MHDH030008922026

Bandhan Bank Ltd.
Through Vijay D. Dusing V/s
Navnit Devaji Patil & Others

<u>Order below Exh.1 in Criminal M.A. No. 196/2026</u>
<u>(C.N.R. No.:- MHDH030008922026)</u>

This is an application under section 14 of the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short **'SARFAESI Act'**) for taking possession of the secured asset.

Facts averred of this application are as under:-

2) The applicant is authorized officer, of the Applicant Bank. Applicant bank is secured creditor as per definition of SARFAESI ACT, 2002. Applicant bank has sanctioned Total Loan of an amount of Rs.12,75,000/- under home loan facility to borrowers i.e. respondents Mr. Navnit and Mrs. Manisha Navnit Patil. They did not repay the loan amount within the prescribed time under loan agreement. The loan accounts were classified as non performing assets on 03/09/2024. In order to secure said loan the borrowers created a mortgage by deposit of title deed of the flat property situated at Flat No. 4, 2nd floor, Bakul Apartment, Plot No. 47, S. No. 40/1, CTS No. 4632, Gajanan Society, Near Jadhav Bandhu Tractor, Datta Mandir Road, Dhule.

3) The sum and substance of the grievance of the applicant is that, is was duty of the respondents to re-pay the loan amount within stipulated period and as per agreed terms and conditions of loan agreement. The borrowers/respondents failed to discharge their liability as per the agreement and committed default in repayment of loan. The loan account were classified as non performing assets on

MAHESH PRABHAKAR SARAF

Digitally signed by MAHESH PRABHAKAR SARAF
Date: 2026.08.07 17:04:28 +0530

03/09/2024. The secured creditor/applicant served a statutory demand notice dated 12/12/2024 u/s 13(2) of the SARFAESI Act on respondents and called upon to pay a sum of Rs. 13,53,359.81/- due on 01/12/2024. The notice was dispatched on 20/12/2024 by registered post addressed to the respondents. The notice was duly served on the respondents. However, the respondents failed to discharge their liability within prescribed period of limitation as per the mandate of sub-section 2 of section 13 of the SARFAESI Act. As the respondents failed to discharge their liability in spite of notice under section 13(2), therefore the secured creditor constrained to take recourse provided under section 13(4) of the SARFAESI Act i.e. decided to take possession of the secured asset which is mortgaged in their favour. Hence this application.

4) I have heard Mr. Yogesh Sharad Mahajan advocate for the applicant and gone through the record and proceeding of this application. Following points arise for my discussion. I have recorded my findings thereon for the reasons to follow:-

	Points	**Findings**
1	Whether applicant/secured creditor is entitled to take recourse as contemplated under clause (a) of sub-section 4 of section 13 of SARFAESI Act?	...Yes
2	What order?	Application is allowed.

-: REASONS :-

As to point Nos. 1 and 2 :-

5) Section 14 empowers Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset. As per settled practice and procedure of law for taking possession of secured assets, Rule 8 of Security Interest (Enforcement) Rules, 2002, empowers authorized officer of secured creditor to take such steps.

MAHESH PRABHAKAR SARAF
Digitally signed by MAHESH PRABHAKAR SARAF
Date: 2026.08.07 17:04:36 +0530

6) For taking physical possession of the secured assets in terms of section 14(1) of the SARFAESI Act, it is mandatory to file written application on record supporting with affidavit. As soon as such application is received, Addl. C.J.M. is expected to pass an order after verification of compliance of all formalities by the secured creditor referred to in the proviso in section 14(1) of the SARFAESI Act and after being satisfied in that regard, to take possession of assets and documents relating thereto and forward the same to the secured creditor at the earliest opportunity.

7) After verification of the documents filed on record following position emerges on record, which I have noted in following tabular form:-

		Remarks
1)	Whether application is accompanied by an affidavit duly affirmed by the authorized officer of the secured creditor?	Yes.
2)	Whether there is declaration in affidavit about aggregate amount of financial assistance and the total claim of the Bank as on the date of filing of the application?	Yes. Principle loan amount Rs.13,53,359.81/- Claim amount Rs.13,53,359.81/- with interest.
3)	Whether there is declaration in affidavit that the borrowers created security interest over properties and the Bank or financial institution is holding valid and subsisting security interest over such property?	Yes.
4)	Whether there is declaration in affidavit that claim of the Bank or financial institution is within the limitation period?	Yes.
5)	Whether details of the properties over which security interest is created has been specifically mentioned and described in application?	Yes.

