IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, BOTAD.

Criminal Miscellaneous Application No. 404 of 2026

IN THE MATTER OF:

Cholamandalam Investment and Finance Company Limited.
Having its office at: 2nd Floor B-203, The First, Beside ITC Narmada Hotel, Behind Keshavbaug Capital, Vastrapur, Ahmedabad-380015
Authorised officer
PREMAL PANKAJBHAI BHATT

Versus

1. Ajaybhai Kantibhai Gurunani (Applicant)
Add:- Plot no. 51, Ambaji Chowk, Jan
Gadhada, Dhasa Vishi, Raninga Chowk, nr
Ramji Mandir, Taluka-Dhasa, Bhavnagar,
Gujarat-364740.
2. Saibaba Selection (Co-Applicant)
Add:- 01, Saibaba Selection, Dhasa Vishi, 01 nr gram panchayat, Taluka-Dhasa, Gadhda, Bhavnagar, Gujarat-364740.3. Nilamben Ajaybhai Gurunani (Co-Applicant)
Add:- Plot no. 51, Ambaji Chowk, Jan
Gadhada, Dhasa Vishi, Raninga Chowk, nr
Ramji Mandir, Taluka-Dhasa, Bhavnagar,
Gujarat-364740.

:: ORDER UNDER SECTION 14 OF THE SARFAESI ACT, 2002 ::

[1] The present application has been preferred by the Applicant under **Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002** (hereinafter referred to as the 'said Act').

[2] The Court has perused the contents of the application, evaluated the accompanying documentary evidence, and considered the oral submissions advanced by the learned Advocate appearing on behalf of the Applicant.

[3] **Judicial Precedents & Legal Principles :**

Before deciding on this application, this Court places reliance on the settled legal positions established by the Hon’ble Supreme Court and various Hon’ble High Courts:

I. Competency of the Court

- *Authorized Officer, Indian Bank v. Kavishalkashi & Others (Civil Appeal No. 6295/2015):* The Hon'ble Supreme Court held that ***"The Chief Judicial Magistrate is equally competent to deal with applications moved by a secured creditor under Section 14 of the SARFAESI Act, 2002"***.

II. Scope of Jurisdiction (No Adjudication at this Stage)

- *IDBI Bank Ltd. v. District Magistrate and Others (Special Civil Application No. 215/2011 - Hon'ble Gujarat High Court):*

    - The CMM/DM is not empowered to decide the legality or propriety of actions taken by the secured creditor under Section 13(4). Such actions can only be assailed before the Debts Recovery Tribunal (DRT) under Section 17.

    - The CMM/DM is bound to assist the secured creditor and does not possess the jurisdiction to call for redundant documentation to adjudicate whether an asset is a secured asset or not.

- *Chartered Bank v. Nobel Kumar and Others (Criminal Appeal-1218/2013 - Hon'ble Supreme Court, citing TradeWell v. Indian Bank):*

    - The CMM/DM acting under Section 14 is not required to give notice to the borrower or a third party.

    - The authority must only verify: **(a)** whether notice under Section 13(2) was given, and **(b)** whether the secured asset falls within its territorial jurisdiction. If these conditions are fulfilled, the order *must* be passed.

III. Appointment of an Advocate Commissioner

- *S. Chandramohan and others v. Chief Metropolitan Magistrate, Egmore, Chennai (2015(3) DCR - Hon'ble*

High Court): It is legally permissible for the Magistrate, instead of visiting the spot personally, to appoint an Advocate Commissioner to take possession of the assets and documents on behalf of the Court.

[4] On perusal of the affidavit of the Authorized Officer and supporting documents, this Court finds that:

1. A valid notice under **Section 13(2)** was issued to the collateral/counterparty.
2. The secured assets and instrumentalities are located well within the territorial jurisdiction of this Court.
3. The Applicant has strictly complied with the provisions of the SARFAESI Act, 2002.

In light of the aforementioned judicial mandates, this Court is bound to assist the applicant. Therefore, the present application is deemed fit for approval.

:: FINAL ORDER ::

1) The present application filed by the Applicant is hereby **granted**.

