005522026



Received on 03/03/2026
Registered on 03/03/2026
Evidence concluded on 20/04/2026
Arguments concluded 20/04/2026
Reserved for Judgment 21/04/2026
Judgment declared on 21/04/2026
Duration: 0Year/1 Month/18 Days

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, AT: SAVLI, DIST: VADODARA**

Criminal Misc. Appli. No.101/2026

Applicant :-

AU Small Finance Bank

A Company registered under the Companies Act, 1956

Branch Office at:

404- 406, Golden Icon Building,

Opp. BSNL Office, Race Course Circle, Vadodara.

Through its Authorized Officer,

Mr. Manmohan Shivprakash Kshatriya

V E R S U S

Opponents :-

1. M/s. IPL Bricks (Borrower)

Add: Ghodaghar Mandir Faliyu, At : Madodhar,

Tal.: Waghodia, Dist.: Vadodara 391760

2. Oad Vikrambhai Babubhai (Co-borrower)

*A.K.Mavalankar
Additional Chief Judicial Magistrate, Savli.*

3. Oad Geetaben (Co-borrower)

Add: Mahadev Temple, Near Water Tank,
At: Madodhar, Sangadol, Tal. : Waghodia,
Dist.: Vadodara 391760

Also at : Property situated at
Property No. 755, First Floor, At : Madodhar,
Tal.: Waghodia, Dist.: Vadodara 391760

Appearance:

Ld. Advocate **Mr. D.P.Patel** for Applicant.
None appeared on behalf of Opponents.

**Subject :- Judgement in The Securitisation and
Reconstruction of Financial Assets and Enforcement
of Security Interest Act, 2002**

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

- (1) Present application is filed by applicant (secured creditor) namely **AU Small Finance Bank through its Authorized Officer -Mr. Manmohan Shivprakash Kshatriya** under section-14 of THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 (herein after referred as SARFAESI Act for brevity) against respondents namely **(1) M/s. IPL Bricks (Borrower), (2) Oad**

A.K.Mavalankar
Additional Chief Judicial Magistrate, Savli.

Vikrambhai Babubhai (Co-borrower) & (3) Oad Geetaben (Co-borrower). Along-with this application affidavit as per section-14 of the Act is filed. Affidavit with regard to property (secured assets) is also mentioned in **Schedule of Property-1**. Check-list is also produced along-with this application. List of the documents also came to be filed at **Exh.-3**.

- (2) Be it noted that, as per judgement of Hon'ble Allahabad High Court in case of *Shipra Hotels Limited Vs. State of U.P. in WRIT - C No. - 22594 of 2022. Dtd. 25.11.2022* has observed as under with regard to issuing notice to the borrower before deciding an application filed under section-14 of SARFAESI Act.

"52. In view of the above discussion, it is held that the CMM/DM acting under Section 14 of the SARFAESI Act, 2002 is not required to give notice to the borrower at the stage of the decision or passing order as no hearing can be demanded by the borrower at this stage. However, it is clarified that the order passed by such Magistrate has to be duly served upon the borrower before taking any steps for his forcible dispossession by such steps or use of force, as may be necessary in the opinion of the Magistrate, and the date fixed for such forcible action shall be duly intimated to such borrower in advance giving him sufficient time to remove his belongings, or to make alternative arrangement."

- (3) Hence, this Court after keeping the ratio of above judgement in mind, decided this application without issuing notice to the borrower. Ld. Advocate

Mr. D.P.Patel for the applicant submitted that affidavit of authorized officer is as per required by Law. He also submitted that, while deciding an application u/s.14 of The Act, Magistrate's Act is ministerial act. Hence, no detail inquiry is required. It is also submitted that, Magistrate is not bound to check validity of transaction which took place between secured creditor and borrower. It is also submitted that secured asset is situated within territorial jurisdiction of this Court. This, Court has jurisdiction to decide this application. Hence, prayer is advanced to allow this application.

- (4) Before deciding this application, this Court would like to refer herein some judgements, which are very much important for just decision of this application.
- (5) Hon'ble Supreme Court in case of *M/s. R.D.Jain Vs. Capital First Ltd. reported as AIR 2022 SC 4820*, has held as under.

“12. We are in complete agreement with the view taken by the High Court that (i) the District Magistrate, Chief Metropolitan Magistrate is not a persona designata for the purposes of 14 of the SARFAESI Act; (ii) the expression "District Magistrate" and the "Chief Metropolitan Magistrate" as appearing in 14 of the SARFAESI Act shall deem to mean and include Additional District Magistrate and Additional Chief Metropolitan Magistrate for the purposes of 14 of the SARFAESI Act.”

