

फर्द अहकाम
(नियम 26)

नाम अदालत जिला कलक्टर अलवर मुकाम अलवर

उनवान पंजाब बैंक बनाम मै० तनुश इंडस्ट्रीज वगै०

किस्म मुकदमा प्रार्थना पत्र अन्तर्गत धारा 14 सरफैसी एक्ट 2023

दा० नम्बर 15/S2...सन् 2022 दा०दि० 13.03.2023

तारीख हुक्म	हुक्म की कार्यवाही मय इनिशियल्स जज	नम्बर व तारीख अहकाम जो इस हुक्म की तामील में जारी हुए
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10.03.2023


आज यह पत्रावली जरिये वकील हमारे समक्ष पेश हुई। बैंक के प्राधिकृत अधिकारी उपस्थित। प्रार्थना पत्र दर्ज रजिस्टर हो। वास्ते सुनवाई पत्रावली दिनांक 17.04.2023 को पेश हो।


जिला कलक्टर
अलवर

Not Press

17/04/23

~~पत्रावली पेश हुई। वकील~~
~~उपस्थित। प्रार्थना पत्र दर्ज~~
~~रजिस्टर हो। वास्ते सुनवाई~~
~~पत्रावली दिनांक 17.04.2023~~
~~को पेश हो।~~
~~जिला कलक्टर~~
~~अलवर~~
~~17/04/23~~


17/04/23

जिला कलक्टर
अलवर (राज०)

PSC
10.3.23

IN THE HON'BLE COURT OF THE CHIEF JUDICIAL MAGISTRATE/DM: ALWAR

IN RE: APPLICATION NO. 15/521 OF 2023

13/03/2023

IN THE MATTER OF:

Punjab National Bank

..... Applicant Bank

Versus

M/s Tanush Industries & Ors.

.....Respondent(s)

APPLICATION FOR OBTAINING ORDERS U/S 14 OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

INDEX

S. No.	Particulars	Pages
1.	Application u/s 14 of SARFAESI Act with Affidavit	1-6
2.	Copy of Loan Documents	14-56
3.	Copy of Lease/Sale Deed	57-96
4.	Notice u/s 13 (2) of SARFAESI Act with Postal Receipt	97-109
5.	Reply/Objection u/s 13 (3A) of SARFAESI Act, 2002	110-111
6.	Reply to objection u/s 13 (3A) of SARFAESI Act, 2002	112-115
7.	Notice u/s 13(4) of SARFAESI ACT with paper publication	116-122
8.	Copy of Account Statement	123-128
9.	Vakalatnama	129
10.	Power of Attorney	7-13

Place: Alwar

Dated: 10/03/23

Applicant Bank
Through


Authorized Officer

Punjab National Bank
PUNJAB NATIONAL BANK

Authorized Officer



1

APPLICATION BEFORE CHIEF JUDICIAL MAGISTRATE/DM, ALWAR

IN THE MATTER OF

**Punjab National Bank
Circle Sastra Department, Circle Office, Harshil Tower 29
Baru Marg, Alwar (Rajasthan) - 301001**

*Applicant
SARFAESI*

.....Applicant Bank

versus

**1. M/s Tanush Industries (Borrower)
R/o: G-165 D, MIA, Alwar (Raj) – 301001**

**2. Mr. Arvind Lawania S/o Mr. Satya Bhan Singh (Partner cum Guarantor)
R/o: A-86, Hasan Khan, Mewat Nagar, Alwar (Raj) – 301001**

Also at: G-165 D, MIA, Alwar (Raj) – 301001

**3. Mrs. Veena Angirish W/o Mr. Sudhir Kumar Angirish (Partner cum Guarantor)
R/o: Flat no A-204, Second Floor, Avenue-2, Wing-A, MVL Coral,
Tehsil Tizara, Alwar (Raj)**

