


**IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE,**  
**N A G P U R**

MHNG030038512026 	<b><u>Cri.M.A. No. 670/2026</u></b> <b>Bank of India</b> <b>...Vs...</b> <b><u>Kiran S/o. Suresh Rao Hedau</u></b>
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**ORDER BELOW EXH. 1**

The Applicant/ Bank of India is a banking company constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act 1970, has filed the present application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act' in short). Contents of the application are supported by affidavit.

2. Perused the record. Heard the learned counsel for the applicant. It is seen from the record that the applicant is a Banking Company duly incorporated under the provisions of the Banking Companies (Acquisition and Transfer of undertakings) Act 1970. The applicant bank has appointed Mrs. Kripali Mishra, the Authorized Officer as its authorized representative.

3. Non-applicants approached the applicant for grant of financial assistance of term loan/ Star Home Loan. The applicant granted Term Loan/Star Home Loan of Rs. 29,70,000/- vide Sanction letter dated 19.12.2023. The non-applicants have created security interest by way of equitable mortgage by depositing title deed in respect of property i.e.

**SCHEDULE OF PROPERTY**

All that R.C.C. Superstructure comprising Apartment bearing Apartment/Flat No. 808, covering a Carpet area admeasuring 51.265 Sq.

Mtrs. and Built-up area admeasuring 56.512 Sq. Mtrs. situated on 8<sup>TM</sup> Floor in Platinum Building / Towers in the Building named and styled as “Shree Laxmi Estate-II” along with 0.702 % undivided share and interest in all that piece and parcel of Non-Agricultural land bearing Kh. No. 18/3-A (New) Adm. 5883.43 Sq. Mtrs. out of Kh. No. 18/3 (Total Adm. 8100.00 Sq. Mtrs.), of Mouza : Pipla, along with Residential Town ship consisting the independent Row Houses and Residential Apartments in the Multistoried Buildings Standing thereupon collectively known and styled as “SHREE LAXMI ESTATE”, bearing P. H. No. 38 of Class I Occupancy Rights, Land Revenue of Rs. 588, within the limits of Grampanchayat Pipla (Ghogli), Tah. Nagpur (Rural), District Nagpur and are bounded as under :

	Land Boundaries	Flat Boundaries
East	Land bearing Kh.No.19	Flat No.807
West	24.00 Mtrs. Wide Road	Flat No.805 diamond
North	Land bearing Kh.No.18/1	Flat No.801
South	Land bearing Kh.No.18/2	Kh. No.18/2

4. The non-applicants defaulted in repayment of the above mentioned loan amount. Therefore, their loan account came to be classified as non-performing asset. Hence, the applicant issued demand notice dated 17.09.2025 to the non-applicants under Section 13(2) of the Act, thereby demanding the outstanding amount of Rs.29,84,101/- along with interest and charges till realization of the amount. The notice was duly received by the non-applicant. However, he neither replied nor complied the same within statutory time limit.

5. In the cases of **Trade Well Vs Indian Bank, 2007 Cri.L.J. 2544** and **Saraswat Co-operative Bank Ltd. Vs State of Maharashtra, 2007 (1) Bom.C.R. (Cri.) 783**, the **Hon'ble High Court** has held that -

*“Chief Metropolitan Magistrate / District Magistrate acting under Section 14 of the N.P.A. Act is not required to give notice either to the borrower or to the third party. He has to only verify from the bank or financial institution whether notice under*

*Section 13(2) of the N.P.A. Act is given or not and whether the secured asset fall within its jurisdiction. There is no adjudication of any kind at that stage”.*

6. The applicant has filed separate affidavit as required by clause (i) to (ix) of the proviso appended to Section 14(1) of the Act. The Non-applicant have committed default in repayment of the loan amount. The above mentioned property being secured asset is sought to be taken in possession by the applicant for default in repayment of the loan amount. Considering circumstances and above discussion, I come to the conclusion that the applicant is entitled to take possession of the aforementioned property. The Ld. Counsel for the applicant has submitted that any advocate may be appointed as Court Commissioner for taking the possession and the applicant is ready to pay Commission Fee. The applicant has also requested to appoint Advocate Sheikh Altaf Mohammeddeen as a Court Commissioner. In the case of **NKGSB Co-operative Bank Ltd. vs. Subir Chakrawarti and Ors. 2022 SCC OnLine SC 239** the Hon'ble Supreme Court has held that an advocate is an officer of the court and it would be opened to the Magistrate to appoint an advocate commissioner to assist him/ her in the execution of the order pass under Section 14(1) of the SARFAESI Act. It would be therefore, just and proper to appoint advocate Sheikh Altaf Mohammeddeen as Court Commissioner for taking possession of secured asset for execution of this order. In the result, I pass following order-

### ORDER

1. The application is allowed.

2. Advocate Sheikh Altaf Mohammeddeen is hereby appointed as Court Commissioner to take possession of the secured assets as per the schedule and handover it to the authorized officer of the applicant.
3. The Court commissioner to take steps and use such force including breaking open the lock by taking assistance of police if required at the expenses of the applicant and if any article, documents found in the secured asset then deliver its possession to the Authorized Officer of the applicant after preparing panchnama and taking inventory.
4. Advocate Sheikh Altaf Mohammeddeen shall report compliance at the earliest from the receipt of the writ of commission within 60 days.
5. Issue writ of commission accordingly on payment of Rs.5,000/- (Rupees Five Thousand Only) by the applicant and it be given to the Court Commissioner after compliance of the work assigned.

***SCHEDULE OF PROPERTY***

*All that R.C.C. Superstructure comprising Apartment bearing Apartment/Flat No. 808, covering a Carpet area admeasuring 51.265 Sq. Mtrs. and Built-up area admeasuring 56.512 Sq. Mtrs. situated on 8<sup>th</sup> Floor in Platinum Building / Towers in the Building named and styled as "Shree Laxmi Estate-II" along with 0.702 % undivided share and interest in all that piece and parcel of Non-Agricultural land bearing Kh. No. 18/3-A (New) Adm. 5883.43 Sq. Mtrs. out of Kh. No. 18/3 (Total Adm. 8100.00 Sq. Mtrs.), of Mouza : Pipla, along with Residential Town ship consisting the independent Row Houses and Residential Apartments in the Multistoried Buildings Standing thereupon collectively known and styled as "SHREE LAXMI ESTATE", bearing P. H. No. 38 of Class I Occupancy Rights, Land Revenue of Rs. 588, within the limits of Grampanchayat Pipla (Ghogli), Tah. Nagpur (Rural), District Nagpur and are bounded as under :*

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<i>North</i>	<i>Land bearing Kh.No.18/1</i>	<i>Flat No.801</i>
<i>South</i>	<i>Land bearing Kh.No.18/2</i>	<i>Kh. No.18/2</i>

Nagpur  
Dt. 12.03.2026

(Anamika D. Bose)  
Addl. Chief Judicial Magistrate,  
Nagpur.