GJVD020374712026

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Decided on - 27.02.2026
Duration - 00Y/00M/07D

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**IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
AT VADODARA.**

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CRIMINAL MISC. APPLICATION NO. 1544 OF 2026

Ex.

Applicant :

STATE BANK OF INDIA
(hereinafter referred as "BANK"), A Banking Corporation constituted under the State Bank of India Act, 1955, having its Corporate Centre at State Bank Bhavan, Nariman Point, Madam Cama Road, Mumbai through its branch having its address at, RACPC South, 2nd Floor, SWC HUB, Opp. Rajpath, and Nayara Petrol Pump, Vasna Bhayli, Vadodara -390020 & Authorized Officer : **Tilak R. Tendulkar.**

V/s.

Opponents :

1. Mavani Ketan Bhavinbhai

Add:
(1) B-248, Tirupati Society- 2, Yogi Chowk, Puna Gam, Kumbharia, Surat- 395010.
(2) Flat no. 201, 2nd Floor, Tower-X2, Earth Complex, Atladara, Vadodara- 390021.
(3) House no. GF/212, Trupti Society, Puna Gam, Yogi Chowk, Surat- 395010.

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Appearance : Ld. Advocate Mr. A. M. Rana, for the applicant.

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Subject : **Application under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.**

:: JUDGMENT ::

1. The present application has been filed by the applicant bank against the opponents under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 (herein after

referred as (SARFAESI Act) for taking possession of secured asset as defined in section-2 (zc) of the SARFAESI Act mentioned in the application and forward it to the applicant. The concise statement of the applicant's case is that the applicant is secured creditor as defined in section 2(zd) of the SARFAESI Act and the opponents are the borrower as defined under section 2(f) of the SARFAESI Act. The applicant has been notified as financial institution for the purpose of the SARFAESI Act. The applicant had sanctioned loan facility and the opponents defaults in discharging their loan amount. It is further averred in the application that the applicant has satisfied all the requirement of section 14 of the SARFAESI Act and the applicant's authorized officer has submitted his affidavit to that effect. Hence, the present application.

2. As per the ratio laid down in the judgment of Devani Jagdishbhai Dayabhai (Third Party) Appellant V/s District Magistrate Surat respondents reported in LAWS (GJH) 26/12/2018 held that it is not mandatory to issue notice to other party for the procedure under section 14 of the SARFAESI Act and hence, the present case proceeds.

3. <u>EVIDENCE OF APPLICANT :</u>

The applicant has submitted his affidavit along with the application as is required by the first Proviso to section-14(1) of the SARFAESI Act and has submitted following documents vide Ex.4 in support of his application.

Sr. No.	**Particulars**	**Date**
1.	Copy of authority letter	24.07.2026
2.	Copy of Memorandum of Agreement for Housing loan	-
3.	Copy of Demand notice	24.11.2025
4.	Copy of RPAD	29.11.2025
5.	Copy of the possession notice	15.12.2026
6.	Photographs of the Property	-
7.	Copy of Panchnama	15.12.2026
8.	Copy of possession notice Published in Lok satta	06.02.2026

	Jan satta News Paper	
9.	Copy of possession notice in Business Standard News Paper	06.02.2026

4. SUBMISSIONS ON BEHALF OF THE APPLICANT.

The learned advocate on behalf of the applicant has argued as per the averment made in the application.

5. Following points are framed for determination of this case : -

Sr.No.	**Points for determination**
1.	Whether the applicant is entitled to the relief claimed in the application ?
2 .	What order ?

6. My findings for the above issues are as under :

Sr.No.	**Findings**
1.	Affirmative.
2.	As per final order.

7. REASONS FOR THE DECISION

Before determination of this case, it would be necessary to refer some of the pronouncements governing the determination of an application filed under section -14 of the SARFAESI Act, 2002.

The Hon'ble Supreme Court in "Standard Chartered Bank V/s Noble Kumar" reported in (2013) 9 SCC 620 has held under :

21. 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, the 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.