Also at: G-165 D, MIA, Alwar (Raj) – 301001

**4. Mrs. Shalini Ahuja W/o Mr. Kumar Ahuja (Guarantor)
R/o: 13, Kabir Colony, Alwar (Raj) - 301001**

..... Respondent/s

Application on behalf of Secured Creditor/ Bank for taking action in terms of Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Name of the Borrower/Partner	1. M/s Tanush Industries 2. Mr. Arvind Lawania S/o Mr. Satya Bhan Singh 3. Mrs. Veena Angirish W/o Mr. Sudhir Kumar Angirish
Addresses	At: G-165 D, MIA, Alwar (Raj) – 301001 Also at: A-86, Hasan Khan, Mewat Nagar, Alwar (Raj) – 301001 Also at: Flat no A-204, Second Floor, Avenue-2, Wing-A, MVL Coral, Tehsil Tizara, Alwar (Raj) Also at: 13, Kabir Colony, Alwar (Raj) – 301001
Guarantors	1. Mr. Arvind Lawania S/o Mr. Satya Bhan Singh 2. Mrs. Veena Angirish W/o Mr. Sudhir Kumar Angirish 3. Mrs. Shalini Ahuja W/o Mr. Kumar Ahuja
Security(ies)	1. Hypothecation of all the raw-material, stocks in process and finished goods pertaining to the concern lying in the go-downs/factory of the concern along with book debts, other current assets (present & future) 2. Commercial property at Plot no 04 & 05, First Floor, without roof right, Kush Marg, Alwar-301001 in the name of Mrs. Shalini Ahuja W/o Mr. Kumar Ahuja Area measuring 128.76 Sq. Yds. 3. Flat no. 204, second Floor, Avenue-2, Wing-A, MVL Coral, Tehsil Tizara, Alwar in the name of Mrs. Veena Angirish

	<p>W/o Mr. Sudhir Kumar Angirish Area measuring 1765 Sq Ft.</p> <p>4. Industrial Property at G-165 D, MIA, Alwar (Raj) in the name of M/s Tanush Industries Area measuring 1000 Sq. Mtrs.</p>
Amount	<p>Outstanding as on 10/11/2022 is Rs. 3,60,50,993.82/- (Rupees Three Crore Sixty Lakh Fifty Thousand Nine Hundred Ninety Three and Paise Eighty Two Only) with future interest and incidental charges at the time of final payment w.e.f. 11/11/2022, Less credits, if any.</p>

MR. SATISH KUMAR JAIN being the Authorised Officer of Punjab National Bank, Circle Sastra Department, Circle Office, Harshil Tower 29, Naru Marg, Alwar (Rajasthan) – 301001 (herein after referred to as The BANK), having been authorized to exercise the powers of the secured creditors under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act) most respectfully submits as under:-

1. The Bank has extended the following credit facilities, at their request, to:

- | | |
|---|-------------------------|
| (1) M/s Tanush Industries | (Borrower) |
| (2) Mr. Arvind Lawania S/o Mr. Satya Bhan Singh | (Partner cum Guarantor) |
| (3) Mrs. Veena Angirish W/o Mr. Sudhir Kumar Angirish | (Partner cum Guarantor) |
| (4) Mrs. Shalini Ahuja W/o Mr. Kumar Ahuja | (Guarantor) |

(hereinafter referred to as The Borrower/Guarantor/Partner):-

Nature of Facility	Amount (In Crore)
CC Limit vide (Loan A/c no. 2975008700000859)	Rs. 2,50,00,000/-
FITL-1 vide (Loan A/c no. 297500IB00008620)	Rs. 6,85,000/-
FITL-2 vide (Loan A/c no. 297500IB00008639)	Rs. 17,21,000/-
WCTL 1 vide (Loan A/c no. 297500IL00000165)	Rs. 51,61,000/-
WCTL 2 vide (Loan A/c no. 297500IL00000411)	Rs. 25,81,000/-
Total:	Rs. 3,51,48,000/-

2. The Bank was provided with a property as a collateral security by way of equitable mortgage of -

- Hypothecation of all the raw-material, stocks in process and finished goods pertaining to the concern lying in the go-downs/factory of the concern along with book debts, other current assets (present & future)
- Commercial property at Plot no 04 & 05, First Floor, without roof right, Kush Marg, Alwar-301001 in the name of Mrs. Shalini Ahuja W/o Mr. Kumar Ahuja Area measuring 128.76 Sq. Yds.
- Flat no. 204, second Floor, Avenue-2, Wing-A, MVL Coral, Tehsil Tizara, Alwar in the name of Mrs. Veena Angirish W/o Mr. Sudhir Kumar Angirish Area measuring 1765 Sq Ft.
- Industrial Property at G-165 D, MIA, Alwar (Raj) in the name of M/s Tanush Industries Area measuring 1000 Sq. Mtrs. (Hereinafter referred to as The Secured Assets).

3. The borrower/guarantor/partner has executed various agreements with deposit of original Lease/Sale deeds of the SECURED ASSET and duly recorded recital in the books of the bank to secure the loan/ credit facilities to the borrower.

4. That on account of defaults committed by the borrower in the payment of interest and principal amounts due and payable to Bank, the account of the borrower has been classified as non-performing asset as per the guidelines issued by The Reserve Bank of India on **25.10.2022** .

