Criminal Misc. Application No. 13/2026.
AXIS Bank Ltd.
Vs.
Nizamuddin Rahmat Ali Khan and 1 Ors.
CNR : UTDD010000872026

ORDER BELOW EXH. 1.

This is an application filed by the Authorized Officer of the applicant under Section 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act"), seeking assistance of this Court for taking over physical possession of the secured asset.

Brief Factual Background:

2. As per the application, at the request of the respondents, the applicant sanctioned a loan facility of Rs. 15,68,209/- vide the sanction letter. The respondents agreed to repay the said amount with applicable interest as per the loan agreement and other documents executed in favour of the applicant.

3. In order to secure the said financial assistance, the respondents created an equitable mortgage by depositing the original title deeds of the secured asset with the applicant, with an intention to create a valid and enforceable security interest.

4. It is stated that the respondents committed default in repayment of the said loan amount. Consequently, the loan account of the respondents was classified as Non-Performing Asset (NPA) on 08.10.2023 in terms of RBI guidelines.

5. Thereafter, the applicant issued a demand notice dated 12.06.2024 under Section 13(2) of the SARFAESI Act, calling upon the respondents to repay the outstanding amount of Rs. 15,47,374/- within 60 days from the date of notice. The said notice was duly served upon the respondents by RPAD.

6. Despite the service of the said demand notice, the respondents failed to comply and did not repay the outstanding dues. Accordingly, the applicant has taken physical possession as per Section 13(4) of the SARFAESI Act and now seeks assistance from this Court under Section 14 for taking over physical possession of the mortgaged asset.

Consideration and Findings:

7. Magistrate acting in pursuance powers envisaged u/s. 14, performs ministerial act and at any point of time he/she is not supposed to apply judicial mind. Concerned Magistrate is only supposed to verify correctness of the information given in the application. It is also clear that, borrower is not required to be heard and no notice is required to be issued on the borrower. Still notice was issued to the respondents, though was not mandatory. Inspite of service of notice, the borrower failed to appear before the Court.

8. I have heard the learned counsel appearing for the applicant. I have also perused the application, the affidavit filed by the Authorized Officer under the second proviso to section 14(1) of the SARFAESI Act, and the original documents produced for verification.

9. The affidavit filed by the Authorized Officer clearly affirms compliance with all mandatory requirements under Section 14(1)(i) to 14(1)(ix), namely :

- That the loan was duly sanctioned;
- That the respondents created security interest by way of equitable mortgage;
- That the loan account was classified as NPA;
- That a valid demand notice under Section 13(2) was issued;
- That the notice was duly served upon the Respondents;
- No objection is raised by the respondents against the demand notice.
- That respondents failed and neglected to comply with the notice;
- That the SARFAESI proceedings are in compliance with the provisions of law.

10. Upon perusal of the record and verification of the documents, I am satisfied that the application is genuine, complete, and within the jurisdiction of this Court. There is no legal embargo preventing this Court from exercising powers under Section 14.

11. The secured asset is situated within the local limits of this Court, and there is no stay order in respect of the said secured

asset. Therefore, assistance under section 14 of the SARFAESI Act needs to be granted. Hence the following order:

ORDER

1. The application of the applicant is hereby allowed.

2. I authorize, Mr. Mukesh Vaja, Assistant Superintendent of this Court to act as Court Commissioner under section-14(1-A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. Court Commissioner is directed to take possession of asset and forward such asset to the secured creditor. The description of such asset is as under:-

Description of Mortgaged Property/Secured Asset.

All the piece and parcel immovable property within the limits of Daman, bearing FLAT No. 703 ADM. 710.00 SQ.FTS. ON 7^{TH} FLOOR OF BUILDING “A” OF “DAMAN TOWER” OF LAND BEARING SURVEY No. 612 IN VILLAGE: DUNETHA, NANI DAMAN SUB DISTRICT & DISTRICT: DAMAN, Owned By Mr. Nizamuddin Rahmat Ali Khan (Respondent No. 1) and bounded as follows:

NORTH : BY OPEN LAND

SOUTH : BY FLAT BEARING DMC No. 15-36/K/7^{TH} -5 AND 15-36/K/7^{TH} -6

EAST : BY FLAT BEARING DMC No. 15-36/K/7^{TH} -4

WEST : BY FLAT BEARING DMC No. 15-36/K/7^{TH} -2

4. If the secured asset is found in closed condition, the Court Commissioner may take possession of this secured asset by breaking/opening the lock or may take any other steps she/he may think fit.

5. After taking possession of the secured asset, Court Commissioner shall prepare the inventory of any item, documents relating to the asset if found in secured asset and handover the same to the applicant.

6. Copy of this order be sent to the concerned Police Station. The Police Inspector of the concerned police station, under whose jurisdiction the aforesaid secured asset is situated, shall provide necessary police Assistance/protection to the Court Commissioner on the date appointed by the Court Commissioner for taking possession of the secured asset.

7. The applicant Bank shall complete the necessary formalities for seeking police protection and also bear the expenses thereof.

8. The Court Commissioner may take or cause to be taken such steps and use or cause to be used such force, as may, in her/his opinion be necessary.

9. The applicant shall bear the expenses incurred in taking possession of the secured asset and shall provide all necessary assistance to the Court Commissioner in taking possession of the secured asset. The applicant is hereby directed to deposit lump-sum amount of Rs. 20,000/- (Rupees Twenty Thousand only) towards the expenses and remuneration of Court Commissioner. 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.

10. The Court Commissioner shall carry out the said proceedings on public holidays or except Court working hours.

PRANITA PRASHANT BHARSAKADE WAGH

Digitally signed by PRANITA PRASHANT BHARSAKADE WAGH
Date: 2026.07.24 16:50:33 +0530

Daman
Dated :24/07/2026

(Pranita P. Bharsakade-Wagh)
Chief Judicial Magistrate,
Daman

CERTIFICATE

I affirm that the contents of this P.D.F. File order are same, word to word, as per the original order.

Name of Employee	Santosh R. Khapekar
Designation	Stenographer (L.G.)
Name of Court	Civil Judge Sr. Dn. & C.J.M., Daman.
Date of order	24/07/2026
Order signed by the Presiding Officer on	24/07/2026
Order uploaded on	24/07/2026