Misc Case No. – 143 of 2026

Order dt. – 02.06.2026

Learned Advocate for the petitioner files hazira.

Today is fixed for verification of the document and hearing.

Learned Advocate for the petitioner has produced copies of documents before the Head Clerk and the same have been considered.

Heard learned Advocate for the petitioner.

To 17.06.2026 for order.

CJM, Birbhum

WB00930

Misc Case No. – 143 of 2026

UCO Bank (Purandarpur Branch) .... Petitioner.

Vs

Mr Sekh Salauddin .... Respondent

Order dt. – 17.06.2026

The record is taken up for order.

The brief fact is that the present petition has been filed by the Petitioner under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the ‘SARFAESI Act’), seeking assistance for taking possession of the secured asset described as:

“ All the part and parcel of the property consist of Land & Building measuring 12 satak vide Sale Deed being No. 1-3737/2022 dated 28.03.2022 in the name of Mr. SEKH Salauddin S/O Lt. SEKHLokman, situated in L.R. Plot No. 253, Khatian No. 1543, J.L. No. 158 at Mouza Domaipur, P.O. Abinashpur, P.S. Panrui, Dist - Birbhum, registered within Sub Registrar's Office of Siuri.

Details of Boundaries:

North: By the Vacant land

East: By the Vacant land

South: By the Vacant land

West: By the Road”.

The Petitioner is a secured creditor and had advanced financial assistance of Rs. 13,50,000/- sanctioned on 27.05.2022 to the Respondents against the security of the above mentioned property. But the total outstanding loan amount stands as Rs. 13,50,000/-.

From the petition, as well as the affidavit submitted as per the requirement of the SARFAESI Act, security agreement, and the title documents, it appears that the secured asset is situated within the territorial jurisdiction of this court. The properties are in the name of the Respondent. The original title documents in respect of the said property are with the petitioner, thereby creating an equitable mortgage.

It is submitted that due to default in repayment, the account of the Respondents has been classified as a Non-Performing Asset (NPA), and a demand notice under Section 13(2) of the SARFAESI Act was issued on 18.02.2025 and served by hand service on same date, requiring the Respondents to clear the outstanding dues. This is in accordance with the judgment of Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311, where the Hon'ble Supreme Court upheld the constitutional validity of the SARFAESI Act and clarified the rights of secured creditors.

As the Respondents failed to discharge their liabilities, the Petitioner took measures under Section 13(4) of the SARFAESI Act on 16.05.2025 and notice u/s. 13(4) of the SARFAESI Act have been served upon the Respondents by paper publication on 16.05.2025. However, the Respondents did not voluntarily surrender possession, necessitating the present application. The Hon'ble Supreme Court in the case of Standard Chartered Bank v. V. Noble Kumar, (2013) 9 SCC 620, emphasized that the secured creditor has an absolute right to take possession of the secured asset once the borrower defaults and statutory procedures are followed.

The Petitioner has complied with all statutory requirements under the SARFAESI Act, including submission of an affidavit as required under Section 14(1) of the Act. The affidavit contains: (i) A statement affirming the classification of the account as an NPA; (ii) Details of the secured asset and the outstanding amount; (iii) Confirmation that the requisite demand notice under Section 13(2) was duly served; (iv) Declaration that no repayment or valid objection was made by the Respondent(s); (v) Confirmation that possession has not been taken despite compliance with the prescribed procedure.

Learned Advocate for the petitioner undertook that there is no stay by any competent court or forum in favour of the opposite parties in respect of the secured assets.

The amount due is not less than twenty percent of the principal amount and interest as per clause (j), and the property is not one hit by other clauses of Section 31 of the SARFAESI Act. Sixty days' notice given under Section 13(2) of the SARFAESI Act has been seen, giving details of the outstanding amount and details of the secured asset, along with postal documents and the newspaper publication.

The Petitioner relied on documents such as the loan sanction order, loan agreement, memorandum of deposit of title deed, title deed of mortgage property, notice given under Section 13(2) of the SARFAESI Act to the opposite parties, proof of delivery of notice, paper publication, etc.