6)	Whether default is committed by the borrowers in repayment of the financial assistance and therefore the account of the borrowers have been classified as a non-performing asset?	Yes. Loan account is non performing assets since 03/09/2024.
7)	Whether notice under section 13(2) of the SARFAESI Act has been issued and served on the borrowers?	Yes. The notice 12.12.2024 u/s 13(2) of the Securitization Act is issued on 20.12.2024. It is served on respondents on 23.12.2024 and 26.12.2024.
8)	Whether there is declaration in affidavit that the objection or representation in reply, if any, to the notice has been duly considered and reasons for non-acceptance of such objection or representation has been communicated to the borrowers?	The secured creditor had given 60 days time to pay entire outstanding amount to the borrowers as per the mandate of section 13(2) of the SARFAESI Act. The borrowers failed to comply the notice.
9)	Whether borrowers failed to make repayment of the financial assistance inspite of the notice under section 13(2) of the SARFAESI Act and therefore the bank or financial institution must be entitled to take possession of the secured assets?	Yes.

8) After considering the position emerges on record I am fully satisfied that the applicant is the secured creditor and respondents are the principal borrowers. The respondents have created security interest in respect of the property mentioned in paragraph No.05 of the application. The advocate for the applicant requested to appoint commissioner advocate Rutuja G. Wagh for assisting to take possession of secured asset. Sub-section (1A) of section 14 of SARFAESI Act empowers CMM/DM and CJM in taking services of any officers

MAHESH PRABHAKAR SARAF

Digitally signed by MAHESH PRABHAKAR SARAF
Date: 2026.08.07 17:04:55 +0530

subordinate to him. The learned advocate for the applicant suggested the name of Rutuja G. Wagh, practicing advocate and requested to appoint her as court commissioner. Hence, with the specific request of the learned advocate for the applicant I do not find any legal impediment to appoint advocate Rutuja Wagh as commissioner for the purpose of completing the task as required under section 14 of the SARFAESI Act.

9) Thus, having regard to the facts and circumstances of the case and after giving anxious consideration to the propositions of law, I have no hesitation to hold that, the applicant/secured creditor is entitled to take recourse as contemplated under clause (a) of sub-section 4 of section 13 of SARFAESI Act. Before parting with this order it is to be noted that this application has been filed on 25.02.2026 and registered on same day. As per the mandate of first proviso of sub-section 1 of section 14, it is mandatory on the part of CMM/DM and CJM to pass suitable order for the purpose of taking possession of secured assets within 30 days. However, the matter transferred for one to another magistrate court. Therefore, it could not be decided within prescribed period of limitation. Late better than never. It is crystal clear that applicant bank is Secured Creditor within the meaning of SARFAESI Act 2002. The loan is secured loan. I therefore answered the points accordingly and pass following order:-

-: ORDER :-

1) Application is allowed.

2) Advocate Rutuja G. Wagh is appointed as a court commissioner to take possession of secured asset viz. Immovable property mentioned in para no. 5 of the application and para no. 3 of affidavit.

3) The commissioner is authorized to take such steps and using such force including breaking open the lock thereof or taking assistance of concern police station, if required, at the expenses of the applicant/secure creditor.

MAHESH PRABHAKAR SARAF

Digitally signed by MAHESH PRABHAKAR SARAF
Date: 2026.08.07 17:05:02 +0530

4) By way of abundant caution it is clarified that, if assistance of police is required to comply the order of this court the commissioner is at liberty to directly file an application to the PSO of concern police station without filing formal application before this court and concern PSO of police station should provide police aid after depositing police *bhatta* as per rule.

5) The commissioner is directed to deliver possession of the property i.e. secured assets, more particularly described in paragraph No. 5 and 21 of application and shall also deliver documents/articles, if any, found therein to the authorised officer of the applicant namely Mr. Vijay D. Dusing after preparing panchanama and taking inventory of the secured asset.

6) Issue writ of commission accordingly on payment of P.F. and Rs. 15,000/- (Rs. Fifteen Thousand only) towards the commission fee in the court till 14.08.2026. After submission of report of compliance by the court commissioner, amount may be given to the concern commissioner.

7) This order being Digitally Signed and it shall be uploaded on e-Courts portal through case information system forthwith.

8) Keeping in mind this spirit of e-filing and Paper Less e-Courts, print out of this Order is not taken. Hence, physical hard copy of this order with my signature is not kept on record.

9) Digitally Signed order is available online on CIS 4.0 and the e-Courts portal. Hence, if certified hard copy of this order is asked, it shall be provided by taking printout of the Digitally Signed order available on CIS 4.0 or e-Courts portal.

10) Dictated and pronounced in open Court.

11) For the administrative convenience, Registry is at liberty to retain printout of this Digitally Signed order on record.

MAHESH PRABHAKAR SARAF

Digitally signed by MAHESH PRABHAKAR SARAF
Date: 2026.08.07 17:05:09 +0530

Date:- 07/08/2026

(M. P. Saraf)
3rd Addl. Chief Judicial Magistrate,
Dhule(J.O. Code MH01362)

CERTIFICATE

I affirm that the contents of this PDF file order are same word for word as per original order.

Name of Steno	:	N. Y. Bhalerao [Grade-II]
Court Name	:	Addl. C.J.M.Dhule.
Order Date	:	07/08/2026
Order signed by Presiding Officer on	:	07/08/2026
Order uploaded on	:	07/08/2026

sd/-
Stenographer-II