- (6) Further, Hon'ble Supreme Court in this judgement in

para.8.1 also observed as thus.

*“8.1 However, for taking physical possession of the secured assets in terms of 14(1) of the SARFAESI Act, the secured creditor is obliged to approach the CMM/DM by way of a written application requesting for taking possession of the secured assets and documents relating thereto and for being forwarded to it (secured creditor) for further action. The statutory obligation enjoined upon the CMM/DM is to immediately move into action after receipt of a written application under 14(1) of the SARFAESI Act from the secured creditor for that purpose. As soon as such an application is received, the CMM/DM is expected to pass an order after verification of compliance of all formalities by the secured creditor referred to in the proviso in 14(1) of the SARFAESI Act and after being satisfied in that regard, to take possession of the secured assets and documents relating thereto and to forward the same to the secured creditor at the earliest opportunity. As mandated by 14 of the SARFAESI Act, the CMM/DM has to act within the stipulated time limit and pass a suitable order for the purpose of taking possession of the secured assets within a period of 30 days from the date of application which can be extended for such further period but not exceeding in the aggregate, sixty days. **Thus, the powers exercised by the CMM/DM is a ministerial act. He cannot brook delay. Time is of the essence.** This is the spirit of the special enactment. As observed and held by this Court in the case of **NKGSB Cooperative Bank Ltd. (supra)**, the step taken by the CMM/DM while taking possession of the secured assets and documents relating thereto is a ministerial step. It could be taken by the CMM/DM himself/herself or through any officer subordinate to him/her, including the advocate commissioner who is considered as an officer of his/her court. 14 does not oblige the CMM/DM to go personally and take possession of the secured assets and documents*

A.K.Mavalankar
Additional Chief Judicial Magistrate, Savli.

relating thereto. Thus, we reiterate that the step to be taken by the CMM/DM under 14 of the SARFAESI Act, is a ministerial step. While disposing of the application under 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, 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets.”

- (7) Having gone through ratio laid down by this judgement it is crystal clear that, Magistrate acting in pursuance powers envisaged u/s.14, performs ministerial act and at any point of time he/she is not supposed to apply judicial mind. Concerned Magistrate is only supposed to verify correctness of the information given in the application. It is also clear that, borrower is not required to be heard and no notice is required to be issued on the borrower. Hence, taking clue from the above ratios, this court has decided this application, as per mandate of Law.
- (8) It appears from **Schedule of Property-1** that secured asset is situated within territorial jurisdiction of this Court. It also transpires from **Mark-3/4** that notice u/s.13(2) is also issued against the borrower. Hence, section-14(1)'s pre-requisite conditions are fulfilled which makes financial institution entitle 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 under section 14 of the SARFAESI Act. Hence, in view of the aforesaid reasons and discussion made herein above, allowing present application following order ensues:

-:: Final order ::-

1. The Application of the applicant is hereby allowed.
2. I authorize, **Mr. H. B. Bhabhor, Bench Clerk, Grade-III, Additional Civil Court, Tal: Savli, District: Vadodara** 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. 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 : -

Description of Mortgaged Property/Secured Asset.
All that piece and parcel of the immovable property situated at Property No. 755 admeasuring 114.31 Sq. Mtrs., Ground Floor built up area admeasuring 1230 Sq. Ft., First Floor Built Up area admeasuring 675 Sq. Ft. of Moje : Madodhar, Tal. Waghodia, Dist. – Vadodara 391760
The boundaries are as under :
East : Open Space then Arvindbhai Dipabhai

A.K.Mavalankar
Additional Chief Judicial Magistrate, Savli.

West : Road, North : Chandu Chimanbhai Patel, South : Temple and Arvindbhai Babubhai Oad,

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 she/ he may think fit.
5. 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.
6. Copy of this order be sent to the concerned Police Station. The 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.
7. The Applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.
8. The Court Commissioner may take or cause to be taken such steps and use, or cause to be used such force, as may, in her/his opinion be necessary.
9. As 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 Applicant is hereby directed to deposit lump-sum amount of **Rs.20,000/-** towards the expenses and remuneration of Court Commissioner. The Court Commissioner is directed to complete the said procedure within 60 days or within the time limit extended by the Court and submit the compliance report of completion of proceedings.

10. The Court Commissioner shall carry out the said proceedings on public holidays or except court working hours.

Order signed and pronounced in open Court
today on 21st April, 2026

Dt.21/04/2026 Savli.	(Abhijit Keshav Mavalankar) Additional Chief Judicial Magistrate Tal:- Savli, Dist:- Vadodara Judge Code-GJ-00677
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/R.J.Chauhan/

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Additional Chief Judicial Magistrate, Savli.