'Extract copy of Order-Sheet'

IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, SERAMPORE, HOOGHLY.

CNR No. WBHG06-005435-2025

M.C Case No. – 596 of 2025.
Present : Vikramjit Sen.
Addl. Chief Judicial Magistrate,
Serampore, Hooghly.

UCO BANK, *a Government of India undertaking bank founded in 1943 having its* ***Registered Office and carrying on business at 10 BTM Sarani, Kolkata – 700001, West Bengal,*** *including branch office* ***at Hindmotor Branch, 141 Debaipkur Road, Hindmotor, Hooghly, Pin – 712233,*** *within the jurisdiction of this office and are secured creditors within the meaning of Section 2(zd), of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 through it's Branch Manager and authorized officer Gunjan Kumar.*

Vs.

1) Tanushree Majumdar (Borrower).
2) Santosh Pradhan (Co-borrower).

Order dated – 19.01.2026.

Today is fixed for hearing.

Petitioner/Authorised Representative is present by filing *hazirah*

Perused the materials on record and the supporting original documents.

Accordingly, the record is taken up for passing order.

This is an application U/s. 14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act), which has been amended with enforcement, security, interest and recovery of debts, laws and miscellaneous provisions Amendment Act, 2016 for taking possession of the secure asset *namely "All that piece and parcel of flat measuring 1075 Sq. Ft of flat No. B-3, 2nd Floor,* ***"HAREKRISHNA VILLA"*** *situated in municipal holding no. 170 R.G Nagar Road, Ward No. 6, R.S Dag No. 1011, under R.S Khatian No. 778 corresponding to L.R. Dag No. 1393 under L.R Khatian No. 5240, 5241, 3149 at Mouza Kotrung, J.L No. 8 within Additional District Sub Registry Office of Serampore (presently A.D.S.R Office Uttarpara) District – Hooghly in Deed No. 062103044 of 2021 registered in A.D.S.R Uttarpara."*

The building is butted and bounded by :

North : Common lobby of 2nd Floor & flat No. B-4;

South : Municipality Road;

East : Flat No. 82;

West : Common open space.

Perused the application of the petitioner.

It is the case of the petitioner that petitioner had granted *Home Loan* to the respondent no. 1 & 2 against the said loan the house property registered in the name of respondent no. 1 was kept as the security against the said loan in favour of the petitioner and the original title of the property was deposited with the petitioner securing the loan amount. The secured asset is situated within the jurisdiction of this court. It appears from the document filed by the petitioner that the respondent no. 2 co-borrower has been a defaulter in making repayment of the financial assistance granted by the petitioner and the loan account of the respondents No. 1 & 2 have been classified by the petitioner as non-performing asset and the petitioner

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has already taken steps U/s. 13(2) of the SARFAESI Act and in spite of the steps taken by the petitioner U/s. 13(2) of the SARFAESI Act the respondents No. 1 & 2 failed or did not pay the dues amount to the petitioner and the petitioner has already invoked provisions of Section 13(2) and 13(4) of SARFAESI Act and has already taken symbolic possession of the secured asset and the fact of taking symbolic possession by the petitioner of the secured asset of the respondent has already been published in the daily two newspapers. Hence, this application filed by the petitioner praying for taking physical possession of the secured asset.

The petitioner has filed all the documents in support of his application.

Annexure	*Description*
'1'	Xerox copy of Authorization Letter.
'2'	Xerox copy of Loan Application.
'3'	Xerox copy of Sanction Letter.
'4'	Xerox copy of Loan Agreement.
'5'	Xerox copy of Deed.
'6'	Xerox copy of 13(2) Notice.
'7'	Xerox copy of 13(2) Track Report.
'8'	Xerox copy of 13(4) Notice.
'9'	Xerox copy of 13(4) Pasteing notice.
'10'	Xerox copy of Paper Publication.
'11'	Xerox copy of CERSAI.
'12'	Xerox copy of Symbolic Possession.

The original supporting documents were verified at the time of hearing in the presence of Ld Advocate and the Authorised Officer.

Considered.

In the judgment of Balkrishna Rama Tarle Dead Thr LRS & Anr. Vs Phoenix ARC Private Limited & Ors dated 26.09.2022, it was held by the Hon'ble Supreme Court "in view of the matter once all requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor. It is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an Advocate appointed as Advocate Commissioner. At that stage CMM/DM is not required to adjudicate dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with the respect of the secured asset and the aggrieved party to the relegated to raise objections in the proceedings U/s. 17 of SARFAESI Act before debt recover tribunal."

Ld Advocate for the petitioner also cited rulling of M/s. R.D Jain and Co. Vs. Capital First Ltd & Ors in Civil Appeal No. 175 of 2022 of Hon'ble Supreme Court of India.

