

Misc. Case No. 708 of 2024
[CNR No.WBHW04-004428-2024]



Order dated 10.03.2025

Today is fixed for order.

Ld. Advocate for the appellant is present today. Ld. Advocate for the appellant has already filed an Affidavit affirming by the authorized officer that the application has exhausted all sorts of procedures as enumerated in the said Act and the mortgaged properties in question, there is no stay order or injunction as has been passed by any competent Court or by any Higher Authority and at present which is free from all encumbrances. The applicant/petitioner also filed some photo copy of documents showing that the notice in terms of symbolic possession of the properties in question have been affixed on the conspicuous part of the premises.

The record is taken up for passing final order pursuant to hearing the applicant/party.

It appears that an application has been filed by the UCO Bank having its branch office at New Market Branch, 3 & 4, Lindsay Street, Kolkata-700087.

The gist of the fact is that the respondent(s)/Borrower(s)/O.Ps. approached the applicant/petitioner for financial assistance by mortgaging immovable **Property A: At Mouza- Unsani Kachari Para, P.O & P.S- Jagacha, Ward No.46, Howrah-711112(Deed No.2499/2005, 2500/2005, 2501/2005)**

1) Deed No.-2499/2005: All that piece and parcel land and building measuring 07 Cottah 08 Chittak be the same a title more or less, Mouza- Unsani, JL No.10, R.S Khatian No.1468 & L.R Khatian No.702, R.S Dag No.-884(p) & L.R. Dag No.914(p), ADSR- Domjur, Dist.- Howrah. The property is owned by Chanchal Kumar De.

The property is butted and bounded by:

On the North- Metal Road,
On the South- Part of 884,
On the East- Part of 885,
On the West- Part of 884.

2) Deed No- 2500/2005: All that piece and parcel of the Land and Building built of land measuring 05 Cottah 10 Chittak 10sq.ft. And 01 Cottah 13 Chittak 35 sq.ft. (7.08 Cottah) be the same a little more or less, comprised JL No.10, Ward No.46, Khatian No.1468, 451, 514, & L.R Khatian No.-702 & 2354, R.S Dag No.-884(p) & 886(p), L.R Dag No.-914(p) & 916(p), P.S- Jagacha, Mouza- Unsani, ADSR- Domjur, Dist- Howrah. The property is owned by Seema De, W/O- Chanchal De.

The property is butted and bounded by:

On the North- R S 884,
On the South- R S 886,
On the East- R S 885 & R S 886,
On the West- Land of R S 881 & 884.

3) Deed No- 2501/2005: All that piece and parcel of the Land and Building measuring 708 Cottahs 42 sq.ft. Be the same a little more or less, comprised, R.S Khatian No.451 & 514, L.R Khatian No.2354, R.S Dag No-886(p) & L.R Dag 916(p), under Howrah Municipal Corporation, Ward No.-46, P.S- Jagacha, Mouza- Unsani, JL No.10, ADSR- Domjur, Dist- Howrah. The property is owned by **Gaurab** De, S/O of Chanchal Kumar De.

The property is butted and bounded by:

On the North- Part of R.S-886,
On the South- Part of R.S-886,
On the East- Part of R.S-886,
On the West- Land of R.S No.876 & 881.

Property B: At Mouza- North Buxarah, Kona Expressway, Ward No.45, Howrah-711104 (Deed No-478/2001): All that piece and parcel of the Land and Building built of land measuring 1.8 Cottah 27 sq.ft. be the same a little more or less, comprised in Survey No.2011, Touzi-764, R.S No.478, Dag No.-662, under Howrah Municipal Corporation, Ward No.-45, P.S- Jagacha, Mouza- North Buxarah, ADSR- Domjur, Dist- Howrah. The property is owned by Chanchal Kumar De, S/O Narayan Chandra De.

The property is butted and bounded by:

On the North- Dag No-657,
On the South- Kona Express Way,
On the East- Property of Smt. Shibani Roy,
On the West- Dag No-663 and on consideration, 1) **Cash Credit Loan, Limit- Rs.1,50,000/-**

disbursed on **06.10.2017** under **Loan Account No.00690510000304** vide **Sanction Letter dated 06.10.2017** and 2) **Term Loan, Limit- Rs.24,50,000/-** disbursed on **31.07.2020** under **Loan Account No.00690610009154** vide **Sanction Letter dated 28.07.2020** and 3) **Term Loan, Limit- Rs.15,00,000/- Sanction on 09.03.2022** under **Loan Account No.00690610010792** vide **Sanction Letter dated 09.03.2022** in equatable monthly installments thereby depositing the original title deeds of

