सत्यमेव जयते

Complaint Registered on :05/06/2026

Complaint Decided on : 30/06/2026

EXH-

CRIMINAL MISCELLANEOUS APPLICATION NO. 6078/2026-

IN THE COURT OF 2nd ADDL. CHIEF JUDICIAL MAGISTRATE, (COURT NO. 05) AHMEDABAD CITY

Applicant : Home First Finance Company India Limited
(Through its Authorized Officer Mr. Abhijeet Jadhav)

VERSUS

Opponents : 1. Mr. Bhimaleshbhai Bhumihar,

406, Block No. I, Umang Narol-3, Near Laxminagar,
Uman G Narol- ½, B/h. Narol Court, Narol,
Ahmedabad-Gujarat-382405.

Appearance :

1)Learned Advocate for the Applicant : Mr. Nitin Patel
2)Learned Advocate for the Opponents:

Sub : Application U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT)

ORDER

1. Present Application is submitted by the applicant U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI ACT) on the

ground that, the applicant has considered the loan applications of all the Opponents and thereby sanctioned the said (1) Home Loan of Rs. 9,00,000/- and (2) Loan for Top up of Rs. 3,00,000/- to the Opponents and the Opponents has created the security interest over the property mentioned in the present application.

2. The Applicant has submitted that opponent has failed to make the repayment of the dues therefore, account of the opponent was / has been classified as NPA on 03/09/2025.

3. The Applicant issued notice U/s. 13(2) of the SARFAESI on 03/09/2025. The said notice was unserved. Hence, the demand notice published to them in two newspaper [Financial Express (English) & Financial Express (Gujarati)] on 06/09/2025. Total amount of Rs. 8,49,243/- as on 03/09/2025 as per application, is due as outstanding. However, the borrower has failed to repay the same.

4. Heard the Learned Advocate for the Applicant. Perused the Record.

5. In view of the Judgment of the Hon'ble Gujarat High Court as decided in SPECIAL CIVIL APPLICATION NO. 215 OF 2011 IN case of IDBI BANK LTD VS. DISTRICT MAGISTRATE AND OTHERS where in Para No. 8 (xi) it is held that :-

The Chief Metropolitan Magistrate Court has no power to adjudicate the dispute between the parties. Hence this Court cannot go into the merits of the claim.

6. Upon perusal of the Judgment of the Hon'ble High Court of Gujarat, the Chief Metropolitan Magistrate has very limited scope with respect to the cases U/s. 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002

(SARFAESI ACT). Hence, this Court cannot go into the merits of the claim.

7. Perused the application, affidavit submitted by the Authroised Officer of the Applicant and documents filed on record of the case.

8. Taking into consideration the Application, Affidavit and documents produced on record It is apparent that applicant has granted the aforesaid financial assistance to the Respondents. In pursuance of such financial assistance Respondents have executed various documents in favour of Applicant to create security interest over the aforesaid secured asset. However, in due course failed to repay loan.

9. Upon perusal of record, I am satisfied that the contents of the affidavit are fully supported by the documents produced. That apart, sufficient time has been given by the applicant to the opponent to make repayment of the outstanding dues but opponent has not paid the outstanding amount. Hence, considering the above facts of the application and in view of the above Judgments of the Hon'ble High Court. Hence, passed the following order:

O R D E R

1) The Application of the applicant is hereby allowed.

2) I authorize, Mr.Y. B. Patel, Assistant Superintendent as Court Commissioner U/s.14 (1-A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002. (in short SARFAESI ACT).

3) Court Commissioner is directed to take possession of properties mentioned in the present application.

The description of the properties are as under:-

All that part and parcel of immovable property bearing Flat NO. I/406, on the 4th floor of Block No. I, super built up area admeasuring 68.00 Sq. Yards i.e. 56.85 Sq. Mtrs, alongwith undivided proportionate share in the land in the scheme known as “Umang Narol-3”, constructed upon non-agriculture land bearing survey No. 153/2, town planning scheme No. 60 (Narol south), final plot No. 70/1 & 70/2 paiki 70/2 area admeasuring 930.00 Sq. Mtrs situated at Mouje village : Narol, Taluka: Ahmedabad City East, within the registration sub district: Ahmedabad-5 (Narol) of District: Ahmedabad, bounded as follow:

East: Flat No. I-407
North: Open space
West by Flat No. I-405
South: Passage

4) If the secured assets is found in closed condition, the Court Commissioner may take possession of this secured assets by breaking / opening the lock or may take any other steps he may think fit.

5) After taking the possession of the secured assets, Court Commissioner shall prepare the inventory of any item, Documents relating to the assets if found in secured Assets and handover the same to the applicant.

6) The concerned Police Inspector of the concerned police station under whose Jurisdiction, the aforesaid Secured Assets is situated, shall provide necessary police Assistance / protection to the Court Commissioner on the date appointed by the Court Commissioner for taking possession of the secured assets, as per the **Circular of Home Department, Bearing No SB-II, GNH/112017/998-PART FILE Dated 03rd December 2020. As per said circular when the question of giving police protection under the SARFAESI Act, arise, at that time, the police authority shall not record any**

statement of any person nor should call any person to police station for recording the statement and police shall provide the police assistant to the secured creditor. on production of the copy of this order before the concerned police station. The police inspector of the concerned Police Station, shall provide police protection within 30 days from the receipt of the copy of this Court order . The Applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof. The Court Commissioner may take or cause to be taken such steps and use, or cause to be used such force, as may, in his/her opinion be necessary. Copy of this Order be sent to the concerned Police Station.

7) Applicant shall bear the expenses incurred in taking possession of the secured assets and shall provide all necessary assistance to the court commissioner in taking possession of the secured assets.

8) Applicant has deposited the lumpsum amount of Rs. 20,000/- towards the expenses and remuneration of court commissioner, vide entry No. G-28/26 dated 17/06/2026. The Court Commissioner is directed to complete the said procedure within 90 days or within the time limit extended by the court and submit the compliance report of completion of proceedings.

9) The court commissioner shall carry out the said proceedings on public holidays or except court working hours.

Pronounced in the open court today i.e. on 30/06/2026.

Date: 30/06/2026
Place: Ahmedabad.

[JITESH VISHNUPRASAD JOSHI]
2nd Addl. Chief Judicial Magistrate,
(Court No. 05), Ahmedabad City.
[GJ00927]