22. However, the Bombay High Court in Trade Well V/s Indian Bank (2007 Cri. Lj 2544(Bom) 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 third 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".(emphasis supplied)
The said judgment was followed by the Madras High Court in Indian Overseas Bank V/s Sree Aravindh Steels Ltd. (AIR 2009 Mad.10). Subsequently, Parliament inserted a proviso to section 14(1) [Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorized officer of the secured creditor, declaring that

(i) the aggregate amount of financial assistance granted and the total claim of the bank as on date of filing the application; (ii) the borrower has created security interest over various properties and that the bank or financial institution is holding a valid and subsisting security interest over such properties and the claim of the bank or financial institution is within the limitation period; (iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above; (iv) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset; (vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower; (vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower; (viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the authorized officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act; (ix) that the provisions of this Act and the rules made thereunder had been complied with : Provided further that on receipt of the affidavit from the authorized officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets : Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act"] and also sub-section (1-A) "14.(1-A) The District Magistrate or the Chief Metropolitan Magistrate may authorize 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. (2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate 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, (3) No act of the Chief Metropolitan Magistrate or the District Magistrate any officer authorized by the Chief Metropolitan Magistrate or District Magistrate done in pursuance of this section shall be called in question in any court or before any authority."] by Act 1 of 2013.

25. The satisfaction of the Magistrate contemplated under the second proviso to section 14 (1) necessarily requires the Magistrate to examine the factual correctness of the assertions made in such an affidavit but not the legal niceties of the transaction. It is only after recording of his satisfaction the Magistrate can pass appropriate orders regarding taking of the possession of the secured asset.

8. The Hon'ble High Court of Gujarat has in IDBI Bank Ltd. Through authorized Signatory V/s District Magistrate" reported at 2011 SCC Online Guj.1280 held 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 Section 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 section 13(4), which can be assailed under section 17 of the Securitisation Act by the aggrieved person. Under sub-section (3) of section 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.

9. As per the recent judgment of Hon'ble Supreme Court of India in case of M/s R.D.Jain V/s Capital First Ltd. Dtd.27/7/2022, this court being Additional Chief Judicial Magistrate is also covered under provision of SARFAESI Act, in terms of "Chief Judicial Magistrate". Therefore, this court has been empowered by the said judgment.

10. The authority who is called upon to act under section 14 of the Securitisation Act can only assist, nay is bound t assist the secured creditor in taking possession of the secured asset. As the Chief Metropolitan Magistrate and District Magistrate under section 14 is not empowered to decide the question of legality and propriety of any of the actions taken by the secured creditor under section 13(4), which may be assailed under

section 17 of the Act by the aggrieved person, under sub- section (3) of section 14 of the Securitisation Act, the act of 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 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.

11. The Hon'ble Supreme Court has in Indian Bank V/s D.Visalakshi reported in (2019) 20 SCC 47 held as under :

52. 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 the Code of Criminal Procedure, 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 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.

54. To sum up, we hold that CJM is equally competent to deal with the application moved by the secured creditor under section 14 of the 2002 Act.

12. The Hon'ble Gujarat High Court in Devani Jagdishbhai Dayabhai (Third Party) Appellant V/s District Magistrate Surat respondents reported in LAWS (GJH) 2018-12-26 held as under :

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 V/s 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."

13. Considering the material produced by the applicant and perusing the affidavit submitted by the authorized officer of the applicant, it transpires to this court that the applicant has satisfied the requirement of section 14 of the SARFAESI Act so as to entitle it to have assistance of this court. Hence, in

view of the aforesaid reasons and discussion made herein above, my finding on issue no.1 is in affirmative. So far as to issue no.2 is concerned, I hereby pass following final order in the interest of justice.

::: FINAL ORDER :::

1. The Application of the applicant is hereby allowed.

2. I authorize, S. H. Baraiya, Bailiff, Prin. S. D. Court, Vadodara, 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 of the property being :

Property consisting of Registration District Vadodara, Sub District Vadodara, Moje: Atladara, R.S. No. 459/2, 464, 465, 466/1, 466/2, in which it is constructed in the name and style of "EARTH", Flat No. 201, 2nd Floor, Tower-X2, Plot area admeasuring 1050.00 Sq. Ft.

The boundaries are as under :-

EAST : F1 Number 202,
WEST : F2 Number 202,
NORTH : F2 Number 204,
SOUTH : Road & Bungalows of Earth Complex.

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

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

4. 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 Assets 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 assets.

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

6. 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. As applicant shall bear the expenses incurred in taking possession of the secured assets and shall provide all necessary assistance to the Court Commissioner in taking possession of the secured assets.
Applicant has hereby deposited lump-sum amount of Rs. 20,000/- towards the expenses and remuneration of Court Commissioner. The Court Commissioner is directed to complete the said procedure within 30 days, however if any undue circumstances arise, the said procedure within further 30 days or within the time limit extended by the Court and submit the compliance report of completion of proceedings.

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

Signed and Pronounced in Open Court on 27th February, 2026.

Date: 27.02.2026
Place: Vadodara.

(Paresh Bhogilal Nayak)
Chief Judicial Magistrate,
Vadodara.
Judge Code: GJ00874

//D.K.RAMI//