IN THE COURT OF 5th ADDITIONAL CHIEF JUDICIAL MAGISTRATE AT : GANDHINAGAR

Criminal Misc. Application No. 1400 of 2026

Exh. No. 4

Applicant :

URGO CAPITAL LIMITED
Having its registered office at :
EQUINOX Business Park,
Tower 3, 4th Floor, LBS Road,
Kurla (West), Mumbai - 400070.
Having its Branch Office at :
A/1002, BVR EK, Opp. Inder Residency,
Nr. Gujarat College, Ellisbridge,
Ahmedabad - 380006.
Through the : Authorised Signatory and
Power of Attorney Holder Dhwani Brahmbhatt.

VERSUS

Respondents :

1. Ashirwad hosiery (Borrower)
Satguru Products, 24 - Old G-Ward,
Kubernagar, Ahmedabad - 382340.
Also at :
Bungalow No. 42, Rivera - 51,
Mouje : Chiloda, Naroad,
Dist. : Gandhinagar - 382355.
2. Riya haresh Gurnani (Co-Applicant)
3. Chandrakant Nathumal Gurnani (Co-Applicnt)
Bungalow No. 51, Rivera 51,
Nr. Parth Bungalow, Nana Chiloda,
Ahmedabad - 382330.
Also at : Bungalow No. 42, Rivera - 51,
Mouje : Chiloda, Naroad,

Dist. : Gandhinagar - 382355.

Sub. : Application u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (In short SARFAESI ACT).

APPEARANCE:
Adv. For the Applicant : Chintan R. Abichandani
Adv. For the Opponents : Nil

:: JUDGEMENT ::

[1] The present application has been filed by the applicant under section 14 of the securitization and reconstruction of financial assets and enforcement of security interest act 2002 (herein after to be referred to as SARFEESI Act) on the ground that, the opponents had approached the applicant for availing the credit facility and opponents are residing at the address mentioned in the cause title of this application and had approached the applicant by way of an application and inter alia requested to availed financial facility from application towards Loan and accordingly the applicant company has sanctioned and disbursed the said facility of an amount of Rs.3,20,00,000/-

[1.2] The applicant has submitted that opponents have failed to make repayment of the dues therefore, account of the opponents has been classified as Non-Performing Asset on 29.01.2026.

[1.3] The applicant has further submitted that the applicant had issued notice under **Section 13(2**) of the SARFAESI Act. The said notice was duly served upon the opponents. That by way of the said notice the opponents were called upon to pay outstanding amount Rs.3,43,85,789/- towards loan facility within statutory period of 60 days of the date of notice as prescribed under the Act, failing which it was stated that the applicant company would be constrained to take recourse under the provisions of the said act in respect of the secured asset.

2] In catena of Judgments Hon'ble Supreme Court have settled the position of law that no notice is required to be issued to borrowers and guarantors when application Under Section 14 of SARFAESI Act is filed. Thus, no notice is issued by Court to Opponents.

3] Heard learned advocate for the applicant. Perused the Record. While Exercising aforesaid issue under Section 14 of the SARFAESI ACT which is required to be considered.

Section 14 of the SARFAESI ACT reads as under:

> 14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.
>
> (1) Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the

provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him

(a) take possession of such asset and documents relating thereto;

(b) forward such asset and documents to the secured creditor.

[Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorized officer of the secured creditor, declaring that-

(i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

(ii) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;

(iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above.

(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;

(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a nonperforming asset

(vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower;

(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;

(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secl1red assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;

(ix) that the provisions of this Act and the rules made thereunder had been complied with:

Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the 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] [Inserted by Act No. 1 of 2013]:-

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.] [Substituted by Act No. 44 of 2016.] [Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.] [Inserted by Act No. 44 of 2016.]

(1A) [The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,-

(i) to take possession of such assets and documents relating thereto; and

(ii) to forward such assets and documents to the secured creditor.]

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate 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

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate [any officer authorised by the Chief Metropolitan Magistrate or District Magistrate] [Inserted by Act No. 1 of 2013] done in pursuance of this section shall be

called in question in any Court or before any authority.

[4] In the case of ***Trade Well, A Proprietorship Firm vs Indian Bank, A Body Corporate Consulted reported in 2007 Cri. L.J 2544*** wherein Hon'ble Bombay High Court, held in para 90 that ;

90. Following conclusions emerge from the above discussion:

1. The bank or financial institution shall, before making an application under Section 14 of the NPA Act, verify and confirm that notice under Section 13(2) of the NPA Act is given and that the secured asset falls within the jurisdiction of CMM/DM before whom application under Section 14 is made. The bank and financial institution shall also consider before approaching CMM/DM for an order under Section 14 of the NPA Act, whether Section 31 of the NPA Act excludes the application of Sections 13 and 14 thereof to the case on hand.

2. CMM/DM acting under Section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party.

3. He has to only verify from the bank or financial institution whether notice under Section 13(2) of the NPA Act is given or not and whether the secured assets fall within his jurisdiction. There is no adjudication of

4. It is only if the above conditions are not fulfilled that the CMM/DM can refuse to pass an order under Section 14 of the NPA Act by recording that the above conditions are not fulfilled. If these two

conditions are fulfilled, he cannot refuse to pass an order under Section 14.

