सत्यमेव जयते

IN THE COURT OF 3rd ADDITIONAL CHIEF JUDICIAL MAGISTRATE, RAJKOT

Cri. Misc. App. No. 4574/2026

Applicant :-

Asset Reconstruction Company (India) Limited (ARCIL)

Having Their Branch Office at:

Office-610, Sun Square, Nr. Hotel Regenta Central,

Off C G Road, Navrangpura, Ahmedabad-380006.

Through Its Authorized Officer,

Shree Vinay Chavda

VERSUS

Opponents:

1) Lilaben Vinodbhai Vaghela

Add: Quarter No. 76 Slum Quarter, Opp. Community Hall, Jamnagar Road, Rajkot, Kotda Sangani, Rajkot-360001.

Also at: Add: Block No. 76, Ground Floor, Gujarat, Slum Clearance Board, Nr. Police Head Quarter, Off. Jamnagar Road, Opp. Community Hall, Rajkot, Gujarat-360001.

2) Vinod Ratanbhai Vaghela

Add: Quarter No. 76 Slum Quarter, Opp. Community Hall, Jamnagar Road, Rajkot, Kotda Sangani, Rajkot-360001.

Also at: Add: Block No. 76, Ground Floor, Gujarat, Slum Clearance Board, Nr. Police Head Quarter, Off. Jamnagar Road, Opp. Community Hall, Rajkot, Gujarat-360001.

-: Subject :-
Application under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) to take possession of the immovable residential property (Secured Assets)

- **Appearance:-**

  Ld. Advocate Shri **R.K.Dhruv** for the applicant.

:: J U D G M E N T ::

1. The present application has been preferred by the authorized person of the applicant. It is the say of the applicant that the applicant is a bank/ financial institute which provides various types of financial assistance to borrowers. It is the further say of the applicant that the borrowers / mortgagors had approached the applicant bank for the grant of loan which was sanctioned by the applicant bank. It is say of the applicant that the present application falls under provisions of **The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002** (for the sake of brevity hereinafter referred to as "SARFAESI Act"). It is further averred by the applicant that the opponents have not taken care of repayment of the loan amount and therefore, the opponents were classified as Non-Performing Assets i.e. N.P.A. on **24/03/2021.**

2. It is also averred by the applicant that statutory demand notice was served upon the opponents under Section 13 of the SARFAESI Act, 2002 and opponents were called upon to pay the loan amount along with interest within the period of 60 days from the service of the notice, the borrowers i.e opponents have failed to repay the loan amount of the plaintiff. Therefore, this application under Section 14 of the Act has been preferred by the present applicant.

3. In the present matter, authorized person of applicant has filed the present application which is supported by the affidavit which submits that the opponents had borrowed housing loan amount of **Rs. 5,36,213/- vide Agreement No. 16500078103** and total outstanding due amount of **Rs. 11,50,391.69/- (Rupees Eleven Lakhs Fifty Thousand Three Hundred Ninety One and Sixty Nine paisa Only)** remains unpaid as per Section 13 (2) notice and further interest thereon to the applicant till the date of payment and the present application is filed within the time limit.

4. Applicant has relied upon the case of **Indian Overseas Bank Vs. Shree Arvind Steel Ltd. reported in AIR-2009 Madras** at page 10 wherein it has been held that there is no need of service of notice on opponent under section 14 of SARFAESI ACT, Court has only to see that whether secured creditors have served the notice under Section 13(2) of the Act on opponent.

5. The present applicant has produced certain documents like applicant has served the notice under Section 13(2) of the Act, the copy of notice at **Mark 3/4** which is served through RPAD post / by paper publication. As per the record the notice under Section 13(2) of the Act was issued upon the opponents on **08/04/2025** and the opponents have failed to repay the loan amount within 60 days from the date of service of aforesaid notice.

6. It is contemplated as per Section 14(3) of SARFAESI Act 2002, "No act of the Chief Metropolitan Magistrate or the District Magistrate (any officer authorized by the Chief Metropolitan Magistrate or District Magistrate done in pursuance of this section) shall be called in question in any court or before any authority" also, as per section 35 - The provisions of this Act to override other laws.

7. The applicant is directed to inform prior to this Court in writing before taking possession of secured assets in case of there is any stay of Hon'ble Supreme Court or High Court, Debt Recovery Tribunal or National Company Law Tribunal.

8. Upon considering the entire record of the case and considering the documents and affidavit produced on record. It is amply clear that the applicant had given certain loan amount to the opponents and the opponents have taken no pains to repay the alleged loan amount and it is Prima-Facie borne out that the applicant has scrupulously followed the rules and regulations of RBI and also followed provisions of the SARFAESI Act and therefore, this Court is inclined to allow the present application.

9. Having thus regard to the facts and circumstances of the present case, opponents have failed to repay the amount during the time prescribed by the law inspite of the notices as per the Act have been served on opponents, the application is required to be allowed, accordingly I pass the following Order.

:: FINAL ORDER ::

1] The present application is **allowed**.

2] Under Section 14 (1-A) of the SARFAESI Act-2002, **Shree J.N.Gosai, Assistant, Civil Court,** is hereby appointed as Court Commissioner.

3] The Authorized Officer of the applicant/ bank shall remain present at the time of taking possession of the property in question.

4] The Court Commissioner is hereby directed to take the possession of the following property and the same shall be handed over to the applicant/bank.

Description of the Mortgaged Property

(Schedule of Property)

ALL THAT RIGHT TITLE AND INTEREST OF PROPERTY BEARING RESIDENTIAL PROPERTY MEASURING 40.78 SQ. MTS. AT REVENUE SURVEY NO. 626 PAIKI CITY SURVEY WARD NO. 18, SLUM CLEARANCE PROJECT NO. 1 PAIKI HOUSE NO. 76 AT RAJKOT.

BOUNDED AS:

NORTH	**QUARTER NO. 75**
SOUTH	**QUARTER NO. 77**
EAST	**STREET**
WEST	**ROAD**

5] If aforesaid property/ies is/are found closed or locked, then appointed Court Commissioner shall take possession in accordance with procedure established by law.

6] At the time of taking of the possession of the disputed property if any kind of house hold or any materials are found therein the property details with separate list shall be prepared by the Court Commissioner and it shall be handed over to the applicants and the copy of the list/Panchnama of schedule of property shall be produced before this Court.

7] The concerned Police Station in whose jurisdiction the property is situated shall provide the necessary help to the Court Commissioner at the time of taking of possession of the alleged property in case of any request made by the Court Commissioner and police shall give police protection accordingly.

8] It is clarified that the expenses and cost of the police protection shall be paid and deposited in advance by the applicant/bank. Applicant/bank also to provide legal assistance to the Court Commissioner, if required, for that expenses shall be borne by the applicant/bank.

9] The applicant / bank shall pay the remuneration of Rs. 15,000/- (Rupees Fifteen Thousand) to Court Commissioner at the first instance towards Court Commission. But if properties are more than two, then applicant has to pay Rs. 5,000/- for each of the property to Court Commissioner towards remuneration. If the amount towards the remuneration of Court Commission is not deposited within 15 days from the date of this order, then after 15 days the applicant has to pay cost of Rs. 100 in DLSA for the delay of each day. The Court Commissioner is directed to take the possession of secured assets within 45 days from amount deposited towards commission-work.

ORDER IS PRONOUNCED & SIGNED TODAY IN THE OPEN COURT ON 27th JULY, 2026.

Date: 27/07/2026
Place: Rajkot

(VINAY D. MODH)
3rd Addil. Chief Judi. Magistrate,
Rajkot
UIC No. GJ-01033