5. The bank issued **Demand notice** for recovery of dues **10.11.2022**, as per provisions of section 13 (2) of the Act, whereby requiring the borrower / guarantor to repay the amount due to the bank within 60 days of the notice, which was duly served upon them.

5. The borrower/guarantor have failed to discharge its liability even after expiry of stipulated 60 days period.

7. The Act has been duly passed by the Parliament of India and assent granted by The Hon'ble President of India w.e.f. 21.06.2002.

8. The Act empowered the bank being the secured creditor to take various steps including take possession of secured assets of the borrower and or the guarantors after 60 days of issue of notice under section 13 (4) of the said act.

9. The act also empowered the bank (Secured creditor) to appoint any person to take possession and to manage the secured assets including immovable or moveable property.

10. Pursuant to the powers conferred by the said act the bank has decided to take the physical possession and control of the said assets for the purpose of realization of the assets under sub section (4) of the section 13 of the SARFAESI Act to enable us to bring the property to sale and effect transfer of the same to the successful purchaser.

11. That in view of the facts and circumstances state herein above and for purpose of securing compliance with the provisions of Section 13 of the said Act, the applicant craves leave of this Hon'ble Court to take or cause to be taken such steps and issue any appropriate directions, orders etc., to any authority or official and use or cause to be used, such force, as may be necessary in order to provide physical possession of the secured asset(s). **It is, therefore, respectfully prayed before this court:**

a. To take or cause to be taken such steps and issue any appropriate directions, orders etc., to any authority or official or cause to be used, such force, as may be necessary in order to provide physical possession of the secured asset.

b. In case the property is found locked, necessary orders may be issued to break open the locks and take necessary steps thereafter.

c. Any other or further order may be issued in facts and circumstances as stated herein above to protect the interest of the certificate holder bank.

It is prayed accordingly.

Section 14 of the Said Act, lays down: "Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.- (1)

Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate **shall**, on such request being made to him-

- (a) take possession of such asset and documents relating thereto; and
 - (b) forward such asset 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 done in pursuance of this section shall be called in question in any court or before any authority.

As per latest amendment in The Enforcement of Security Interest and Recovery of Debt Laws and Miscellaneous Provisions (Amendment) Act, 2016 (no 44 of 2016), in Section 14(1)(b) of SARFAESI Act, 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 within a period of 30 days from the date of application. Provided further that if no order is passed by CMM or DM within the said period of 30 days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the orders within such further period but not exceeding in aggregate 60 days."

Secondly, para no. 85 of Bombay High Court Judgement in case of M/s Tradewell & Others V/s Indian Bank in Cr WP no. 2767 of 2006 clearly lays down as follows:-

"In our opinion, at the time of passing order under section 14 of the NPA Act, the CMM/DM will have to consider only two aspects. He must find out whether the secured asset falls within his territorial jurisdiction and whether notice under section 13(2) of NPA Act is given or not. No adjudication of any kind is contemplated at that stage."

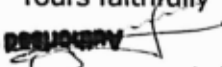
Para 90 lays down as follows:-

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. He has to only verify from the bank or financial institution whether notice under section 13(2) of the SARFAESI Act is given or not and whether the secured assets fall within his jurisdiction. There is no adjudication of any kind at that stage. 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."

We are producing herewith following documents for your necessary action:

- 1. Copy of Notice issued under section 13 (2) of the said act
- 2. Copy of Possession notice
- 3. Copy of the sale/lease deed of the secured asset.
- 4. Copy of the Loan documents.

Verified at Alwar on this 10th day of March, 2023 that the contents of Application are true and correct based on the records maintained by the applicant bank and nothing material has been concealed there from.

Yours faithfully

 (AUTHORISED OFFICER)
 PUNJAB NATIONAL BANK
 Circle Sastra Centre, Alwar

(5)

APPLICATION BEFORE CHIEF JUDICIAL MAGISTRATE/DM, ALWAR

IN THE MATTER OF

Punjab National Bank

**Circle Sastra Department, Circle Office, Harshil Tower 29
Naru Marg, Alwar (Rajasthan) - 301001**

.....Applicant Bank

Versus

M/s Tanush Industries & Ors.

.....Respondent / C

AFFIDAVIT

Affida

I, MR. SATISH KUMAR JAIN, aged about 54 Years working at **Punjab National Bank, Circle Sastra Department, Circle Office, Harshil Tower 29, Naru Marg, Alwar (Rajasthan) - 301001** as ~~*****~~ **Chief Manager** hereby solemnly affirm and declare as under:-

1. That the deponent (Applicant) is **Authorised Officer** of the applicant bank and is conversant with the facts and circumstances of the present case on the basis of the records maintained by the applicant bank as such the deponent is competent to swear the present affidavit.

