MHKO030083322022	**ORDER BELOW EXH. 1 IN CRIMINAL MISC. APPLICATION NO.1148/2022.** Piramal Capital and Housing Finance Ltd. Vs Shri. Anil Adate and other

The applicant has filed this application under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (in short "the SARFAESI Act") for taking possession of all that piece and parcel of property with construction i.e., Plot no.113, C.T.S. no.2909/102 situated at Subhash Nagar Housing Society Ltd., Near Royal English School, Subhash Nagar, Kolhapur (hereinafter referred to as "the secured assets").

2. Heard the learned advocate for the applicant. Perused the application, affidavit and documents on record.

3. From the affidavit and verified documents filed by the applicant, it is palpably clear that on 20-02-2017 the applicant (Formerly known as Dewan Housing Finance Ltd and changed name of Company recognized by Government of India) had sanctioned Housing loan facility of Rs.25,56,547/- (Twenty five lakhs fifty six thousand five hundred and forty seven only) to respondents. Respondents have created mortgage of the secured assets with a view to secure repayment of the said loan. It further goes to show that they have made default in

repayment of the amount of loan, and therefore, on 01-11-2019 their loan account were classified as Non Performing asset. On 19-12-2019, the applicant had called upon respondents to pay the sum of Rs.26,29,854/- (Twenty six lakhs twenty nine thousand eight hundred and fifty four only) including interest till debt by issuing them 60 days notice as provided under section 13(2) of the SARFAESI Act. The said notice was served to respondents on 06-01-2020 and 13-01-2020. However, respondents neither raised any objection by replying the said notice nor repaid the amount within the stipulated time. From the affidavit, it is clear that on 15-12-2019 the sum of Rs.26,29,854/- (Twenty six lakhs twenty nine thousand eight hundred and fifty four only) with future interest was due from them.

4. From the affidavit filed by the Authorized Officer Shri.Amit Jayanarayan Bairagi of the applicant, it is luculent that the secured asset is not in possession. It has been also stated therein that no stay order has been passed by any authority in respect of the secured asset.

5. The affidavit, which is filed by the Authorized Officer of the applicant has all basic requirements necessary for granting delivery of possession of the secured asset. The applicant has thus, substantially complied with conditions

stipulated under newly introduced proviso to section 14(1) of the SARFAESI Act. The secured asset is situated within the territorial jurisdiction of this court. The claim of the applicant is within limitation. So, I hold that the applicant is entitled to take possession of the secured asset. Hence, the order :-

ORDER

1) Application is allowed.
2) Advocate, Shri. Atul Jadhav, is appointed as the Court Commissioner to take possession of the secured asset viz., all that piece and parcel of property with construction i.e., Plot no.113, C.T.S. no.2909/102 situated at Subhash Nagar Housing Society Ltd., Near Royal English School, Subhash Nagar, Kolhapur taking such steps and using such force including breaking open the lock thereof or taking assistance of police, if required, at the expenses of the applicant and deliver possession thereof along with documents / articles, if any, found therein to the Authorized Officer of the applicant after preparing panchnama and taking inventory of the secured asset.
3) Applicant to deposit Rs.10,000/- (Ten Thousand Only) towards the Court Commissioner's fee within one month from the date of order.

4) On depositing fees of Court Commissioner, issue Writ of commission.

5) The Court Commissioner shall report compliance within one month from the receipt of the Writ of commission.

6) On completion of work and submission of the report, the Court Commissioner fees be disbursed.

Digitally signed by SHAILESH ANIL BAFNA
Date: 2023.04.17 17:08:17 +0530

Place: Kolhapur.
Date : 17/04/2023.

(Shailesh A. Bafna)
Chief Judicial Magistrate,
Kolhapur.