


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

MHNG030038522026 	<u>Cri.M.A. No. 671/2026</u> Bank of Baroda ...Vs... <u>Sunil Tejrao Parhad and Anr.</u>
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ORDER BELOW EXH. 1

The Applicant/ Bank of Baroda 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 Mr. Manoj Parichit Tirkey, the Authorized Officer as its authorized representative.

3. Non-applicants approached the applicant for grant of financial assistance. The applicant granted Term Loan/ Housing Loan of Rs. 20,00,000/- vide Sanction letter dated 18.09.2013. 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

(Falls under the jurisdiction of Police Station Hudkeshwar Nagpur)

(Property owned by Respondent No. 1)

All that R.C.C. Superstructure comprising of Apartment No. 301, covering a Built-up area admeasuring 50.441 Sq. Meters, excluding balcony, Passage and share in staircase, situated on the Third Floor of the Building named and styled as “CHINTAMANI COMPLEX — 3”, along with 24.313% Undivided Share and Interest in all that pieces and parcel of Land bearing Plot No, 269, admeasuring 185.7750 Sq. Mtrs. & (as per RL Adm. 178.0650 Sq. Mtrs.), being the portion of Land bearing Khasra No. 98 of Mouza — Manewada, P. H. No. 39, bearing City Survey No. 397, Sheet No. 41, situated within the limits of Nagpur Municipal Corporation, Nagpur and Nagpur Improvement Trust, Nagpur, in Tah. District Nagpur and the aforesaid property bounded as under :-

East- 9.14 Mtrs. Wide Road,
West- Plot No. 288,
North- Plot No. 270,
South- 9.14 Mtrs. Wide Road.

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 15.08.2025 to the non-applicants under Section 13(2) of the Act, thereby demanding the outstanding amount of Rs.12,30,146.70/- 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 of Apartment No. 301, covering a Built-up area admeasuring 50.441 Sq. Meters, excluding balcony, Passage and share in staircase, situated on the Third Floor of the Building named and styled as "CHINTAMANI COMPLEX — 3", along with 24.313% Undivided Share and Interest in all that pieces and parcel of Land bearing Plot No, 269, admeasuring 185.7750 Sq. Mtrs. & (as per RL Adm. 178.0650 Sq. Mtrs.), being the portion of Land bearing Khasra No. 98 of Mouza — Manewada, P. H. No. 39, bearing City Survey No. 397, Sheet No. 41, situated within the limits of Nagpur Municipal Corporation, Nagpur and Nagpur Improvement Trust, Nagpur, in Tah. District Nagpur and the aforesaid property bounded as under :-

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West- Plot No. 288,

North- Plot No. 270,

South- 9.14 Mtrs. Wide Road.

Nagpur
Dt. 12.03.2026

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