IN THE COURT OF RAVNEET SINGH, PCS
CHIEF JUDICIAL MAGISTRATE, S.A.S. NAGAR (MOHALI)

CIS No. CRM-1923-2026
CNR No.PBSA03-004443-2026
Date of order: 22.07.2026

Kotak Mahindra Bank Ltd. SCO No.153-154-155, 2nd Floor, Sector 9C, Madhya Marg, Chandigarh through its Authorised Officer.

Also At:

Kotak Mahindra Bank Ltd. 27 BKC, C 27, G Block, Bandra Kurla Complex, Bandra (E), Mumbai.

…… Petitioner

Versus

1. Sanjay Kumar son of Shiv Shankar Prasad Singh R/o Flat No.737, 7th Floor, Block-19, KSB Royal Height, Sector 126, District S.A.S. Nagar, Punjab.
   2nd Address: B-22, 2nd Floor, Right side, Pargavaran Complex, Near Vidyasagar Hospital, IGNOU Road, Saket New Delhi.
2. Mrs. Sweta wife of Sanjay Kumar R/o Flat No.737, 7th Floor, Block-19, KSB Royal Height, Sector 126, District S.A.S. Nagar, Punjab.
   2nd Address: B-22, 2nd Floor, Right side, Pargavaran Complex, Near Vidyasagar Hospital, IGNOU Road, Saket New Delhi.

…….Borrowers/Respondents

PETITION UNDER SECTION 14 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002, FOR SEEKING ASSISTANCE OF THIS HON'BLE COURT FOR TAKING POSSESSION OF THE MORTGAGED PROPERTY DESCRIBED IN PARA NO.4 BELOW.

****

Present: Shri D.K. Singal, Advocate for the applicant.

ORDER:-

1. This order shall decide application under Section 14 of the Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act') moved by

applicant through Sh. Sherjang Singh, Authorized representative praying that possession of the applicant's secured assets qua the properties mentioned in the application may be delivered to the applicant, along with affidavit of above said authorized representative.

2. It is averred that all the respondents approached the original lender and availed a loan of ₹25,60,000/- under loan account No.HOU/GRP/0415/216254 and the same was disbursed, upon terms and conditions as stipulated under the loan agreements and other necessary loan documents which were executed in connection therewith. It is averred that after availing the facilities, the respondents did not adhere to financial discipline and failed to deliver on their financial commitments. It is averred that on account of default committed by the respondents, the account was declared non-performing asset on 31.07.2017. It is averred that the applicant issued notice on 17.10.2025 under provision of Section 13 (2) of the Act. It is averred that despite the receipt of the said notice under Section 13 (2) of the Act, the respondents did not comply with the request for payment of outstanding loan amount. It is averred that the authorized officer of the bank had taken symbolic possession of the properties on 13.05.2026 under Section 13(4) of the Act. The contents of the said notice were also published in two newspapers 'Business Standard' (English) and 'Daily Chardikala' (Punjabi) on 18.05.2026. It is pleaded that Section 14 of the Act, empowers the Chief Metropolitan Magistrate or the District Magistrate to take possession of the secured assets and documents relating thereto and forward such asset and documents to the secured creditor, on the request made in writing by the

secured creditor. The applicant has placed reliance upon the case law cited as "NKGSP Co-operative Bank Ltd. Versus Sudhir Chakarvarty and Others in SLP (Civil) No.30240 of 2019 decided on 25.02.2022, by the Hon'ble Supreme Court in which the Court of Chief Judicial Magistrate is also held to be competent to deal with the application. It is averred that instead of referring the matter to the District Magistrate for taking possession, it is required that the direction be issued to the concerned officer or advocate by the Court to assist the applicant in taking the possession. Further prayer is made for directing the SSP, S.A.S. Nagar to assist the concerned official in taking the possession. Hence the application.

3. I have heard the learned counsel for the applicant and have perused the case file minutely.

4. The learned counsel for the applicant has relied upon the case law cited as "Phoenix ARC Pvt. Ltd. & Anr Vs. The State of Maharashtra & Ors" in writ petition No.9749 of 2021 as per which Hon'ble Bombay High Court has held that there is no requirement to issue notice to either the borrower or to any third party under Section 14 and there is also no requirement of any reply to be filed by them. It is held that the borrower has no right to be heard. In para No.17 of the order, the Hon'ble High Court has prescribed the procedure to be followed under the Act. Section 14(1) of the Act mandates the Chief Metropolitan Magistrate to pass suitable orders for taking possession of the secured asset and to forward it to the secured creditor.

