CNR No.MHTH03020706-2026

Cri.M.A.No.2519/2026

True Home Finance Limited
(Formerly known as Shriram Housing Finance Ltd.)
vs.
1. M/s. Minakshi Hydraulic Systm Pvt. Ltd.
2. Sudhakar Sanju Mogaveera
3. Deepa S. Mogaveera

: ORDER BELOW APPLICATION (EX.1) :

This is an application filed by the applicant, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as '**the SARFAESI Act**'), for taking possession of secured asset.

2. It is averred that the respondent has availed loan facility of **₹24,76,000/- & ₹10,25,000/-** from the applicant-secured creditor, having account bearing No.**SPHMUM003320 & SPHMUM0005177** by offering immovable property as secured asset, as per loan documents annexed with application. Due to default in repayment of secured loan, the applicant classified it as non-performing asset. The applicant has exercised powers under section 13 of the SARFAESI Act, and initiated action for enforcement of security interest created through a Memorandum of Deposit of Title Deed dated **15/12/2020 & 03/03/2022** in respect of the scheduled property.

3. The applicant has issued notice on **10/02/2026** under section 13(2) of the SARFAESI Act and called upon the respondents to discharge in full, liability of outstanding loan of **₹19,18,980/- & ₹8,67,665/-** along with interest within 60 days period. In spite of issuance of notice, the respondents did not raise any representation or objection with the applicant within given time of 60 days from date of notice. The respondent-borrower neither cleared outstanding dues not negotiated with the applicant to avoid seizure and sale of the secured asset. The applicant intend to take recourse against secured asset as per provision of section 13 (4) of the SARFAESI Act. Hence, present application for assistance in taking possession of the secured asset.

4. Section 14 of the SARFAESI Act empowers Chief Metropolitan Magistrate or District Magistrate on request in writing, to take possession of the secured asset and related documents and forward such asset and document to secured creditor. DM or CMM (CJM) shall pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the application or in case of reasons beyond control, within sixty days. Proviso of Section 14 of the SARFAESI Act prescribes compliance of few things. The applicant has stated about compliance of this prescribed procedure.

5. The Hon'ble Supreme Court in case of **Authorized Officer, Indian Bank V/s. Visa Lakshi, (2019) 20 SCC 47**, held that application under section 14 of the SARFAESI Act can be filed even before the Chief Judicial Magistrate. In case of **C. Bright Vs. District Magistrate, (2021) 2 SCC 392,** the Hon’ble Supreme Court held that the provision of the SARFAESI Act empower District Magistrates/CMM to take possession of secured assets of defaulting borrowers within 60 days period for handing them over to the lending financial institutions is “directory” and not “mandatory” in nature as banks cannot be made to suffer for the delay on the part of the government officers. Inability to take possession within time limit does not render District Magistrate/CMM “Functus Officio”.

Irrespective of some delay caused due to unavoidable situations, this authority is not powerless to provide assistance required under section 14 of the SARFAESI Act.

6. The applicant has produced copies of all relevant documents. Upon physical verification of original documents, it is clear that the applicant has duly complied requirements of Section 14 of the SARFAESI Act. It is pointed out that the respondent has created security interest in the secured asset mentioned in the application in favour of the applicant. The applicant has shown that it is holding valid and subsisting security interest over the property. Claim of the applicant is within the limitation period. The respondent is shown to have committed default in repayment of financial assistance and the loan account is classified as a non-performing asset.

7. It is pointed out that the applicant has issued notice under section 13(2) of the SARFAESI Act to the respondent and even after service of notice the respondent neither raised any objection to the notice nor has repaid the financial assistance. Thus, the applicant is now entitled to take possession of the secured assets. Learned advocate representing the applicant requested to appoint commissioner/receiver for assisting to take possession of the secured asset. Recently, the Hon'ble Supreme Court has held in case **"NKGSB Co-operative Bank Ltd. Vs. Subir Chakravarti and others" 2022 Live Law (Supreme Court) 212,** that "Advocate can be appointed as a 'Commissioner' to assist the court to implement the handing over the possession under the said provision. Therefore, Advocate can be appointed as a commissioner upon the fees of the same".

8. Section 14 of the SARFAESI Act authorizes appointment of any subordinate officer for assisting the applicant for delivery of possession of the secured asset. The property is secured asset and is situated within the local limits. The Advocate can accordingly be appointed as commissioner for completing the task as required by the section 14 of the SARFAESI Act. In view of the above referred situation, I pass the following order.

: ORDER :

1. Application is allowed.
2. Advocate- **Tejaswi Hanumant Nanche** is appointed as a **"Court Commissioner"** to take possession of the secured asset viz. **"C-13, 1st floor, Sachin Industrial Premises Co-operative Society Ltd., Kolbad Road, Taluka & District- Thane, 400601"**, as mentioned in the schedule of property, by taking such steps and using such force including breaking open the lock thereof or taking assistance of concerned Police Station, if required, at the expenses of the applicant and shall deliver possession thereof along with documents/articles, if any, found therein to the authorized officer of the applicant after preparing panchnama and taking inventory of the secured asset.
3. Issue writ of commission accordingly on payment of P.F. and ₹15,000/- (Rupees Fifteen Thousand only) inclusive of traveling expenses towards the commission fee directly to the Court Commissioner

within 15 days from the date of writ. Court Commissioner to file the compliance report within 45 days from the date of receipt of the Writ.

4. The applicant to give name and contact details of authorized person within 10 days for co-ordination with the Court Commissioner.

JAYASHRI SANJAY JAGDALE

Digitally signed by JAYASHRI SANJAY JAGDALE
Date: 2026.08.05 13:12:29 +0530

Date : 05/08/2026.
Place : Thane.

[Mrs. J. S. Jagdale]
2nd Jt. C.J.S.D. & A.C.J.M., Thane.