MHMM110030632025

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE,
AT ESPLANADE, MUMBAI

(Presiding Officer – M. R. A. Shaikh)

Securitisation Application No.217/SA/2025

ASREC (INDIA) LTD.
a company incorporated under Companies Act, 1956 and registered as a Securitisation and Asset Reconstruction Company duly registered with Reserve Bank of India acting in its capacity as trustee of the ASREC PS 05/2021-2022 Trust having its registered office at Solitaire Corporate Park, Building No.2, Unit No.201-202A and 200-202 B, Ground Floor, Andheri Ghatkopar Link Road, Chakala, Andheri (East), Mumbai-400093.

Through its Authorized Officer. …. Applicant.

Versus

1. M/s. Delcon Electricals Pvt. Ltd.
(Directors a) Mrs. Neeta Devendra Nardekar
b) Mr. Devendra Ramchandra Nardekar
Office at 115, Orbit Industrial Estate, Chincholi Bunder, Off Link Road, Malad West, Mumbai-400064.

And also at:- 1601/1602, Garden Estate, Laxmi Nagar, Link Road, Opp. Vibgyor School, Goregaon West, Mumbai-400104.

2. Mrs. Neeta Devendra Nardekar
Residing at:- 1601/1602, Garden Estate, Laxmi Nagar, Link Road, Opp. Vibgyor School, Goregaon West, Mumbai-400104.

3. Mr. Devendra Ramchandra Nardekar
Residing at:- 1601/1602, Garden Estate, Laxmi Nagar, Link Road, Opp. Vibgyor School, Goregaon West, Mumbai-400104. ...Respondents.

Appearance :-
For Applicant :- Learned Adv. Nayana Raut.

ORDER BELOW EXH.1
(Delivered on 06.08.2025)

This application is filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 **(SARFAESI Act)** for taking possession of the secured asset, namely:

“All that piece and parcel of immovable property viz., Gala No.114, area adm.622 sq.ft. (built up) in Orbit Industrial Estate, Chincholi Bunder, Off. Link Road, Malad West, Mumbai-400064**”**.

Brief contents of application are as under :-

2. Initially, on the request of Respondents, the the Applicant Bank i.e. Vasai Vikas Sahakari Bank Ltd. had granted loan facilities viz., OD-53 facility of **Rs.75,00,000/-** (Rupees Seventy Five Lakh Only) and MORGLN-599 facility of **Rs.72,00,000/-** (Rupees Seventy Two Lakh Only) vide Sanction Letters dated 25.09.2020 and 12.06.2019 respectively. It is contended that, the Respondents executed necessary loan security documents such as; Sanction Letters, Loan Agreement, Agreement for Sale, Mortgage Deed of property etc. for the repayment of the loan availed; the Respondents have created security interest over their said asset.

3. In due course, various loan facilities were granted to M/s. Delcon Electricals Pvt. Ltd. (Respondent No.1) by “Vasai Vikas

Sahakari Bank Ltd.” Subsequently, the loan accounts of Respondent No.1 were declared NPA on 31.12.2020 and were assigned by “Vasai Vikas Sahakari Bank Ltd.” (“Assignor Bank”) to **“ASREC (India) Ltd.”** vide Registered **Assignment Agreement dated 04.01.2022**, for consideration under the provisions of the SARFAESI Act, 2002. Consequently, all rights to recover the dues and the underlying securities in the said loan accounts of the Assignor Bank now vest with “ASREC (India) Ltd.”

4. The secured asset is situated within territorial jurisdiction of this Court. Till the date of filing of this application, applicant is holding a valid and subsisting security interest over secured asset. In due course, borrower has committed default in repayment of the financial assistance as agreed. Thus, the account of the borrower has been classified as “**Non Performing Asset**” on **31/12/2020**.

5. Then, Demand Notice **dated 22/12/2023** U/Sec.13 (2) of the SARFAESI Act was issued to the Respondents, calling upon them to repay the outstanding amount within 60 days from the date of service of notice. The demand notice was sent to the Respondent by post, and the said notice was received and acknowledged by the Respondent as per the track report of the postal authority. Despite receiving the notice, the respondents failed to pay the outstanding loan amount within the stipulated 60 days period. Hence, Applicant is constrained to file this application, which is well in limitation.

6. However, in due course respondents failed to repay the loan amount. Thus, the applicant was compelled to declare the borrower’s account as a “**Non Performing Asset**”. Then Applicant issued Demand Notice U/Sec.13 (2) of SARFAESI Act, demanding total outstanding amount of **Rs.2,30,77,994/-** (Rupees Two Crore Thirty Lakh Seventy Seven Thousand Nine Hundred Ninety Four Only).

