IN THE COURT OF MS. DEEPAK KUMAR-I
CHIEF JUDICIAL MAGISTRATE, EAST DISTRICT,
KARKARDOOMA COURTS, DELHI

MISC CRL 260 /2025 AMBIT FINVEST PRIVATE LIMITED Vs. SHARAD STEEL TRADERS (Mandawali)

06.03.2025

ORDER

1. This is an application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act").

2. It is stated in the application that the applicant is a secured creditor whereas the respondents are "borrowers" as defined in section 2(1)(f) of the said Act. According to the applicant, **"Property bearing No. WA-51, measuring 215 sq. Yds. (except 4 shops at ground floor Shop No. 1,2,3 and 6) out of Khata No. 264, New Khasra No. 870, Shakarpur Khas, Village Mandawali, Fazalpur, New Delhi – 110092. boundaries of the said property:- North: Road 30 ft wide, South: property of others, East: Road 10 ft wide, West: property of others"** is a secured asset, since a "security interest" was created thereon by the borrowers to secure repayment of a loan. The borrowers are stated to have defaulted in repayment of the loan. It is further stated by the applicant that the loan account has been declared as "non performing asset" on **03.10.2024** as per the RBI guidelines and law. It had issued statutory notice under section 13(2) of the Act but the respondents failed to discharge their liability in full within the stipulated period of sixty days from the date of notice. As per the applicant, there is no pending objection received from the borrowers.

3. Affidavit of the authorized officer of the secured creditor, as required by proviso of section 14(1) of the Act, has also been filed. The affidavit discloses the extent of financial assistance granted and the claim of the Bank as on the date of filing the application. It reiterates the aforenoted pleas and fulfills the requirements of the said proviso. Documents in support of the above averments have been produced by the secured creditor. Original documents seen and returned.

4. Section 14 of the Act enjoins the Chief Metropolitan Magistrate to pass suitable orders for taking possession of the secured asset and to forward it to the secured creditor. It further vests the Magistrate with powers to take all necessary steps and to use force for compliance of its order.

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5. The aforenoted assertions of the applicant, duly supported by affidavit and documents, demonstrate that the respondents had availed financial assistance from the applicant and had created security interest on the asset. Respondents defaulted in repayment of the loan and the loan account was declared non-performing asset. The respondents failed to pay the outstanding loan amount even after receiving notice under section 13 (2) of the Act which afforded a period of sixty days to do so. As per affidavit of AR of Bank, there is no pending objection or representation of the respondents and that the secured asset is not under possession of a lessee under a valid lease made prior to creation of mortgage.

6. Accordingly, the application of the secured creditor/applicant is allowed. **Sh. Bharat Khurana, Enrollment No. D/3476/2024, mobile No. 9999133727** is appointed Receiver to take possession of the asset and to forward it to the secured creditor.

7. For securing compliance of this order, receiver may or may not issue notice to the respondents if as submitted by ld. counsel for the applicant, the provision of serving notice is likely to defeat the purpose of the present application in view of the fact that the secured asset in the present matter is a movable property which is likely to be disposed of if prior notice be served. The Ld. Receiver accordingly can directly attach the movable property in question and may obtain the assistance of the police and take such other steps and use such force as is found necessary. Police shall render assistance and provide adequate force for protection of the receiver and of the bank employees involved in recovery of the asset. **Receiver,** is empowered to break open locks in case the asset is found locked and in that eventuality he shall prepare an inventory of the articles lying therein. The Receiver shall then hand over copy of the inventory, duly signed by him/her and witnesses, to the borrowers (if present on the site) and another copy so signed shall be filed in court with his report. While executing these directions, the receiver shall observe caution not to violate orders of any court or forum in respect of the aforesaid property. The fee is fixed at **Rs. 70,000/- (Rupees Seventy Thousand only)** and the same shall be paid within 1 week, once notice is issued by the Receiver to the respondent. Miscellaneous expenses, if any, in carrying out this order shall be borne by the secured creditor. All the aforesaid terms are acceptable to the applicant.

8. Report of compliance of the above stated directions shall be filed as expeditiously as possible. Objections, if any, by whomsoever concerned should be

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9. If the recovery proceedings are stayed by order of Debt Recovery Tribunal or other forum, and in case the stay order is subsequently vacated or the applicant is granted liberty to recover possession of the property, the mandate of the receiver to recover possession would stand extended and the Receiver shall be at liberty to recover possession of the secured asset and to hand it over to the applicant bank. For this purpose, the applicant bank may itself contact the receiver and the receiver shall recover possession on the same terms as are mentioned in this order. There shall be no need for the applicant bank to approach this court for extension of time or other directions. However if the applicant bank, of its own, decides not to recover possession, it shall apply to this court to terminate the mandate of the receiver and it shall not be lawful for it to itself instruct the receiver to refrain from or to delay the recovery of possession. In case there is delay on the part of the applicant in compliance with this order, the same shall be explained by the applicant bank by affidavit of the authorized officer.

10. Nothing stated in this order shall be construed as a finding of liability or a judicial determination of the issues in contention between the parties.

11. Since the directions sought by the applicant have been passed, nothing survives in the matter. Let file be consigned to record room after receiving compliance report. Two copies of the order be given dasti to counsel for applicant with directions to deliver one of the copies to receiver within ten working days from today.

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(Deepak Kumar-I)
CJM (East) KKD Courts Delhi/06.03.2025