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of the immovable property. Later on, the respondent(s)/Borrower(s)/O.Ps. defaulted in satisfying both the loans amount and finally, on **30.04.2024** since, the said loans became due and unpaid, thereby classified as 'N.P.A.'. The applicant issued a notice on **05.06.2024** upon the respondent(s)/ Borrower(s)/O.Ps. U/s. **13(2)** of the SARFAESI Act, 2002 requesting them to meet up the outstanding amount of **Rs.1,55,06,773.58/- against Cash Credit Loan Account No.0069051000304, Rs.05,04,261/- against Term Loan Account No.00690610009154, Rs.15,38,476/- against Term Loan Account No. 00690610010792** within the stipulated 60 days. The notice was duly served upon the respondent(s)/Borrower(s)/O.Ps. In reply, the respondent(s)/Borrower(s)/O.Ps **made representation objecting the claims** of the appellant/petitioner in terms of Sec. 13(3A) vide letter dated **27.06.2024** received by bank on **28.01.2022** and applicant replied on **03.02.2022**. Thereafter, the applicant took recourse to Section **13(4) of the said Act on 14.08.2024 by taking Symbolic Possession** and thereby circulating notice on **17.08.2024** in two leading newspapers but yielded no fruitful result. It is pertinent to mention herein that while taking the loan amount, the respondent(s)/ Borrower(s)/O.Ps deposited the original title deeds of the property being the secured assets in favour of the applicant/petitioner as per agreement executed between the parties.

From the documents filed by the applicant/petitioner it appears that the scheduled properties were given in equitable mortgage by the Respondents to the applicant and they took the loan amount from the applicant/petitioner and thereafter they defaulted and could not repay the loan amount as above.

The applicant/petitioner has filed the documents to take physical possession of the secured assets as mentioned in the schedule of the petition to satisfy their dues. From the documents so filed, it appears that the lenders duly placed the scheduled properties in mortgage by furnishing the original title deeds. Later an affidavit has also been filed by the applicant stating that there is no stay order or injunction issued in respect of any proceedings pending before any court of Law in respect of the property. The process U/s. 13(4) of the said Act having failed to yield the desired relief; hence, considering the fact that the secured assets are situated within the jurisdiction of this Court,

*Hence based on the above facts and circumstances and upon satisfaction as to the fulfillment of the statutory requirements, and being **satisfied with the nine-points affidavit**, the application filed u/s.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 the Enforcement of Security Interest and Recover of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016 is **allowed**.*

On relying the judgment dated 06.11.2019 passed by the **Hon'ble Bombay High Court in case of Mr. Subir Chakravarty and Anr. V/s Kotak Mahindra Bank Ltd. And Anr. Delivered in Writ Petition (L) No.28480 of 2019**, an officer subordinate to this court has to be appointed to take possession of the secured assets.

Accordingly, it is

ORDERED

that the petitioner/applicant is permitted to take physical possession of the immovable properties of the respondent(s)/Borrower(s)/O.Ps as described in schedule of the application which are well within the jurisdiction of this Court --

Property A: At Mouza- Unsani Kachari Para, P.O & P.S- Jagacha, Ward No.46, Howrah- 711112(Deed No.2499/2005, 2500/2005, 2501/2005)

1) Deed No.-2499/2005: All that piece and parcel land and building measuring 07 Cottah 08 Chittak be the same a title more or less, Mouza- Unsani, JL No.10, R.S Khatian No.1468 & L.R Khatian No.702, R.S Dag No.-884(p) & L.R. Dag No.914(p), ADSR- Domjur, Dist.- Howrah. The property is owned by Chanchal Kumar De.

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(Deed No-478/2001): All that piece and parcel of the Land and Building built of land measuring 1.8 Cottah 27 sq.ft. be the same a little more or less, comprised in Survey No.2011, Touzi-764, R.S No.478, Dag No.-662, under Howrah Municipal Corporation, Ward No.-45, P.S- Jagacha, Mouza- North Buxarah, ADSR- Domjur, Dist- Howrah. The property is owned by Chanchal Kumar De, S/O Narayan Chandra De.

The property is butted and bounded by:

- On the North- Dag No-657,
- On the South- Kona Express Way,
- On the East- Property of Smt. Shibani Roy,
- On the West- Dag No-663

The Head Clerk, C.J.M. Court, Howrah is directed to take physical possession of the scheduled property and after taking the same will be handed over to the authorized officer of the applicant creditor executing proper receipt as per Law, if the property in question is found free from all encumbrance.

If the scheduled property is under lock and key, the petitioner may break open the same on certain terms and conditions: -

1. The petitioner/applicant to remain present with proper identity proof, authorization paper and connected documents at the time of executing the order for the purpose of identification of the property in dispute.

2. The padlock/lock and key of the flat/premises/godown/office unit in question as mentioned in the application will be broken in presence of Authorized Officer of the **UCO Bank** or its competent representatives and police.

3. A person of the locality may be present during breaking the padlock.

4. The **UCO Bank** authority will prepare an inventory list in respect of the articles lying inside the premises compound concerned.

5. After completion of the inventory, a list will be handed over to the Head Clerk C.J.M. Court, Howrah, the Opposite party and a copy of the list is also to be submitted before the Court.

6. The Head Clerk CJM Court, Howrah is at liberty to take the help of both the I/C, **Jagacha** P.S. if he faces any obstruction and to submit a compliance report.

7. The applicant is to bear the stipulated cost for providing force by the police.

Let a copy of this order be supplied to the Head Clerk for compliance.

Let the original documents be returned.

Fix **24.06.2025** for compliance report by Head Clerk.

Dictd & cordd by me

CJM

Chief Judicial Magistrate, Howrah
(J.O. Code – WB01022)