5. As per case law cited as "Authorized Officer, Indian Bank Vs D. Visalakshi and Anr. 2019(4) RCR (Civil) 952, the Hon'ble Supreme Court of India has held that it would be a meaningful, purposive and contextual construction of Section 14 of the Act 2002, to include CJM as being competent to assist the secured creditor to take possession of the secured asset. It is further held that CJM is equally competent to deal with the application moved by the secured creditor under Section 14 of the Act, 2002.

6. The application is supported with the affidavit of Sh. Sherjang Singh, Authorized officer of the applicant/secured creditor, as required under proviso to Section 14(1) of the Act. The copy of power of attorney executed in his favor by the bank is also on record. A perusal of the documents annexed with the petition, shows that the applicant is a secured creditor whereas the respondents are the borrowers within the meaning of the Act. Respondents have also executed the loan documents in favor of the applicant comprising of loan agreement. The immovable property of the respondents is given as security for the repayment of the loan. The borrowers have defaulted in repayment of the financial assistance/loan and the account of the respondents was declared as non performing asset (NPA) on 31.07.2017. The secured creditor had issued the statutory demand notice under Section 13(2) of the Act. The notice under Section 13(2) of SARFAESI Act, 2002 was published in two newspapers. The symbolic possession of the Scheduled Premises had been taken by the applicant on 13.05.2026 under Section 13 (4) of the Act. The contents of the proceedings were duly published in the newspapers under Section 13 (4) of the Act. The respondents have failed to

discharge their liability from the date of issuance of notice under Section 13(2) and 13 (4) of the Act.

7. As per case law cited as Standard Chartered Bank vs. V. Noble Kumar and others 2014 (7) RCR (Criminal) 1524, Hon'ble Apex Court has been pleased to cull out the pre-requisite conditions required to be complied with by the applicant in order to secure the relief claimed under Section 14 of SARFAESI Act :-

> "26. An analysis of the 9 sub-clauses of the proviso which deals with the information that is required to be furnished in the affidavit filed by the secured creditor indicates in substance that (i) there was a loan transaction under which a borrower is liable to repay the loan amount with interest, (ii) there is a security interest created in a secured asset belonging to the borrower, (iii) that the borrower committed default in the repayment, (iv) that a notice contemplated under Section 13(2) was in fact issued, (v) in spite of such a notice, the borrower did not make the repayment, (vi) the objections of the borrower had in fact been considered and rejected, (vii) the reasons for such rejection had been communicated to the borrower etc.
>
> 27. The satisfaction of the Magistrate contemplated under the second proviso to Section 14(1) necessarily requires the Magistrate to examine the factual correctness of the assertions made in such an affidavit but not the legal niceties of the transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of possession of the secured asset".

8. As per case law titled as "Allahabad Bank versus District Magistrate Ludhiana and others, CWP No 4916 of 2020 decided on September 6, 2021", it is held by Hon'ble Punjab and Haryana High Court that Section 14 of the SARFAESI Act, 2002 provides a lawful mechanism to take physical possession of the secured assets which is required to complete the process of transfer as noticed above. The District Magistrate is therefore obligated to provide requisite assistance to the secured creditor on such application having been filed by the secured creditor claiming physical possession of the secured asset subject to the secured creditor filing the 9-point affidavit as provided by the proviso inserted to Section 14 by the Act 1 of 2013 w.e.f. 15.01.2013. Section 14 further provides that the District Magistrate is required to record his satisfaction on such application and then proceed to pass suitable orders for taking possession of the secured asset. Such recording of satisfaction is only to be restricted with regard to the factual correctness of the affidavit filed by the secured creditor and cannot be stretched to include any quasi-judicial or an adjudicatory function.

9. It is argued by the learned counsel for the applicant that a Local commissioner is required to be appointed for getting the warrant of possession executed rather than referring the same to the Collector for its execution. Reliance has been placed upon case law cited as NKGSB Cooperative Bank Limited vs. Subir Chakravarty & Ors. S.L.P. (Civil) No.30240 of 2019 decided on 25.02.2022 in which it is held that CMM/DM can appoint an Advocate as Commissioner to assist him in execution of order passed under Section 14(1) of the 2002 Act.

