CNR No. GJSR02-415950-2026	
	6th Addl. Chief Judicial Magi. Court, Surat.
	Cri. Misc. Application No. 12557 of 2026
	Order below Exh.-1 **(Application U/s. 14 of SARFAESI Act.)**
APPEARANCE : Ld. Adv. Mr. Vinod B. Patil for the applicant.	

[1.1] The present application has been filed by the applicant against the opponents under Sec.-14 of the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (**SARFAESI Act**) (***herein after referred to as "the Act"***) for taking possession of secured asset as defined U/s. -2(zc) of the SARFAESI Act.; and prayed to grant relief as per the provisions of Sec.-14 of the Act for appointment of receiver physical possession of the following secured assets :

[1.2] Description of the Secured Asset :

"Flat No.402 Fourth Floor, Building-C. "Sumeru Sky Residency", F.P No. 57, O.P No. "(As Described In The Loan Document/Property Document Covering Flat No. 57, T.P Scheme No. 25(Mota Varacha), Block No.: 393, Survey No. 390, Village: Mota Varacha, Sub Dist.: Surat (Adajan), Dist.: Surat Owned By Ushaben Ashokbhai Ghodasra & Ashokbhai Babubhai Ghodasara Admeasuring An Area Of-Carpet Area Adm. 52-10 Sq. Mtrs. Balcony And Wash Area Adm. 5-97 Sq. Mtrs, Built Up Area Adm. 61-45 Sq. Mtrs. (661-20 Sq. Feet), Undivided Share 27-63 Sq. Mtrs.

Bounded By:
North: Internal Space Then Building D
South: Adj. C.O.P.
East: Adi. F.P No. 160
West: Adj. Road"

[1.3] The facts, nutshell, of the present application are thus; that applicant is secured creditor as defined under Sec.-2(zd) of the Act and the opponents are borrower as defined under Sec.-2(f) of the Act. The applicant is registered with RBI and has been notified as financial institute for the purpose of the Act; that the applicant has satisfied all the requirement of the provisions of Sec.-14 of the Act.

[2] On perusal of the R&P, the applicant / authorised person has filed an affidavit as per point Nos.(i) to (ix) of the proviso of Sec. 14(1) of the Act. Further declared on oath that the borrower's accout is still NPA in the books of account of the applicant; that there is no stay by any court of law against the applicant in respect of the above mentioned secured assets; and the original documents of the properties are in applicant's custody.

[3] The Ld. Adv. for the applicant has aruged as per the averments of the application on hand; ultimately, requested to allow the application.

[4.1] Before considering the facts of the application on hand as well as the documentary evidence on record, it is required to refer the relevant decisions of the Hon'ble Apex Court and Hon'ble High Courts.

[4.2] Considering the ratio laid down in the case of **Standard Chartered Bank**[1], the Hon'ble Apex Court has held in para-(24) and (25) as under :

1 Standard Chartered Bank V/s. V. Noble Kumar, reported in 2013 (0) AIJEL-SC 54485

*"**24.** Under the scheme of section 14, a secured creditor who desires to seek the assistance of the State's coercive power for obtaining possession of the secured asset is required to make a request in writing to the Chief Metropolitan Magistrate or District Magistrate within whose jurisdiction, secured asset is located praying that the secured asset and other documents relating thereto may be taken possession thereof. The language of section 14 originally enacted purportedly obliged the Magistrate receiving a request under section 14 to take possession of the secured asset and documents, if any, related thereto in terms of the request received by him without any further scrutiny of the matter.*

***25.** However, the Bombay High Court in the case of Trade Well v. Indian Bank [2007 CrlJ 2544] opined;*

> *"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 this 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.*" "

[4.3] Considering the ratio laid down in the case of **I D B I Bank Ltd.**[2], the Hon'ble High Court of Gujarat has held in para-(5) and (6) as under :

"***5.** So far as the first principal contention of the petitioner is concerned, the same merits consideration because the Chief Metropolitan Magistrate and the District Magistrate, under Sec. 14 of the Securitisation Act are not empowered to decide the question of legality and propriety of any of the actions taken by the secured creditor under Sec. 13(4), which can be assailed*

2 I D B I Bank Ltd. Through Authorized Signatory V/s. District Magistrate, reported in 2011 (0) AIJEL-HC 225604

under Sec. 17 of the Securitisation Act by the aggrieved person. Under sub-sec. (3) of Sec. 14, the act of the Chief Metropolitan Magistrate or District Magistrate done in pursuance of the said Section cannot be called in question in any Court or before any authority. From the aforesaid provisions of law, it is evident that Chief Metropolitan Magistrate or District Magistrate is bound to assist the secured creditor in taking possession of the secured assets.

