<u>IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE- 09, THANE, DIST. THANE</u>

(PRESIDED OVER BY A. D. Margode)

Cri. M. A. No. 5742 of 2025 Muthoot Housing Finance Company Limited Vs. Sandeep Baburao More & 1

<u>Order passed below Exh-1</u>

(March 07th, 2026)

Due to default of the respondents borrower in repayment of secured debt through installments, the loan account bearing **No. 10102010077** of the respondents has been classified by the applicant, a secured creditor, as non-performing asset.

2. Exercising the powers under section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicant has initiated action for enforcement of security interest created through a mortgage by deposit of title deeds in respect of the scheduled property. This is an application filed under Section 14 of the SARFAESI Act for taking possession of secured assets.

3. For that purpose, the applicant states that it has given a notice on **05.06.2025** under section 13(2) of the SARFAESI Act requiring the borrower - respondents to discharge in full, his liability to the tune of **Rs. 5,30,722.84/-** towards the applicant within 60 days. There has been no successful representation or objection raised by the respondents before the secured creditor within 60 days of receipt of the notice.

4. The applicant then proceeded to take action as provided in section 13(4) of the SARFAESI Act for which it required possession of the secured asset of the respondents. For this purpose as per the provisions of section 14 of the SARFAESI Act, this application is filed with a request to provide assistance for taking possession of the secured asset.

5. As per the decision of the Hon'ble Supreme Court in **Authorized Officer, Indian Bank V/s. Visa Lakshi** reported in **(2019)20 SCC 47**, now the application under section 14 of the SARFAESI Act can be filed even before the Chief Judicial Magistrate.

6. The provisions in section 14 requires that the DM or CMM (CJM) shall pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the application or in case of reasons beyond control, within sixty days.

7. I have gone through the contents of the application, affidavit as required by the proviso to section 14 and the entire record produced with the application. All the relevant documents, the copies of which are filed on record are physically verified. The original documents are returned back to the applicant. The above referred requirements are found duly complied.

8. I am satisfied that the respondents are the borrower of the applicant and have created security interest in the property mentioned in the application in favour of the applicant. I am further satisfied that the applicant is holding valid and subsisting security interest over the property. The claim of the applicant is within the limitation period. The borrower is seen to have committed default in repayment of the financial assistance and the account of the borrower has been classified as a nonperforming asset.

9. Notice under section 13(2) of the SARFAESI Act has been issued by the applicant and is served on the borrower. It can be seen that even after the service of notice the borrower neither raised any objection to the notice nor has repaid the financial assistance. Thus, the applicant is now entitled to take possession of the secured assets.

10. As per section 14(1-A) of the SARFAESI Act, the District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,— (i) to take possession of such assets and documents relating thereto; and (ii) to forward such assets and documents to the secured creditor. The provisions in section 14(2) further provides that the Chief Metropolitan Magistrate (CJM) or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

11. Learned advocate representing the applicant requesting to appoint commissioner or receiver for the purpose of assisting to take possession of the secured assets. Recently, in regards to the appointment of Advocate as a Commissioner is upheld in the case "**NKGSB Co-operative Bank Ltd. Vs. Subir Chakravarti and others**" reported in **2022 Live Law (Supreme Court) 212**. Hon'ble Supreme Court has held that "Advocate can be appointed as a 'Commissioner' to assist the court to implement the handing over the possession under the said provision. Therefore, Advocate can be appointed as a commissioner upon the fees of the same".

12. As per the provision of section 14 of the SARFAESI Act, 2002 any subordinate officer can be appointed for the purpose of assisting the applicant for delivery of possession of the secured asset. The property is secured asset and is situated within the local limits of Thane Municipal Corporation. The Advocate can accordingly be appointed for the purpose of a completing the task as required by the section 14 of the Act. In view of the above referred situation, I pass the following order.

ORDER

1.	Application is allowed.
2.	Advocate **Ankita Shantaram Patil** is appointed as a **"Court Commissioner"** to take possession of the following secured assets viz.**"All that piece and parcel of Property Bearing Flat No. 406, A-Wing, on 4th Floor, Area Adm. 25.71 Sq. Mtrs. (Built Up) In the Building Known as Shree Sairaj Apartment, Constructed on Land Bearing Survey No. 161 (Old Survey No.405), H. No. 2/2, Situated at Village Narangi, Tal. Vasai, Dist. Palghar.",** as mentioned in the schedule of property, by taking such steps and using such force including breaking open the lock thereof or taking assistance of concerned Police Station, if required, at the expenses of the applicant and shall deliver possession thereof along with documents/articles, if any, found therein to the authorized officer of the applicant after preparing panchnama and taking inventory of the secured asset.
3.	Issue writ of commission accordingly on payment of P.F. and Rs.15,000/- (Rupees Fifteen thousand only) inclusive of traveling expenses towards the commission fee directly to the Court Commissioner within 15 days from the date of writ. Court Commissioner to file the compliance report within 45 days from the date of receipt of the Writ.
4.	Applicant to give contact details of authorized person within 10 days with whom Court Commissioner to coordinate.

AASHISH DNYANESHWAR MARGODE

Digitally signed by AASHISH DNYANESHWAR MARGODE
Date: 2026.03.07 17:29:00 +0530

Thane. *(A. D. Margode)*
Date: 07/03/2026. **I/c. Add. Chief Judicial Magistrate-09, Thane.**