7. In catena of judgments Hon'ble Supreme Court and Hon'ble Bombay High Court have settled the position of law that no notice is required to be issued to borrowers and guarantors when application Under Section 14 of SARFAESI Act is filed. Therefore, the Court does not issue a notice to the respondents.

8. It is requirement of Section 14 of SARFAESI Act that, Authorized Officer of applicant financial institute has to file affidavit containing therein facts mentioned in Section 14(1)(b)(i) to 14(1)(b)(ix). Accordingly, Authorized Officer had filed **Affidavit at Exh.3.** In addition to affidavit, copies of certain documents are placed on record. Authorized Officer has tendered documents on record. Such documents are loan sanction orders, Loan Agreement, title deed of mortgage property, notice given under section 13(2) of SARFAESI Act to respondents, Postal Receipts, Track Reports etc.

9. The court, under Section 14(1A) of the SARFAESI Act, can authorize a subordinate officer to take possession of secured asset. However, due to the high volume of cases and the overburdened staff, it is impractical to do so efficiently. Therefore, the Court relied upon the judgment of Hon’ble Supreme Court ruling (NKGSB Co-operative Bank Ltd. Vs. Subir Chakravarty, 2022). On the basis of above ruling, the court decided to appoint additional members from the Bar as Court Commissioners. In consultation with the Bombay Metropolitans' Courts' Bar Association, Advocate **Salokhe Vinayak R.** is appointed as Court Commissioner to take possession of the secured asset.

10. Before parting with order, I would like to mention here that, this Court has experienced time and again that under the garb of settlement talks are going on, the applicant bank through its Authorized Officer is dictating/suggesting/directing to Court Commissioner that not to comply the writ of commission within stipulated time granted by the Court. Such attempt by Bank/financial institution may amounts to contempt of Court. Thus, such practices have to be deprecated. The Bank/financial institutes have to permit Court Commissioner to comply writ of commission and if any settlement works out then release the property to concerned. But at any cost not required to be restrained to Court Commissioner from compliance of writ of commission. Thus, I proceed to pass following order;

ORDER

(I) The Application Under Section 14 of the SARFAESI Act is allowed, and Authorized Officer (As per 'SARFAESI Act') is permitted to take over possession of secured asset on behalf of the applicant.

(II) Advocate **Salokhe Vinayak R.,** Address: Office No. 15 and 19A, Shreenath Bhuvan, 1st Floor, R. S. Sapre Marg, Near Small Causes Court, Mumbai - 400 002. (Mobile No.9869371872), is hereby appointed as Court Commissioner to take over possession of the aforesaid secured asset and hand it over to the applicant's Authorized Officer, under panchanama.

(III) The applicant must pay **Rs.15,000/-** (Rupees Fifteen Thousand Only) as a fee to the Court Commissioner for taking possession of the secured asset.

(IV) The Authorized Officer shall furnish their full office address, residential address, mobile number, and landline numbers to facilitate communication with the Court Commissioner. The applicant's financial institution and its Authorized Officer shall not interfere or delay the execution of this order under the pretext of settlement talks. Any such attempt will be viewed seriously.

(V) The Court Commissioner shall issue a 15-day advance notice to the concerned parties before executing possession. The Commissioner may use necessary force, including breaking locks, and seek police assistance if required at the applicant's expense and if any articles or documents are found in the secured asset, they must be handed over to the Authorized Officer after preparing panchanama and taking inventory.

(VI) The Police Station Officer within whose jurisdiction the secured asset is located must provide police aid to the Court Commissioner if required. Any refusal to provide police aid without valid reason will be taken seriously.

(VII) The Court Commissioner shall submit a compliance report within 90 days of receiving the Writ of Commission. If any competent court grants a stay, the execution period will automatically extend without requiring a separate extension request.

(VIII) If any individual attempts to influence or delay the execution of possession, the Court Commissioner must report the details to this Court.

(IX) If the Court Commissioner is found to have favored any party to delay possession, appropriate disciplinary action, including reference to the **Bar Council of Maharashtra & Goa**, may be taken.

(X) If the Court Commissioner fails to execute the possession warrant due to personal default, the fees received must be refunded to the applicant along with 18% interest per annum from the date of receipt.

(XI) If any contingency arises in future to refund Court commissioner fees and Court Commissioner fails to repay it to applicant, then it is subject to reference to Bar Council of Maharashtra and Goa for taking appropriate action for misconduct.

(XII) Upon compliance with Clause Nos.III & IV, issue the Writ of Commission.

MUJAFFARRAHEMAN ASGHAR SHAIKH

Digitally signed by MUJAFFARRAHEMAN ASGHAR SHAIKH
Date: 2025.08.06 17:29:54 +0530

(M. R. A. Shaikh)
Chief Judicial Magistrate
Esplanade, Mumbai

Date:- 06.08.2025.

SBA/-