***6.** The Authority who is called upon to act under Sec. 14 of the Securitisation Act can only assist, nay, is bound to assist the secured creditor in taking possession of the secured asset. As the Chief Metropolitan Magistrate and District Magistrate under Sec. 14 is not empowered to decide the question of legality and proprDefault Paragraph Styleiety of any of the actions taken by the secured creditor under Sec. 13(4), which may be assailed under Sec. 17 of the Act by the aggrieved person, under sub-sec. (3) of Sec. 14 of the Securitisation Act, the act of the Chief Metropolitan Magistrate or District Magistrate done in pursuance of said Section cannot be called in question in any Court or before any authority. It is evident from the provisions of law that the District Magistrate while bound to assist the secured creditor in taking possession of the secured assets and to take the possession of the documents relating thereto and forward such assets and documents to the secured creditor, he is not empowered to decide the question of genuinity or propriety of such documents, including the document signed or agreed between the borrower and the secured creditor.*"

[4.4] Considering the ratio laid down in the case of **Authorised Officer, Indian Bank**[3], the Hon'ble Apex Court has held in para-(46) and (48) as under :

"***46.** Applying the principle underlying this decision, it must follow that substitution of functionaries (CMM as CJM) qua the administrative and executive or so to say non-judicial functions discharged by them in light of the provisions of Cr.P.C., would not be inconsistent with Section 14 of the 2002 Act; nay, it would be a permissible approach in the matter of interpretation thereof and would further the legislative intent having regard to the subject*

3 Authorised Officer, Indian Bank V/s. D. Visalakshi, reported in 2019 (0) AIJEL-SC 64884

and object of the enactment. That would be a meaningful, purposive and contextual construction of Section 14 of the 2002 Act, to include CJM as being competent to assist the secured creditor to take possession of the secured asset.

***48.** To sum up, we hold that the CJM is equally competent to deal with the application moved by the secured creditor under Section 14 of the 2002 Act. We accordingly, uphold and approve the view taken by the High Courts of Kerala, Karnataka, Allahabad and Andhra Pradesh and reverse the decisions of the High Courts of Bombay, Calcutta, Madras, Madhya Pradesh and Uttarakhand in that regard. Resultantly, it is unnecessary to dilate on the argument of prospective overruling pressed into service by the secured creditors (Banks).*"

[4.5] Considering the ratio laid down in the case of **Ca. Manisha Mehta**[4], the Hon'ble Bombay High Court has held in para-(8) as under :

"***8.** Pertinently, section 14 of the SARFAESI Act was amended twice, once in 2013 and then again in 2016. If it were the intention of the legislature to extend opportunity of hearing to a borrower before the District Magistrate/Chief Metropolitan Magistrate, as the case may be, it was free to do so. Advisedly, the legislature did not do so, for, it would have militated against the scheme of the SARFAESI Act and more particularly section 13 thereof. It is implicit in the scheme of the SARFAESI Act that natural justice, only to a limited extent, is available and not beyond what is expressly provided. There seems to be little merit in the argument advanced by Mr. Nedumpara and we hold that the language of section 14 is too clear and unambiguous, and does not admit of any requirement of complying with natural justice by putting the borrower on notice while an application thereunder is under consideration.*"

[4.6] Considering the ratio laid down in the case of **Devani Jagdishbhai Dahyabhai**[5], the Hon'ble Gujarat High Court has held in para-(27) as under :

