Present on	:	08/06/2026		
Registered on	:	08/06/2026		
Decided on	:	15/06/2026		
Duration	:	Ys	Ms	Ds
		00	00	08

IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE & ADDITIONAL CHIEF JUDICIAL MAGISTRATE, OLPAD

CrMAJ No. 300/2026
Exh.:

Applicant :- **Bajaj Housing Finance Limited**
Having their Branch Office at:
Office No. 402, Forth Floor, Aastha Corporate Capital, VIP Road, Bharthana, Surat-395007.
Through its authorized Officer: **Rahul Singh.**

Versus

Defendants
(1). :- **Darshanaben Nimeshkumar Patel**
(2). :- **Nimeshkumar Dineshbhai Patel**
Address :- 23, Krushna Kunj, Mulad, Kim, Surat-394110.

Appearance:
Ld. Advocate J. H. Isapara for the Applicant.
No one has appeared for the Defendants.

Sub:- Application for taking possession of the immovable property (secured asset) u/s. 14 of the SARFAESI Act, 2002.

: : O R D E R : :

1. The present application has been filed by the applicant against the Opponents under Section-14 of the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act) Act for taking possession of secured asset as defined in Section-2(zc) of the SARFAESI Act mentioned in the application and forward it to the applicant. The concise statement of the applicant's case is that the applicant is secured creditor as defined in Section-2(zd) of the SARFAESI Act and the opponents are borrower as defined under Section-2(f) of the SARFAESI Act. The applicant has been notified as financial institution for the purpose of the SARFAESI Act. 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 authorized officer has submitted his affidavit to that effect. Hence, the present application.

<u>Evidence of the Applicant:</u>

2. The applicant has submitted his affidavit along with the application as is required by the first Proviso to Section-14(1) of the SARFAESI Act and has submitted following documents vide mark 3/1 to 3/7 in support of his application.

<u>Submissions on behalf of the applicant:</u>

3. The Ld. Advocate on behalf of the applicant has argued as per the averment made in the application.

4. Following issues are framed for determination of this case:-

Sr. No.	Points for Determination
1.	Whether the applicant is entitled to the relief claimed in the application?

Sr. No.	Points for Determination
2.	What Order ?

5. My findings for the above issues are as under :-

Sr. No.	Finding
1.	Affirmative
2.	As per the final order.

: : R E A S O N S : :

6. 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 vs. V. Noble Kumar"** reported in **(2013) 9 SCC 620** has held as under;

> *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 - S. 13(4), 14, 15, 17 - Security Interest (Enforcement) Rules, 2002, - R.8 - loan - mortgage on property - secured assets - respondent no. 1 is a guarantor of the borrower to loan transaction whereby respondent no. 2 borrowed a loan from appellant - notice u/s. 13(2) of SARFAESI Act issued to respondent no. 1 and 2 - failure to repay loan - even no objection raised to the notice - appellant resorted remedy u/s. 14 of the Act for the possession of the secured asset - respondent no. 1 challenged the proceedings before the High Court wherein he succeeded - whether permitting the creditor to invoke S. 14 without first resorting to the procedure u/s. 13(4) would deprive the owner of the secured asset an opportunity to prefer an "appeal" to have his grievances adjudicated - held, secured creditor may initially resort to the procedure u/s. 13(4) and on facing resistance, he may still approach the Magistrate u/s. 14 - secured creditor is entitled to take possession of the secured assets - assistance of judicial*

power of obtaining possession of the secured assets - not mandatory for the secured creditor to make an attempt to obtain possession on his own before approaching the Magistrate u/s. 14 of the Act - borrower's remedy u/s. 17 of the Act by way of Appeal.

7. The Hon'ble Supreme Court has in **Indian Bank v. 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.*

8. The Hon'ble Bombay High Court in **CA. Manisha Mehta and Ors. Vs. The Board of Directors of Represented by its Managing Director of ICICI Bank and Ors.** reported in **AIRONLINE 2022 BOM 1846** held as under;

> *8. Pertinently, Section 14 of the SARFAESI Act was amended twice, once in 2013 and then again in 2016. If it were the intention of the legislature to extend opportunity of hearing to a borrower before the District Magistrate/Chief Metropolitan Magistrate, as the case may be, it was free to do so. Advisedly, the legislature did not do so, for, it would have militated against the scheme of the SARFAESI Act and more 5902.wpl.8418-22 particularly Section 13 thereof. It is implicit in the scheme of the SARFAESI Act that natural justice, only to a limited extent, is available and not beyond what is expressly provided. There seems to be little merit in the argument advanced by Mr.*

> *Nedumpara and we hold that the language of* ***Section 14 is too clear and unambiguous, and does not admit of any requirement of complying with natural justice by putting the borrower on notice while an application thereunder is under consideration.***

9. The Hon'ble Gujarat High Court in **Devani Jagdishbhai Dahyabhai (Third Party) Appellant Vs. DISTRICT MAGISTRATE SURAT Respondents 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 vs. 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."*

10. Considering the material produced by the applicant and perusing the affidavit submitted by the authorized officer of the applicant, it transpires to this court that 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 withing the jurisdiction of this court. As per the pronouncement of the Hon'ble Supreme Court in Indian Bank Case (supra), the Additional Chief Judicial Magistrate is also empowered to entertain the application filed under Section-14 of the SARFAESI Act. So, in view of the aforesaid reasons and discussion, my finding on the issue No. 1 is in affirmative. So far as to the issue No. 2 is concerned, I hereby pass following final order in the interest of justice:

: : F I N A L   O R D E R : :

1. The Application of the applicant is hereby ***'Allowed'.***

2. I authorize, **Geetaben Gamanbhai Patel, Assistant,** 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 immovable property bearing Flat No. 204, Second Floor, admeasuring 638.00 sq.fts., i.e. 59.27 sq.mtrs., along with 14.81 sq.mtrs., undivided share over the original land "GOKUL APARTMENT" Amrut Nagar, bearing block no. 177 paiki plot nos. 64 & 65, city survey sheet no. 16, Chalta no. 24 & 23, city survey no. 5168 & 5167, situated at Village: Kim-Kathodara, Taluka: Olpad, Dist. Surat.

BOUNDED AS :-

North: Flat No. 205,
East: Flat no. 203 after leaving passage street,
West: Open to sky space,
South: Open to sky space.

i. If the secured asset is found in closed condition, the Court Commissioner may take possession of this secured asset by breaking / opening the lock or may take any other steps Court Commissioner may think fit.

ii. After taking the possession of the secured asset, Court Commissioner shall prepare the inventory of any item, Documents relating to the asset if found in secured Asset and handover the same to the applicant.

4. 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 Asset 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.

5. The Applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.

6. 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 necessary.

7. Applicant shall bear the expenses incurred in taking possession of the secured asset and shall provide all necessary assistance to the Court Commissioner in taking possession of the secured asset. Applicant is hereby directed at present to deposit lump-sum amount of Rs. 10,000/- (Rupees Ten Thousand), towards the expenses and remuneration of court commissioner, within one month from the date of Order. On depositing the above said amount in the court, the Court Commissioner is

directed to complete the said procedure within 90 days or within the time limit extended by the court and submit the compliance report of completion of proceedings.

8. The court commissioner shall carry out the said proceedings on public holidays or except court working hours.

Signed & Pronounced in the open Court on 15th day of June, 2026 at Olpad, Surat.

Date: 15/06/2026
Place: Olpad.

(Smt. N. D. Sharma)
Principal Senior Civil Judge &
Addl. Chief Jud. Mag., Olpad.
Code No. GJ00555