Upon perusal of the petition, the documents annexed thereto, and the affidavit filed by the authorized officer of the Petitioner, this Court is satisfied that the Petitioner has made out a prima facie case for the grant of relief sought.

Hence based on the above facts and circumstances and upon satisfaction as to the fulfillment of the statutory requirements, the application filed u/s. 14 of the SARFAESI Act, 2002 is allowed.

Relying on the judgment passed by the Hon'ble Supreme Court in the matter of NKGSB Cooperative Bank Limited vs. Subir Chakravarty and Ors., dated 25 February, 2022, in which it was held that an advocate is an officer of the court and, thus, subordinate to the CMM/DM and it would be open to the CMM/DM to appoint an advocate commissioner to assist him/her in the execution of the order passed under Section 14(1) of the SARFAESI Act, **Mr. Koushik Mukherjee** is appointed as Advocate Commissioner to take possession of the secured assets.

Hence it is,

O R D E R E D

that the Advocate Commissioner **Mr. Koushik Mukherjee** is hereby appointed as Court Commissioner to take possession of the secured asset situated at:-

“ All the part and parcel of the property consist of Land & Building measuring 12 satak vide Sale Deed being No. 1-3737/2022 dated 28.03.2022 in the name of Mr. SEKH Salauddin S/O Lt. SEKHLokman, situated in L.R. Plot No. 253, Khatian No. 1543, J.L. No. 158 at Mouza Domaipur, P.O. Abinashpur, P.S. Panrui, Dist - Birbhum, registered within Sub Registrar's Office of Siuri.

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in compliance with the following steps:

a. Service of possession notice to the Authorized Officer of the secured creditor by personal service or speed post at least seven days in advance. A copy of such seven days’ advance notice shall also be affixed on the main door or other conspicuous part of the said property. A copy of this order shall also be affixed along with such notice.
b. After expiry of the notice, the Advocate Commissioner shall take possession of the aforesaid property and hand it over to the authorized officer of the petitioner, **namely UCO Bank, Purandarpur Branch**, under proper receipts to that effect. The entire proceedings shall be photographed or video-recorded as per the demand of the situation.
c. The Advocate Commissioner may take such steps and use such force, including breaking open the lock or any hurdle thereof, by taking assistance of police if required at the expense of the applicant. If any articles/documents are found in the secured asset, then deliver their possession to the Authorized Officer of the petitioner after preparing a list of articles and making an inventory. Photographs shall also be taken as proof of the same. Copies of the inventory shall be handed over to the borrowers, if present at the site, under acknowledgment and also to the Authorized Officer of the petitioner.
d. The Commissioner shall exercise all due care and caution and shall not violate the orders of any Court or forum relating to the aforesaid property.
e. The petitioner shall furnish all necessary details to the Receiver and shall extend full cooperation for the purpose of execution of this order.
f. The Advocate Commissioner of this court shall file his report along with photographs, video, CD, documents if any, inventory prepared if any, etc., within date fixed.
g. For removal of doubts, it is made clear that objections/applications, if any, may be preferred by any borrower, guarantor, mortgagor, lessee, or any other aggrieved person before the Debt Recovery Tribunal having jurisdiction, as per the amended provisions of Section 17 of the SARFAESI Act.

O/C, Panrui P.S. is directed to provide police assistance to the Advocate Commissioner to ensure smooth execution of this order, on payment of necessary police costs.

Issue writ of commission accordingly on payment of Rs.15,000/-, the said amount shall be paid directly to the receiver. All miscellaneous and incidental expenses of the receiver relating to the compliance of this order shall be borne by the petitioner. All miscellaneous and incidental expenses shall be borne by the petitioner. A copy of this order shall be given to the petitioner bank and Advocate Commissioner of this court.

To 15.09.2026 for Execution Report of writ of delivery of possession.

Sd/- S Ray

CJM,Birbhum.
WB00930