IN THE COURT OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, PUNE.
(PRESIDED OVER BY SMT. S. D. PANJWANI)

CRI. M.A. No. 3614/2026

	Case No.	:	Cri. M. A. No. 3614/2026
	CNR No.	:	**MHPU04-027192-2026**
	Name of Applicant	:	**Phoenix ARC Limited (Acting as Trustee of Phoenix Trust FY 23-32) [Name changed from Aspire Home Finance Corporation Limited to Motilal Oswal Home Finance Limited]**
	Name of Authorized Officer/ signatory	:	**Mr. Sagar Uttam Chandanshive**
	Address	:	3rd Floor, Wallace Towers (earlier known as Siv Building), 139/140/B/1, Crossing of Sahar Road and Western Express Highway, Vile Parle East, Mumbai, Maharashtra – 400057
	Name of Respondents	1]	**Govardhan Bhagwan Survase**
		2]	**Minakshi Govardhan Survase**
	Address	:	Both R/At: Sr. No-53/6, Sai Colony, Karvenagar, Khenat Hospital Pune, Maharashtra, (India)-411052. Also R/at. Sr. No-53/6, Sai Colony, Karvenagar, Khenat Hospital Pune, Maharashtra, (India)-411052. Also R/at. Plot No. 34a & 23 R, Gat No 1025, Nr Ashtapur Gaon, Ashtapur Gaon, 412207 Pune Maharashtra.

ORDER BELOW EXH.1
(Dated 14/08/2026)

1] This is an E-filed application Under Section 14 of the

Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Act No.54 of 2002) (In short “SARFAESI Act”) for taking possession of the secured asset known as :

	All the piece and parcel of Plot No. 34A & 23 R, Gat No. 1025, Nr Ashtapur Gaon, Ashtapur Gaon, Pune, Maharashtra 412207.

2] **Briefly stated,** the case of the applicant is that, the name of applicant company has changed from Aspire Home Finance Corporation Limited (ASHFCL) to Motilal Oswal Home Finance Limited (MOHFL) with effect from 28/05/2019. The applicant is an assignee of MOHFL and Deed of Assignment was executed on 30/09/2019. By way of Deed of Assignment, the applicant has acquired all the rights, title and interest over the dues recoverable from respondents and entitled to exercise all the rights as that of MOHFL. It is further stated that, the MOHFL. has sanctioned Financial facility **Rs. 4,35,989/- (Rupees Four Lakhs Thirty Five Thousand Nine Hundred Eighty Nine Only),** to the Respondents. The Respondents agreed to repay the loan amount alongwith interest with monthly rests and bank charges. It is averred in the application that, Respondents have created security interest of property in favour of MOHFL vide Memorandum of deposit of Title Deed. It is further contended that, the Respondents did not adhere repayment schedule. Therefore, the MOHFL approached to the Respondents for repayment of the due but they failed and neglected to pay the same. The Respondents failed to discharge their liability to repay the dues within time. Therefore, the MOHFL has classified the account of the Respondents as **N.P.A.** on **30/04/2018**. The MOHFL many time requested the Respondents to make payment and regularize its account. But Respondents neglected to pay due amount. Therefore, the MOHFL issued notice **dated 28/05/2018** under section 13(2) of applicant Act to pay total loan dues of **Rs. 4,48,905/- (Rupees Four Lakhs Forty Eight Thousand Nine Hundred Five Only)** as on

28/05/2018, with future interest thereon at the contractual rate of interest within 60 days from service of notice. Said notices were served to respondents. The applicant also published notice in Daily Newspapers "Loksatta" and "Financial Express" dated 24/10/2020**.** The Respondents refused to surrender vacant possession of the secured asset. The applicant submitted that, an amount of **Rs. 4,48,905/- (Rupees Four Lakhs Forty Eight Thousand Nine Hundred Five Only)** as on **28/05/2018,** is due alongwith future rate of interest, costs and expenses etc. The secured asset is situated within territorial jurisdiction of this Court. Hence, Applicant is constrained to file this application, which is well in limitation.

