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**CRIMINAL MISCELLANEOUS APPLICATION No.438/2026**

(Bank of Maharashtra Vs. M/s. Precaution Electrical +5)

**ORDER BELOW EXH.1.**

1. Application is raised by Authorized Officer of the applicant Bank (for short Secured Creditor under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short “SARFAESI Act”) requiring this Court to assist in restoration and restitution of possession of secured assets as elaborated in the application.

2. Applicant had previously filed an application before this Court seeking assistance for taking possession of mortgage property vide Criminal Miscellaneous Application No.679/2025 which was allowed by this Court order dated 06/01/2026. In pursuance of said order, through Court Commissioner applicant had taken possession of subject property on 17/02/2026 and 18/02/2026 respectively. But, again opponents had taken illegal possession of subject property for which FIR No.100/2026 is lodged at Vishrambag Police Station, Sangli on 20/03/2026 and FIR No.88/2026 is lodged at MIDC Kupwad, Police Station on 10/04/2026.

3. The copy of order passed by this Court in Cri. M.A. No.679/2025 is filed at Exh.3/1, possession panchanama dated 17/02/2026 by Court Commissioner is filed at Exh.3/2, copy of possession receipt issued by Court Commissioner dated 17/02/2026

is filed at Exh.3/3, possession panchanama dated 18/02/2026 by Court Commissioner is filed at Exh.3/4, copy of possession receipt issued by Court Commissioner dated 18/02/2026 along with muddemal yadi is filed at Exh.3/5. Copies of two FIR are filed at Exh.3/6 & 3/7 which shows that non-applicants opened the seal of the locked and removed banner applied to the secured asset and committed criminal trespass. Ld. Advocate for applicant relied upon the following Judgment -

**i) The Nashik Merchant Co-operative Bank Vs. The District Collector, Jalna (W.P. No.10069/2022, decided on 28/02/2023)**

Wherein it has been held by the Hon'ble Bombay High Court that there,

*“There is no prohibition under SARFAESI Act preventing CJM/CMM/DM from re-exercising powers to restore possession of secured assets if forcibly taken back by borrower AND it is necessary to restore the possession to the secured creditor to deprecate rising tendency of using criminal force against recovery proceeding undertaken by financial institutions. It has been also held that “once the order has been passed under Section 14 of SARFAESI Act, until and unless the entire outstanding amount is recovered, the order remains valid.”*

4. The ratio is applicable in the present case. There is no bar to file fresh application under section 14 of SARFAESI Act, if opponents had taken illegal possession of the suit property. It is seen that despite of possession taken by the Bank on 17/02/2026 and 18/02/2026, non-applicants had taken illegal possession of the suit property. The contentions are supported by documentary evidence. There is no bar to file fresh application under section 14 of SARFAESI Act, if non-applicants had taken illegal possession of the suit property. Hence, I have no hesitation to allow present application.

5. In pursis, name of **Shri. Sandeep Hanmant Koli-Patil** advocate as Commissioner to assist this Court in the execution of order to be passed under Section 14 (1) of the SARFAESI Act, 2002 is elaborated. Therefore, I pass the following order.

**ORDER**

1. Application is allowed.
2. Advocate **Shri. Sandip Hanmant Koli-Patil** is hereby appointed as Court Commissioner to assist this Court in the execution of this Order with direction to take physical possession of the secured asset mentioned in the instant application by taking such steps and using such force as may be required including liberty to break/open the lock thereof (if need be) and to forthwith deliver the physical possession of the said secured asset/s to the applicant Bank and submit compliance report, soon after such execution.
3. The Court Commissioner to take such steps by taking assistance of police, if required at the expenses of the applicant and if any articles/documents found in the secured asset, then deliver its possession to the Authorized Officer of the applicant after preparing panchanama and taking inventory.
4. The Police Officer in-charge of concerned Police Station is directed to provide necessary police protection, assistance for the execution of aforesaid possession warrant at the cost of applicant Bank.
5. Issue writ of commission accordingly on payment of Rs.20,000/- by the applicant as commission fees as possession of five properties is needed to be taken. The Commissioner shall conduct the commission and submit the compliance report.
6. The proceeding is accordingly disposed off.

Sangli  
Date- 03/08/2026

**(P. R. Wagdole)**  
Additional Chief Judicial Magistrate,  
Sangli. (Court No.4)

**CERTIFICATE**

I affirm that the contents of this PDF file judgments/Order is same wo as per the original judgment/order

|     |                                |   |                                                             |
|-----|--------------------------------|---|-------------------------------------------------------------|
| (a) | Name of the Stenographer       | : | Mr. S. K. Jadhav, (Grade -II)                               |
| (b) | Court name                     | : | P. R. Wagdole,<br>IV Jt. C.J.S.D., & Addl. C.J.M.<br>Sangli |
| (c) | Judgment/Order signed by PO on | : | 03/08/2026                                                  |
| (d) | Judgment/Order uploaded on     | : | 03/08/2026                                                  |