Received on : 24.04.2026
Registered on: 02.05.2026
Decided on : 13.05.2026
Duration : D M Y
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IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
AT MARGAO, GOA.
(Before Ms. Shubhada A. Dalvi, Chief Judicial Magistrate, Margao, Goa).

Criminal Miscellaneous Application no. 133/2026/A

CNR : GASG020015072026

Bank of Maharastra
A body corporate incorporated under
The Banking Companies (Acquisition and
Transfer of Undertakings) Act, 1970
Having its Head Office at Lokmangal,
1501, Shivajinagar, Pune, 411005
and its Regional office at 1st floor,

Datta Prasad Building,
MG Road, Goa-403001,
and its branch office at Kalika Square,
Shop no. 1, 2, 3, Goa Housing Board,
Gogal, Margao, Goa, 403601.
represented by its Chief Manager (Goa Zone)
/Authorized Officer,
Mr. Vivek Joshi,
aged 44 years, service,
c/o Bank of Maharastra,
regional office at 1st floor,
Datta Prasad Buildig,
MG Road, Goa-403001. ... Applicant

versus

1. Mr. Mustak Siddik Shaikh,
age 45 years, business,
resident of:

a. House no. E-324, Near Maruti Temple,
Housing Board Colony, Rumdamol,
Davorlim, Salcete, Goa 403707.
b. EWS-901, Goa Housing Board Colony,
Rumdamol, Davorlim,
Salcete, Goa 403707.

2. Mrs. Zaheria Mustak Shaikh,
wife of Mr. Mustak Siddik Shaikh,
age 38 years, business,
resident of:

a. House no. E-324, Near Maruti Temple,
Housing Board Colony, Rumdamol,
Davorlim, Salcete, Goa 403707.
b. EWS-901, Goa Housing Board Colony,
Rumdamol, Davorlim,
Salcete, Goa 403707. ... Non Applicants

Learned Advocate Mr. N. Halankar present for the Applicant at the time of hearing and at the time of passing order.

O R D E R

(Delivered on this the 13th day of the month of May of the year 2026).

By this order I am disposing this criminal Misc. Application filed 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) by the applicant.

2. **Case of the applicant: -** in brief it is the case of the applicant that Mr. Vivek Joshi, Chief Manager of Bank of Maharastra, Goa

Zone, Regional Office at 1st floor, Datta Prasad Building, MG Road, Goa have been appointed as the authorized officer of the petitioner bank vide authority letter dated 23.03.2026 which empowers him to exercise the powers of secured creditors under the provisions of the SARFAESI Act on behalf of the Bank of Maharastra.

3. It is further the case of the applicant that the non-applicants availed loan/credit facility in personal capacity from the applicant bank at its Gogal branch total of Rs. 24,75,000/- (Rupees twenty four lakhs seventy five thousand only) and for the repayment of various loan/credit facilities availed they had created security interest over their following asset:

a. All those pieces and parcels of the property bearing Tenement No. EWS-901, situated in Goa Housing Board Colony, Rumdamol, Davorlim, Salcete, South Goa having area of 64.22 sq.mts. and surveyed under survey no. 12/2 of Davorlim village.

4. Consequently upon default in repayment of the loan the account of the borrower/ non applicant has been classified as 'non performing asset' (NPA), as per the RBI directives and guidelines on 29.11.2025 and that demand notice dated 04.12.2025 was issued by the applicant to the non applicants, giving the period of sixty days as required by the provisions of sub section (2) of section 13, demanding payment of the defaulted financial assistance and the same was received by the non-applicants on 05.12.2025 and 09.12.2025. Thus the notice under section 13(2) is issued and the knowledge of the same was given to the non-applicants however even after the service of the said notice and upon expiry of the statutory period of 60 days from the date of service, the non-applicants failed and neglected to repay the outstanding amount as per the said notice.

5. According to the applicant, the outstanding balance due to the applicant till the date of filing the present CrMA is Rs. 29,34,441/- (Rupees twenty nine lakhs thirty four thousand four hundred and forty one only) as on 03.12.2025. Hence the applicant has filed the present application.

6. Ld. Advocate Mr. N. Halankar advanced his arguments on VC on behalf of the applicant.

7. Perusal of the records and the documents that are placed on record shows that the applicant is a banking company and represented in the present proceedings by its authorized office Mr. Vivek Joshi. Perusal of the letter of authority shows that Mr. Vivek Joshi has been authorized to file application before the office of District Magistrate u/s 14 of SARFAESI Act 2002 and there is no any mention of authorization given to Mr. Vivek Joshi to file the proceedings before this Court. Specific authorization is required to be given to the representative of the applicant by the applicant as the person representing the applicant is required to swear an affidavit in compliance with section 14 of the SARFAESI Act. Hence the present letter of authority does not serve the purpose of the applicant in the present application.

8. Proceeding ahead with the further documents, it is noticed that the demand notice under section 13(2) of the SARFAESI Act is

addressed to Mr. Mustak Siddik Shaikh respondent no. 1 and Mrs. Zaheria Mustak Shaikh, respondent no. 2 and posted through registered A/D on 04.12.2025 and the same were duly served on them. The applicant has thereafter gone ahead with possession notice for taking symbolic possession however the same was issued on 19.02.2026 which is beyond the period of 7 days as prescribed under Rule 8 (2) of the Security Interest (Enforcement) Rules, 2002.

9. Besides the above it is very much pertinent to note that the authorized representative of the applicant though has filed affidavit has nowhere made clear statement as to what was the total outstanding amount due from the non-applicants as on the date of filing the present application before this Court as required under the proviso of section 14 of the SARFAESI Act.

10. Therefore, considering the overall discussion the mandatory procedural aspect required to be complied by the applicant are not complied and hence this Court cannot pass any positive order in favour of the applicant.

11. Therefore I pass the following:

ORDER

(i) The application filed by the applicant stands dismissed.

(ii) No order as to costs.

Dictated and Pronounced in the Open Court.

Proceedings closed.

SHUBHADA ATCHUT DALVI

Digitally signed by SHUBHADA ATCHUT DALVI
Date: 2026.05.13 18:01:00 +05'30'

(Shubhada A. Dalvi)
Chief Judicial Magistrate,
Margao, Goa.

Jp/-