2. That the aggregate amount of financial assistance granted **CC Limit vide (Loan A/c no. 2975008700000859) is Rs. 2,50,00,000/- + FITL-1 vide (Loan A/c no. 297500IB00008620) is Rs. 6,85,000/- + FITL-2 vide (Loan A/c no. 297500IB00008639) is Rs. 17,21,000/- + WCTL 1 vide (Loan A/c no. 297500IL00000165) is Rs. 51,61,000/- + WCTL 2 vide (Loan A/c no. 297500IL00000411) is Rs. 51,61,000/-** Now the Grand Total Credit Facility is **Rs. 3,51,48,000/- (Rupees Three Crore Fifty One Lakh Forty Eight Thousand Only)** and the total claim of the Bank as on 10-03-22 is 3,60,50,993.82/-.

3. That the borrower/guarantor has created security interest of the Secured Assets 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.

4. That the borrower has created security interest over Secured Assets giving the details of properties referred below-

1. **Hypothecation of all the raw-material, stocks in process and finished goods pertaining to the concern lying in the go-downs/factory of the concern along with book debts, other current assets (present & future)**
2. **Commercial property at Plot no 04 & 05, First Floor, without roof right, Kush Marg, Alwar-301001 in the name of Mrs. Shalini Ahuja W/o Mr. Kumar Ahuja Area measuring**
3. **Flat no. 204, second Floor, Avenue-2, Wing-A, MVL Coral, Tehsil Tizara, Alwar in the name of Mrs. Veena Angirish W/o Mr. Sudhir Kumar Angirish Area measuring 1765 Sq Ft.**
4. **Industrial Property at G-165 D, MIA, Alwar (Raj) in the name of M/s Tanush Industries Area measuring 1000 Sq. Mtrs.**

5. That the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount.



6. That consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non- performing asset.

7. 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 duly served on the borrower and so compliance of Rule 3 of Rules pertaining to the said act was also made out before taking physical possession of the property. We went to take physical possession but to maintain law and order we could not have done the same without the help of DM/CMM u/s 14 of the Act.

8. That the borrower has given reply/objection against the Demand notice u/s 13(2) of dated 10.11.2022 u/s 13(3A) on 27.12.2022.

9. That the secured creditor has given Reply to objection u/s 13(3A) of SARFAESI ACT 2002 on 10.01.2023 .

10. That the borrower not made entire repayment of the financial assistance in spite of the above notice and the Authorised 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;

11. That the provisions of this Act and the rules made thereunder had been complied with.

12. I state that the accompanying application for taking action in terms of section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is being drafted and filed on behalf of the applicant bank and the contents of the same are true and correct to the best of my knowledge and belief and procedures under the said act have been complied with.

13. That no stay has been granted in favour of borrower, against the secured creditor by any competent court. As per records of the bank, the said property is neither subject to any attachment nor subject matter of injunction by any Court/Tribunal.

14. That the borrower not made any repayment of the financial assistance in spite of the above notice and the Authorised 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.

[Signature]
Circle Sasra Centre, Alwar
PUNJAB NATIONAL BANK
DEPONENT

Authorised Officer

VERIFICATION

Verified at Alwar on this 10th day of March, 2023 that the contents of Application are true and correct based on the records maintained by the applicant bank and nothing material has been concealed there from.

Presented and sworn by Shri Satish Kumar Sharma
S/o Shri Harjinder Singh R/o Alwar
District Alwar (Rajasthan) Identified by Shri Jaiyant Yadav
R/o Alwar. The Contents were read over to him and executed to be correct hence attested
Date 10/3/23 Sr. No. R/120/23
[Signature]
Joint Commissioner
Alwar (Reg.)

[Signature]
Circle Sasra Centre, Alwar
PUNJAB NATIONAL BANK
DEPONENT

Authorised Officer

R.A

श्रीवा में,

12104 ज्यापुलय जिवा कलकट मंहीदय अलक राज 0

पत्रावली वापसी हेतु प्रार्थना पत्र

श्री मान जी,

निवेदन यह है कि हम आपके समक्ष दिखे गए पत्रावली पत्र द्वारा
14 सरफाही एस्ट की वापसी लेना चाहते हैं जिसका विवरण निम्न प्रकार प्रस्तुत
है ->

1.) Punjab National Bank U. MISTANAKH INDUSTRIES & OS.

सुनवाई तिथि - 17/04/23

Date - 17/04/23

Place - Alwar

प्राप्ति

Advocate

Jayant kumar

9466781798