5. Remedy provided under Section 17 of the NPA Act is available to the borrower as well as the third party.

6. Remedy provided under Section 17 is an efficacious alternative remedy available to the third party as well as to the borrower where all grievances can be raised.

7. In view of the fact that efficacious alternative remedy is available to the borrower as well as to the third party, ordinarily, writ petition under Articles 226 and 227 of the Constitution of India should not be entertained.

8. In exceptional cases of gravest injustice, a writ petition could be entertained by this Court.

9. Great care and caution must be exercised while entertaining a writ petition because in a given case it may result in frustrating the object of the NPA Act.

10. Even if a writ petition is entertained, as far as possible, the parties should be relegated to the remedy provided under Section 17 of the NPA Act before the DRT by passing an interim order which will protect the secured assets. Adjudication and final order should be left to the DRT as far as possible.

[5] Further, in the case of ***Balkrishna Rama Tarle Dead Through Lrs vs Phoenix Arc Private Limited*** wherein Honble Supreme Court held that :

9. Thus, in view of the scheme of the SARFAESI Act, more particularly, Section 14 of the SARFAESI Act and the nature of the powers to be exercised by learned Chief Metropolitan Magistrate/learned District Magistrate, the High Court in the impugned judgment and order has rightly observed and held that the power vested in the learned Chief Metropolitan Magistrate/learned District Magistrate is not by way of persona designata."

Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial step and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal. Under the circumstances in the present case no error has been committed by the High Court in setting aside the order dated 27.08.2021 passed by the designated authority keeping the application pending till the secured creditor initiates the legal proceedings for eviction of the tenant cannot get the possession in an application under Section 14 of the SARFAESI Act. The High Court has rightly directed the designated authority to proceed further with the application under Section 14 of the SARFAESI Act, and to dispose of the same in accordance with the provisions of Section 14 of the SARFAESI Act.

[6] In view of the above decision and for the reason stated above this court has very limited scope with respect to the cases under Section 14 of the SARFAESI Act. I am satisfied that the contents of the affidavit are fully supported by the documents produced. Apart from that, sufficient time has been given by the applicant to the opponents to make repayment of the outstanding dues, but the opponents failed to pay he outstanding amount. Further, property is also situated in jurisdiction of this court Hence, considering the above discussion, I pass the following order :

FINAL ORDER

1. The present application is hereby allowed.

2. I authorize, K.A.Solanki, District Court, Gandhinagar as Court Commissioner under Section 14 (1-A) of SARFAESI ACT.

3. The Court Commissioner is directed to take possession of property (secured asset) mentioned in the present application, which is situated within the jurisdiction of this court. The description of the property is as under:

Description of the mortgaged property/ secured asset:

Security - 1 :- All that title and interest over the piece and parcel of residential property bearing Bungalow No. 51, Admeasuring 188 sq. yards Land Area, Admeasuring 260 sq. yards land area

& Admeasuring 150 sq. yards, in the scheme known as "Rivera 51" situated on survey no. 57/1, 57/2, 57/3, 57/4 & 57/6 (as per slae deed no. 10037/2013) F.P. No. 8,9,10,11 and 13 of TP No. 99 of Mouje Village : Chiloda (Naroda) of Taluka & Dist. : Gandhinagar.

Property Description :

East	**:**	**Open Plot**
West	**:**	**Society Garden**
North	**:**	**CW Then Road**
South	**:**	**Bungalow No. 50.**

Security - 2 :- All that title and interest over the piece and parcel of residential property bearing bungalow No. 42, admeasuring 159 sq. yards land area, admeasuring 58 sq. yards road, common plot, total admeasuring 217 sq. yards land area & admeasuring 150 sq. yards. In the scheme known as "Rivera 51", situated on survey no. 57/1, 57/2, 57/3, 57/4 & 57/6 (as per sale deed no. 3242/2012) F.P. No. 8,9,10,11 and 13 of TP No. 99 of Mouje Village : Chiloda (Naroda) of Taluka & Dist. : Gandhinagar.

Property Description :

East	**:**	**Society Road,**
West	**:**	**Bungalow No. 41**
North	**:**	**Society Garden,**
South	**:**	**Bungalow No. 43.**

4. 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 he/she may think fit.

5. After taking the possession of the secured asset, the 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.

6. If required, the concerned Police Inspector of the concerned police station, under whose Jurisdiction, the aforesaid secured asset is situated, shall provide necessary police arrangement/protection to the Court Commissioner, on the date appointed by the Court Commissioner for taking possession of the secured asset, as per the Circular of Home Department, Bearing No SB-II, GNH/112017/998-PART FILE, dated 03.12.2020. On production of the copy of this order before the concerned police station, the police inspector of the concerned Police Station, shall provide police protection within 30 days from the receipt of the copy of this Court order.

7. The applicant 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 be necessary, in his/her opinion.

9. Copy of this Order be sent to the concerned Police Station.

10. 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 assets.

11. Notice to be issued after verifying deposited amount of Rs.25,000/- (TWENTY FIVE Thousand only).

12. 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.

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

Order Signed and Pronounced in open Court on 3rd Day of July, 2026.

Date :- 03.07.2026
Place :- Gandhinagar

(R.K.Pandya)
5th Addl. Chief Judicial
Magistrate, Gandhinagar.
Judge Code :GJ00669

J.V.Soni