| | |
|---|---|
| **MHYA030040122026** | **Oth. Misc. Cri.A. No. 388/2026**<br>**Grihum Hou. Finance Ltd.**<br>**V/s.**<br>**Ajay Mahadev Rathod & Ors.** |

**ORDER BELOW EXH.1**
**(Passed on 07th day of August, 2026)**

1. Perused the application along-with affidavit of authorized officer of applicant bank and all the supporting documents.
2. Heard the learned Advocate for the Applicant Bank.
3. By this application, the Applicant Bank is seeking the assistance for taking possession of the secured assets as per Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act").
4. The Hon'ble Bombay High Court in the landmark Judgment of **M/s. Trade Well & Anr. vs. Indian Bank & Anr. [2007 (1) Bom CR (Cri) 783]** laid down the following guidelines in respect of Section 14 of the SARFAESI Act-
    1. The bank or financial institution shall, before making an application under section 14 of the NPA Act, verify and confirm that notice under section 13(2) of the NPA Act is given and that the secured asset falls within the jurisdiction of CMM/DM before whom application under section 14 is made. The bank and financial institution shall also consider before approaching CMM/DM for an

order under section 14 of the NPA Act, whether section 31 of the NPA Act excludes the application of sections 13 and 14 thereof to the case on hand.

2. CMM/DM acting under section 14 of the NPA Act is not required to give notice either to the borrower or to the 3rd party.
3. He has to only verify from the bank or financial institution whether notice under section 13(2) of the NPA Act is given or not and whether the secured assets fall within his jurisdiction. There is no adjudication of any kind at that stage.
4. It is only if the above conditions are not fulfilled that the CMM/DM can refuse to pass an order under section 14 of the NPA Act by recording that the above conditions are not fulfilled. If these two conditions are fulfilled, he cannot refuse to pass an order under section 14.
5. Remedy provided under section 17 of the NPA Act is available to the borrower as well as the third party.
6. Remedy provided under section 17 is an efficacious alternative remedy available to the third party as well as to the borrower where all grievances can be raised.

5. In view of the above, there is no requirement to give the Notice to the Borrower / respondent while deciding the application under Section 14 of the SARFAESI Act. Also, it appears from the material placed on record that the Applicant Bank had issued the Notice under section 13(2) of the SARFAESI Act to the

Borrower and it was served as per law. But no material is available on record to suggest that the Borrower has preferred any application under Section 17 of the SARFAESI Act. Further, the secured assets fall within the jurisdiction of this Court. Moreover, the Authorised Officer of applicant bank has filed sworn affidavit on record wherein it has been affirmed that all requirements of Section 13 of the SARFAESI Act are duly complied with. Therefore, there is no impediment in granting the necessary assistance to the Applicant Bank in taking possession of the secured assets as per Section 14 of the SARFAESI Act. Hence, I proceed to pass the following order-

**ORDER**

1. The Application is allowed.
2. Issue Possession Warrant as prayed.
3. The Head Bailiff of this Court is directed to depute the Bailiff for taking possession of the following property-

| **PROPERTY** |
| --- |
| ALL THAT piece and parcel of Gram Panchayat Malmatt/Property No.225, Area Admeasuring 1408 Sq.Ft. (129.65) sq.mtr.) and Construction thereon of house situated at Mauje Mahuli (Galvhi) Tq.Babhulgaon, Dist. Yavatmal. Situated with the **boundaries as follows.** |
| On the East : House of Premsingh Rathod, |

| |
|---|
| On the West: House of Amol Sawade, |
| On the North: House of Maroti Rathod, |
| On the South: Cement Road. |

4. The Bailiff shall take possession of the above property by taking such steps and using such force as may be legally necessary and break open the lock, if required. After taking possession, the Bailiff shall forward the same to the Applicant Bank.
5. The In-charge Police Officer of concerned Police Station, within whose jurisdiction the property is situated is directed to provide necessary police protection for the execution of the aforesaid possession warrant at the cost of the Applicant Bank.
6. The applicant Bank shall have to bear the requisite charges as per the rules.
7. The compliance of the order be reported within 90 days of the receipt of this order.

DISTRICT COURTS MAHARASHTRA

सत्यमेव जयते

Digitally signed by DIPTANSHU ANIL TIWARI
Date: 2026.08.07 14:53:11 +0530

**(D.A.Tiwari)**

2nd Jt. C.J.S.D. & A.C.J.M.,
Yavatmal

Yavatmal
Date-07.08.2026

**<u>CERTIFICATE</u>**

I affirm that the contents of this P.D.F. file judgment/Order are same word to word, as per the original Judgment/order.

Date:-07/08/2026.

**Stenographer Grade-II**