MHAM030094752025

MISC. CRI. APPL. No.955/2025
Muthoot Homefin India LTD
V/s. Sharad Pawar and other

ORDER BELOW EXHIBIT 01
(Passed on 07.11.2025)

01. This is an application under Section 14 of the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as “SARFAESI Act”) for possession of secured mortgaged property of the respondents. The applicant is 'secured creditor' within the meaning of Section 2(1)(zd) of the said Act.

02. Heard Smt. Priti Anil Rajgure, the learned advocate for the applicant and perused the record. As per submission of the learned advocate for the applicant, all the necessary compliance has been done. It is further submitted that Commissioner Writ be issued in the name of the learned advocate Shri. Surendra R. Sirsat.

03. For granting relief by the Court under section 14 of the Act, the Court has to see whether the application has been accompanied by an affidavit duly affirmed by the authorized officer of the secured creditor. In the affidavit, amount to recover must be mentioned and the total claim of the Bank as on the date of filing of the application. The affidavit shall further declare that the borrower created security interest over properties and the Bank or financial institution is holding a valid and subsisting security interest over such property. Details of the properties over which security interest is created must be supplied.

There must be default by the borrower in repayment of the financial assistance and the account of the borrower must be classified as a non performing asset. Notice under section 13(2) of the SARFAESI Act must have or representation has been communicated to the borrower. The affidavit must further declare that objection or re-presentation in reply, if any to the notice has been duly considered and reasons for non acceptance of such objection. The borrower must have failed to make repayment of the financial assistance in spite of the notice under section 13(2) of the SARFAESI Act and therefore, the bank or financial institution must be entitled to take possession of the secured assets.

04. **The Hon'ble Supreme Court in C. Bright Vs. District Magistrate (2021)2 SCC 392**, has held that “The provision of the SARFAESI Act empowering 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. It is held that inability to take possession within time limit does not render the District Magistrate/CMM ‘Functus Officio’.

05. Perused the application and entire documents produced along with application. The application is supported by the affidavit as required by the proviso to Section 14 and the entire record produced with the application. The necessary compliance required under Section 14 of the SARFAESI Act is duly complied. The applicant is holding a valid and subsisting security interest over the property mentioned in the application/schedule. As the borrower has committed default, his

account has been classified as a Non-Performing Asset.

06. The applicant has issued a notice under section 13(2) of the SARFAESI Act to the borrower. Even after receipt/service of notice, the borrower neither raised any objection to the notice nor has repaid the loan amount. Therefore, the applicant is entitled to take possession of the secured assets. As per the provisions of section 14 of the SARFAESI Act, 2002 any subordinate officer or Court Commissioner can be appointed for the purpose of assisting the applicant for delivery of possession of the secured asset. Hence, considering the submissions of the learned advocate for the applicant, I pass the following order :

O R D E R

1) The application under Section 14 of SARFEASI Act is hereby allowed and the authorized officer on record of this Court is permitted to take over possession of secured asset on behalf of the applicant.

2) Advocate Shri. Surendra R. Sirsat is hereby appointed as Court Commissioner to take over possession of the secured assets as mentioned in the Application/Schedule and handover it to the authorized officer only and not to any other officer of the applicant so also to prepare the panchnama of the same.

3) The Court Commissioner to issue 15 day’s advance notice to the concerned parties and to take such steps and use such force including to break the lock or any hurdle thereof by taking assistance of the police if required at the expenses of the

applicant bank. If any articles or documents found related to secured assets then deliver its possession to the authorized officer of the applicant bank after preparing its panchnama and taking inventory.

4) The Police Station Officer within whose territorial jurisdiction the secured asset is located is hereby directed to provide police aid to the Court Commissioner, if required.

5) The Court Commissioner to give the advance letter to the police for police aid, if required.

6) The Court Commissioner shall report the compliance within 60 days from the receipt of writ of commission. However, in the mean time, if any Competent Court grants stay to execution of this order, automatically until such stay order will be in force, time to comply the writ of commission will be deemed to be extended and no need to file separate application for extension of time for execution of writ of commission.

7) The Court Commissioner shall not indulged in favoring to any party for delay to take over possession of secured assets.

8) The fees and charges received by the Court Commissioner are subject to refund to the applicant on failure of the Court Commissioner to execute possession warrant for any default on his part.

9) In view of the pursis filed below Exhibit 08 the applicant is directed to pay Rs.10,000/- (Rs. Ten Thousands only) to the Court Commissioner directly or to deposit the said amount into the Court towards fees and charges of the Court Commissioner, within 15 days from the date of this order.

10) Issue writ of commission accordingly.

RUPALI DHANPAL SIDANALE

Digitally signed by RUPALI DHANPAL SIDANALE
Date: 2025.11.10 17:28:58 +0530

Date : 07 /11/2025.

Place : Amravati.

(Rupali D. Sidanale)

Additional Chief Judicial Magistrate,

(Court No.23), Amravati.