2) In exercise of powers conferred under **Section 14(1-A)** of the SARFAESI Act, 2002, **Shri A.V.DIHORA (Assistant), Principal Civil Court, Barwala** is hereby appointed as the **Court Commissioner** to take physical possession of the secured asset(s)

-::Property No. 1::-

“Immovable Property Of Mr. Ajaybhai Kantibhai Gurnani, R. S. No. 149/2, Paiki, Plot No. 51 Paiki 1/2, Admeasuring 153-30, Situated At At Dhasa, Taluka: Gadhda, District: Botad.

Bounded As Under:-

East	**:**	**Adj Road,**
West	**:**	**Adj. Plot of Gadhvi,**
North	**:**	**Adj. Property Of Chhaganlal Mohanlal,**
South	**:**	**Adj. Property Of Narbheram Jethalal"**

-::Property No. 2::-

Immovable Property Of Mr. Ajaybhai Kantibhai Gurnani, R. S. No. 149/2, Paiki 4, Plot no. 51 Paiki 1/2, Admeasuring 153-30, Situated At: Dhasa, Taluka: Gadhada, District: Botad.

Bounded As Under:-

East	**:**	**Adj. Road,**
West	**:**	**Adj. Plot Of Gadhvi,**
North	**:**	**Adj. Property Of Chhaganlal Mohanlal,**
South	**:**	**Adj. Property Of Narbheram Jethalal"**

Property No. 1 & 2 Are Jointed.

and relevant documents, and hand over the same to the Applicant Bank/Secured Creditor.

3) The appointed Court Commissioner is hereby directed to take physical possession of the secured assets and hand over the same to the Authorized Officer/Person of the Secured Creditor (Applicant). If the secured asset is found locked or sealed, the Court Commissioner is legally empowered to break open the locks and take all necessary lawful steps to secure entry and possession. Should circumstances arise requiring law enforcement assistance, the Applicant Company shall approach the Officer-in-Charge (SHO) of the Police Station having territorial jurisdiction over the secured asset. The Superintendent of Police (SP) is hereby directed to provide adequate police protection to the Court Commissioner upon receipt of a proper application and verification of the payment of requisite statutory fees by the Applicant.

4) All expenses incurred during the process of taking over physical possession of the secured asset shall be borne exclusively by the Applicant. The Authorized Officer of the Applicant Company shall maintain constant liaison with the Court Commissioner, provide all necessary logistical support, and remain mandatory present at the site throughout the execution of the possession proceedings.

5) This order is passed strictly based on the representations, data, and information furnished by the Applicant Company/Institution/Entity. The Applicant shall bear absolute and sole liability for any existing or future litigation pending before any judicial/quasi-judicial forum concerning this property. If any information supplied by the Bank is subsequently found to be erroneous, deficient, or defective, the responsibility shall rest entirely with the Bank. Any disputes regarding transactions between the borrower and the bank, third-party claims, or prior encumbrances/liens on the property shall be independently resolved by the Bank without creating any liability for this Court.

6) The Applicant has duly deposited an amount of ₹**15,000/- (Rupees Fifteen Thousand Only)** with this Court towards the professional fees/remuneration of the Court Commissioner order below Exh.1. The Court Commissioner shall complete the entire process of taking possession within **60 days** from the date of this order, or within such extended time as may be granted by this Court upon valid application. Upon executing the order, the Court Commissioner shall submit a detailed compliance and execution report to this Court. The deposited remuneration shall be disbursed to the Court Commissioner only after the successful submission of the said report.

7) The Court Commissioner shall carry out the possession proceedings exclusively on public holidays or after official court working hours. The Court Commissioner shall strictly adhere to the judicial guidelines and directives issued by the Hon'ble High Court in **Public Interest Litigation (PIL) No. 68 of 2012**. **Pre-Possession Notice:** A mandatory **14 days' prior notice** must be served upon the defaulter/borrower before executing the physical takeover of the secured assets.

8) The Registrar of the Chief Judicial Magistrate Court, Botad, is hereby directed to formally issue the Writ of Commission (Commissioner Letter) in the name of the appointed Court Commissioner immediately.

Pronounced and declared in the open Court on this **15th day of June, 2026.**

[M. S. Soni]
Chief Judicial Megistrate,
Botad.
CODE: GJ01262

Date: 15/06/2026
Place: Botad.