3] The Court notice of this case is not issued to the Respondents as per decision of Hon'ble Bombay High Court in case of **C.A.Manisha Mehta and Ors. V/s. The Board of Directors of Represented by its-Managing Director of ICICI Bank and Ors.(WP)(L) No.84/2022 dtd.23.03.2022,** wherein Hon'ble High Court has pleased to discuss scheme of the Sarfaesi Act and held that,

> *"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] Heard Ld. Counsel for the applicant. The following points arise for my determination, my findings thereon are as under :

Sr. No.	Points	Findings.
1.	Whether the applicant is entitled for taking possession of the secured asset as per Section 14 of SARFAESI Act ?	**Yes.**
2.	What order ?	**As per final order.**

<u>REASONS</u>

<u>As to Points Nos. 1 and 2:-</u>

5] It is requirement of Section 14 of SARFAESI Act that Authorized Officer of Applicant financial institute has to file affidavit containing therein facts mentioned in Section 14(1)(b)(i) to 14(1)(b) (ix) of SARFAESI Act. Accordingly, Authorized Officer had filed affidavit. In addition copies of documents are placed on record. Authorized Officer has also tendered documents before Court, for verification with copies on record.

6] Perused the application, affidavit submitted by the authorized officer of Applicant and documents filed on record of the case. It appears that MOHFL has granted the aforesaid financial assistance to the Respondents. In pursuance of such financial assistance, Respondents have executed various documents in favour of MOHFL to create security interest over the aforesaid secured asset. However, in due course failed to repay loan. Thus, MOHFL was constrained to declare Borrower account as "Non Performing Asset" on **30/04/2018** and constrained to issue demand notice dated **28/05/2018** U/sec.13(2) of SARFAESI Act, demanding total outstanding. Further, the paper publication is also issued in Daily Newspapers dated 24/10/2020. The applicant bank is Secured Creditor and the Respondents credited Security Interest on the property, which is known as Secured Asset within the meaning of SARFAESI Act. Thus, it appears that, present application came to be filed for taking possession of Secured Asset. Further, Secured Asset is located within territorial jurisdiction of this Court and claim of Applicant is well within limitation. More so, as per the pleading, documents filed in the case and affidavit of authorized officer of applicant, there is no stay to the present proceeding. So, I do not find any hurdle to pass order in favour of applicant Under Section 14 of SARFAESI Act to take over possession of aforesaid secured asset by appointing Advocate as a Court Commissioner.

7] Further, as per recent case law of Hon'ble Apex Court in case of **N.K.G.S.B. Co.operative Bank Ltd. V/s. Subirchakravarti and Ors. (2022 Live Law (SC) 212),** it is held that, it is open to the C.M.M./D.M to appoint an advocate and authorize him/her to take possession of secured assets and documents relating there to and forward the same to the secured creditor U/sec.14(1A) of the SARFAESI Act.

8] As regards jurisdiction is concerned, as per Sec.14 of SARFAESI ACT, Chief Judicial Magistrate is empowered to entertain application. In this regard, the Hon'ble Apex Court in case of **Authorized Officer, Indian Bank V/s. D. Visalakshi and Anr. (Civil Appeal No. 6295/2015 dt..23.09.2019),** held that, “Chief Judicial Magistrates are Competent to entertain applications U/sec.14 of SARFAESI ACT”. Thus, in view of above case law, this Court is having jurisdiction to pass order under section 14 of SARFAESI Act. Hence, I answer point no.1 in affirmative and in answer to point no.2, I proceed to pass following order :-

ORDER

1. The application is allowed.
2. Ld. Advocate **Varun Gramopadhye** is appointed as a Court Commissioner to take possession of the secured asset as mentioned in paragraph no. 1 of this order.
3. The Court Commissioner is authorized to take such steps and use such force including breaking open the lock or any hurdle thereof by taking assistance of police, if required, at the expenses of the applicant and 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 assets.
4. The Court Commissioner shall give at least 15 day's prior notice to the concerned before executing the order.
5. The Applicant shall bear the requisite charges of Court Commissioner i.e. Rs. 10,000/- each property.

6. The Court Commissioner shall report compliance within 90 days from the date of this order.

7. Issue writ accordingly.

Digitally signed by SARIKA DEEPAK PANJWANI
Date: 2026.08.14 17:42:17 +0530

(S. D. Panjwani)

Date : 14/08/2026 Additional Chief Judicial Magistrate, Pune.

C E R T I F I C A T E

I affirm that the contents of this PDF file order are same word to word as per the original Judgment/ Order.

(a)	Name of the Stenographer	: S. S. Shirode (Grade-II)
(b)	Name of Court	: Hon'ble S. D. Panjwani Additional Chief Judicial Magistrate Pune.
(c)	Order date	: 14/08/2026
(d)	Order signed by P. O. on	: 14/08/2026
(e)	Order uploaded on	: 14/08/2026