Perused the affidavits including 9 point affidavit filed by the petitioner in compliance to the Section 14(1) of the Act. Thus it appears that the petitioner

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has filed this application after complying the provisions of Section 13(2) and 13(4) of the Act and has complied all necessary requirements of the Act for taking possession of secured asset against the financial assistance granted to respondents no. 1 & 2. Hence, it appears that petitioner's prayer is needed to be allowed for taking possession of the secured asset and related documents thereto and to forward same to the secured creditor.

Hence, based on the above facts and circumstances, and upon satisfaction as to the fulfillment of the statutory requirements, the application filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as SARFAESI Act), which has since been amended *vide* Enforcement of Security Interest and Recovery and Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016 is considered and *allowed.*

On relying upon the judgment dated 06.11.2019 passed by the Hon'ble Bombay High Court in case of *Mr. Subir Chakravarty & Anr. Vs. Kotak Mahindra Bank Ltd. & Anr. Delivered in Writ Petition (I) No. 28480 of 2019 and in the judgment of Balkrishna Rama Tarle Dead Thr. LRS & Anr. Vs. Phoenix ARC Private Limited & Ors. Dated 26.09.2022* an Officer subordinate to this court or even an advocate can be appointed to take possession of the secured assets.

Hence, it is

O R D E R E D

That Ld Advocate ***Puja Kri Chowdhury*** is hereby appointed as Advocate commissioner to take possession of the secured asset situated at *namely "All that piece and parcel of flat measuring 1075 Sq. Ft of flat No. B-3, 2nd Floor, **"HAREKRISHNA VILLA"** situated in municipal holding no. 170 R.G Nagar Road, Ward No. 6, R.S Dag No. 1011, under R.S Khatian No. 778 corresponding to L.R. Dag No. 1393 under L.R Khatian No. 5240, 5241, 3149 at Mouza Kotrung, J.L No. 8 within Additional District Sub Registry Office of Serampore (presently A.D.S.R Office Uttarpara) District – Hooghly in Deed No. 062103044 of 2021 registered in A.D.S.R Uttarpara."*

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Appointed Advocate commissioner shall give possession notice to the Authorized Officer of the secured creditor and the borrower, to be served personally/speed post at least 14 days in advance. A copy of such 14 days' advance notice shall also be affixed on the main door or other conspicuous part of the said property. A copy of this order be also affixed along with such notice.

After expiry of the notice, the Ld Advocate Commissioner shall take possession of the aforesaid property and handover it to be aforesaid authorized officer of the secured creditor/petitioner namely ***Gunjan Kumar*** under proper receipts to that effect. The entire proceedings shall be photographed or video recorded as per the demand of the situation.

The Ld Advocate Commissioner to take such steps and use such force including breaking open the lock or any hurdle thereof by taking assistance of police

Contd P/4

if required at the expenses of the applicant and if any articles/documents found in the secured assets, then deliver its possession to the Authorized Officer of the petitioner after preparing list of articles and making inventory photographs be also taken as proof of the same. Copies of the inventory shall be handed over to the borrowers if present at the site under acknowledgment and also to the Authorized Office of the petitioner.

The appointment Advocate commissioner shall exercise all due care and caution and not to violate the orders of any Court or forum relating to the aforesaid property.

The petitioner shall furnish all necessary details to the receiver and would extend full co-operation for the purpose of execution of this order. The O.C or I.C of the concerned Police Station is also directed to provide police assistance to the appointed Advocate commissioner to ensure smooth execution of this order.

The Advocate Commissioner shall file his/her report along with photographs/video, C.D documents if any, inventory prepared if any, etc within two months from the date of execution of this order.

For removal of doubts, it is made clear that objections/applications, if any, may be preferred by any borrower, guarantor, mortgagor, lessee or an other aggrieved person before the Debt Recovery Tribunal having jurisdiction, as per the amended provisions of Section 17 of SARFAESI Act.

Issue writ of commission, accordingly, on payment of Rs.*20,000/-* to the Ld. Commissioner against proper receipt and submit receipt in court. All miscellaneous and incidental expenses shall be borne by the petitioner.

A copy of this order be given to the Advocate Commissioner and an another copy of this order be sent to the Chandannagar Police Commissionerate, Chandannagar, Hooghly for his information.

Ld Advocate Commissioner is directed to submit a compliance report or non-compliance report with reason within 60 days of this order.

No further proceedings are required on this application. File be consigned to the record room after receipt of report of from the appointed Advocate Commissioner.

Dictated & corrected by me.

Sd/-
A.C.J.M, Serampore,
Hooghly.

Sd/-
Addl. Chief Judicial Magistrate,
Serampore, Hooghly.

IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, SERAMPORE, HOOGHLY.

Copy of this order forwarded to Chandannagar Police Commissionerate, Chandannagar, Hooghly for his information.

Sd/-
Addl. Chief Judicial Magistrate,
Serampore, Hooghly.