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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 743 of 2026

1 - Jana Small Finance Bank Limited Through Its Authorised Officer Bhaktraj Gajanan Raut S/o Shri Gajanan Raut Aged About 26 Years Having Branch Office At Malay Heights First Floor Opp. Reserve Bank Of India Mahadev Ghat Road Sundar Nagar, Raipur 492001 (Chhattisgarh)

... Petitioner

versus

1 - State Of Chhattisgarh Through The Secretary Department Of Revenue Mahanadi Bhawan, Atal Nagar Nava Raipur, Raipur (Chhattisgarh)

2 - The Collector District- Durg Pin- 491111, (Chhattisgarh)

3 - The Tehsildar Tehsil- Patan District- Durg Pin- 491111 (Chhattisgarh)

4 - Maal Jamadar Tehsil- Patan District- Durg Pin- 491111 (Chhattisgarh)

5 - Mannu Lal S/o Shri Paras Ram R/o House No 83, Ward No.02, Satnamni Para Bijabhata Karela Tehsil Patan District- Durg Chhattisgarh Pin- 491111

6 - Mordhwaj Nirmalkar S/o Mannu Lal R/o House No 83, Ward No.02, Satnamni Para Bijabhata Karela Tehsil Patan District- Durg Chhattisgarh Pin- 491111

... Respondents

(Cause title taken from Case Information System)

For Petitioner	:	Ms. Sakshi Gupta, Advocate on behalf of Mr. Ritesh Sharma, Advocate
For State	:	Dr. Arham Siddiqui, Panel Lawyer

(Hon’ble Mr. Justice Naresh Kumar Chandravanshi)

Order on Board

20.02.2026

1. With the consent of learned counsel for the parties, the matter is heard finally.

2. The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India aggrieved by non-execution of order dated 22.07.2024 passed by the learned District Magistrate, Durg under the provisions of Section 14 of the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act of 2002').

3. Learned counsel appearing for the petitioner submits that despite there being clear order passed under Section 14 of the Act of 2002, the Tehsildar, Tehsil Patan, District Durg failed to discharge his statutory duty. She further submits that non-performing Assets are a huge burden on the public exchequer, banking and financial system and, therefore, the Tehsildar, Tehsil Patan, Distt. Durg is under obligation to comply with the direction/order passed under the provisions of Section 14 of the Act of 2002. Hence, learned counsel prays for a direction to the concerned Tehsildar to comply with the order passed under Section 14 of the Act of 2002.

4. I have heard learned counsel appearing for the petitioner and perused the documents placed on record.

5. It is surprising to note that time and again, this Court is coming across cause of action raised by the Bank aggrieved by the fact that order passed under Section 14 of the Act of 2002 is not being executed by the Tehsildar. The scheme of the Act of 2002 enjoins the District Magistrate / Chief Judicial Magistrate to pass an order under Section 14 of the Act of 2002 within the extended period of 60 days and thereafter, the Tehsildar or the concerned Revenue Authority to execute such order without any unnecessary delay. Merely because, time frame is not prescribed for execution of an order passed under Section 14 of the Act of 2002, does not mean that the

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concerned Tehsildar would sit over the matter, thereby frustrating the object of the Act of 2002.

6. The Hon'ble Supreme Court in the matter of **<u>R.D. Jain & Co. Vs. Capital First Limited and Others, reported in 2023 (1) SCC 675</u>,** while explaining the object of jurisdiction under Section 14 of the Act of 2002 held as under :

> "23. However, for taking physical possession of the secured assets in terms of Section 14(1) of the SARFAESI Act, the secured creditor is obliged to approach the CMM/DM by way of a written application requesting for taking possession of the secured assets and documents relating thereto and for being forwarded to it (secured creditor) for further action. The statutory obligation enjoined upon the CMM/DM is to immediately move into action after receipt of a written application under Section 14(1) of the SARFAESI Act from the secured creditor for that purpose. As soon as such an application is received, the CMM/DM is expected to pass an order after verification of compliance of all formalities by the secured creditor referred to in the proviso in Section 14(1) of the SARFAESI Act and after being satisfied in that regard, to take possession of the secured assets and documents relating thereto and to forward the same to the secured creditor at the earliest opportunity.
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> 24. As mandated by Section 14 of the SARFAESI Act, the CMM/DM has to act within the stipulated time-limit and pass a suitable order for the purpose of taking possession of the secured assets within a period of 30 days from the date of application which can be extended for such further period but not exceeding in the aggregate, sixty days. Thus, the powers exercised by the CMM/DM is a ministerial act. He cannot brook delay.

Time is of the essence. This is the spirit of the special enactment."

7. In the matter of **<u>Kotak Mahindra Bank Limited Vs. Girnar Corrugators Private Limited and Others, reported in 2023 (3) SCC 210</u>**, the Hon'ble Supreme Court has held in paragraph Nos. 33, 34 & 35 as under :

> "**33**. Even otherwise the Naib Tehsildar was not at all justified in not taking possession of the secured assets /properties as per order dated 24.09.2014 passed by the District Magistrate under Section 14 of the SARFAESI Act. The order passed by the Naib Tehsildar refusing to take possession of the secured assets / properties despite the order passed under Section 14 of the SARFAESI Act on the ground that recovery certificates issued by respondent No. 1 for recovery of the orders passed by the Facilitation Council are pending, is wholly without jurisdiction. While exercising power under Section 14 of the SARFAESI Act, even the District Magistrate has no jurisdiction and/or District Magistrate and/or even the Chief Metropolitan Magistrate has no jurisdiction to adjudicate the dispute between secured creditor and debtor.
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> **34**. Under Section 14 of the SARFAESI Act, the District Magistrate or the Chief Metropolitan Magistrate as the case may be is required to assist the secured creditor in getting the possession of the secured assets. Under Section 14 of the SARFAESI Act, neither District Magistrate nor Metropolitan Magistrate would have any jurisdiction to adjudicate and/or decide the dispute even between the secured creditor and the debtor. If any person is aggrieved by the steps under Section 13(4)/order passed under Section 14, then the aggrieved person has to approach the Debts Recovery

> Tribunal by way of appeal / application under Section 17 of the SARFAESI Act.
>
> **35**. Therefore, the order passed by the Naib Tehsildar refusing to take the possession pursuant to the order passed by the District Magistrate under Section 14 of the SARFAESI Act was wholly without jurisdiction and therefore also the same was liable to be set aside."

8. Accordingly, Tehsildar, Tehsil Patan, Distt. Durg is directed to comply with the order dated 22.07.2024 passed by the District Magistrate, Durg in Revenue Case No.202311100100003/15/B-121/2023-24 (Annexure-P/1) expeditiously, preferably within a maximum period of **<u>30 days</u>** from the production of a copy of this order.

9. With the aforesaid observations and directions, the writ petition stands disposed of.

10. Pending interlocutory applications, if any, also stands disposed of.

Sd/-
(Naresh Kumar Chandravanshi)
Judge

Rukhsar