10. I have gone through the petition as well as affidavit of Sh Sherjang Singh, Authorized officer of applicant. The applicant has complied with all the requirement as per section 14(1) of SARFAESI Act 2002. A security interest was created by the borrowers to secure repayment of the financial assistance/loan provided by the applicant upon the following property by way of mortgage :-

"All that piece and parcel of Flat No.737, Tower T-19 on Seventh Floor and Area Admeasuring approx 1500 Sq feet including undivided proportionate share of land and common facilities situated at KSB Royal Heights, Sector 126, Greater Mohali, Punjab."

11. Therefore, on the basis of findings given above, I am of the considered opinion that warrant of possession of the aforementioned property is required to be issued in favor of the applicant. In view of the observations of Hon'ble Supreme Court of India (cited supra), instead of sending warrants to the Collector concerned for its execution **Ms. Samriti Dogra, Advocate (M.No.6284456611)** is appointed as a receiver with a direction to take possession of the secured assets as pleaded in the application. Copy of the order be sent to the local commissioner for compliance. The local commissioner shall deliver the physical possession of the secured asset to the applicant/secured creditor. The executing Authority is at liberty to use such force as may be necessary for the purpose of providing physical possession of the secured asset. The fee of ₹25000/- of local commissioner shall be paid as per rules by applicant. Let the amount be paid within a period of 20 days from the date of receiving certified copy of this order. A receipt in this regard be placed on the record of the Court file. The

local commissioner/Receiver so appointed shall give 07 days notice to the authorized officer of the applicant bank as well as to the borrower/guarantor about the proposed taking over of the possession of the secured assets. The Receiver is also directed to serve the notice by way of affixation on the secured assets. The affixation be carried out 07 days prior to taking over the possession. This notice shall be affixed either on the outer door or at such other conspicuous place of immovable property/secured assets and photographs of the said place shall be taken showing the affixation/display of notice on the property. The Receiver/local commissioner is further authorized to break open the locks in case the premises are found to be locked. However, in that eventuality he will prepare an inventory with regard to items kept inside the premises along with the value there of. He shall hand over the said items along-with one list duly signed by two witnesses of the locality and by the Receiver to the borrower, if present on the spot. One copy of the handing over memo should be annexed with the report to be submitted by the Receiver to the Court. Photographs of locked premises before taking over and after taking over of items kept inside the premises shall also be taken by the Receiver and be annexed with the report. The broken locks shall be sealed in a piece of cloth and be deposited with the applicant. However, the expenses for the same shall be borne by the applicant. After taking over of the possession of the property in question, the same should be handed over to the authorized officer of the applicant. The accompanying witnesses shall sign the proceedings.

12. Intimation be given to the Senior Superintendent of Police, S.A.S. Nagar for providing necessary police force in order to take the possession. Concerned area SHO is also directed to provide the police assistance along with one lady police official for taking the possession if applied by the Receiver in this regard. One copy of the order be given to the Receiver so appointed for its compliance. Another copy of order be given to applicant and one copy of the order be sent to Officer Incharge of concerned Police station.

13. If the applicant, of its own, decides not to recover possession of the secured asset, it shall apply to this Court to terminate the mandate and it shall not be lawful for the applicant to itself refrain from executing the warrant of possession or to delay the recovery of possession. In case, there is delay on the part of applicant in compliance of this order, the same shall be explained by the applicant by way of an affidavit of the authorized officer.

14. It is further made clear that the local commissioner shall not proceed further with the delivery of possession taking aid of the order passed today, in case the debtor/borrower or any other person produces any order passed by any competent Court of law/Competent Authority granting stay/injunction restraining the taking over of the possession of the secured asset.

15. It is made clear that objection/application, if any, which the borrower, guarantor, mortgagor, lessee or any other aggrieved person wants to prefer shall be preferred before the Debt Recovery Tribunal having jurisdiction as per Section 17 of SARFAESI Act.

16. The application is accordingly allowed and the same is disposed of. Let the case file be consigned to the Judicial Record Room after due compliance of the order. The Receiver/local commissioner shall file the compliance report within three months from the date of receiving copy of the order which shall be placed along with the consigned file. The applicant is directed to inform the Court regarding taking over of possession or regularization of account by respondents or clearance if any of loan by respondents.

Pronounced in Open Court :
22.07.2026

(Ravneet Singh)
Chief Judicial Magistrate,
S.A.S. Nagar, Mohali
UID No. PB0361

Upasna/JW