4 Ca. Manisha Mehta V/s. Board of Directors, reported in 2022 (0) AIJEL-MH 187042

5 Devani Jagdishbhai Dahyabhai (Third Party), reported in 2018 (0) AIJEL-HC 239891

"***27.*** *I do not find any merit in the contention that the District Magistrate should have provided an opportunity of hearing to the writ applicant in the proceedings under Section 14 of the SARFAESI Act. The Supreme Court in the case of Harshad Govardhan Sondagar (supra) and Vishal N. Kalsaria vs. Bank of India [(2016) 3 SCC 762] has not laid down the law that the borrower or any aggrieved person may also be extended an opportunity of hearing in the proceedings under Section 14 of the SARFAESI Act. In the case of Vishal N. Kalsaria (supra) , the relevant observations of the Supreme Court read as under:*

> *"35. The decision of this Court rendered in the case of Harshad Govardhan Sondagar (supra) cannot be understood to have held that the provisions of the SARFAESI Act override the provisions of the Rent Control Act, and that the Banks are at liberty to evict the tenants residing in the tenanted premises which have been offered as collateral securities for loans on which default has been done by the debtor/landlord.*"

[4.7] Considering the ratio laid down in the case of **R. D. Jain & Co. V/s. Capital First Ltd.**[6], the Hon'ble Apex Court has held in para-(27) as under :

"***12.*** *We are in complete agreement with the view taken by the High Court that (i) the District Magistrate, Chief Metropolitan Magistrate is not a persona designata for the purposes of Section 14 of the SARFAESI Act; (ii) the expression "District Magistrate" and the "Chief Metropolitan Magistrate" as appearing in Section 14 of the SARFAESI Act shall deem to mean and include Additional District Magistrate and Additional Chief Metropolitan Magistrate for the purposes of Section 14 of the SARFAESI Act.*"

[5.1] The applicant has produced documentary evidence in support of his application where submitted, the certificate of incorporation, registration certificate under the Act, board resolution, loan documents, notice U/s. 13(2) of the Act, possession notice and statement showing due.

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6 R. D. Jain & Co. V/s. Capital First Ltd., reported in 2022 (0) AIJEL-SC 69551

[5.2] Considering the facts and supportive documents, it transpires that the applicant satisfies the requirement of Sec.-14 of the Act; therefore, the applicant is entitled to have assistance of this Court. The secured asset is situated within the jurisdiction of this Court. In view of the ratio laid down by the Hon'ble Apex Court and Hon'ble High Courts as reproduced in afore noted para-[4.1] to [4.7], the following final order is passed in the interest of justice :

:: ORDER ::

(a) The application on hand is hereby allowed.

(b) **Mr. Jitendra G. Patel (Bench Clerk Gr.-III)** is hereby appointed as Court Commissioner and authorised under Sec.-14(1A) of the Act.

(c) The Court Commissioner is directed to take possession of secured asset as described in afore noted **para-[1.2]** and to forward the said secured asset to the secured creditor / applicant.

(d) If the secured asset is found in closed condition, the Court Commissioner may take possession thereof by breaking / opening the lock or may take any other lawful steps, he may thinks fit.

(e) After taking the possession of the secured asset, the Court Commissioner shall prepare the inventory of any item, documents relating to the assets, if found in secured asset, and hand-over the same to the applicant.

(f) The Police Inspector (PI) of the concerned Police Station under whose jurisdiction the aforesaid secured asset is situated shall provide necessary police assistance / protection to the Court Commissioner for taking possession of secured assets as per ***the Circular of Ministry of Home Affairs bearing No.***

SB-II, GNH/112017/998-PART FILE, dated 03-12-2020. The applicant bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.

(g) Applicant shall bear the expenses incurred in taking possession of the secured asset and shall provide all necessary assistance to the Court Commissioner for taking possession of the secured assets. The Court Commissioner is directed to complete the said procedure within 60 days or within the time limit extended by the Court and submit the compliance report of completion of proceedings.

(h) The Court Commissioner shall carry out the said proceedings on Public Holidays or except Court working hours.

(i) On completion of the procedure as ordered, the amount of Rs. 20,000/- deposited vide G-Register No. 504/26-27, dtd. : 04/08/2026 as per first order passed below Exh.-1 towards the expenses and remuneration to be paid to the said appointed Court Commissioner.

Signed and pronounced in the open Court on 18th August, 2026.

Surat. (Anilbhai Nanalal Gajjar)

Date : 18/08/2026. 6th Addl. Chief Judicial Magistrate,
Surat. (GJ-01166)