2026:CGHC:14985

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1424 of 2026

Aavas Financiers Ltd. Earlier Known As A.U. Housing Finance Limited, Having Registered Office At 201, 202 Second Floor, South And Square, Mansarovar Industrial Area, Jaipur Rajasthan, Branch Office At B-1, Second Floor, Nagdev Plaza, Kutchery Chowk, Raipur Chhattisgarh Through Jagdev Singh, Area Legal Manager At Petitioner Bank

... Petitioner

versus

1 - The Tahsildar Raipur, District Raipur Chhattisgarh

2 - Naib Tahsildar Raipur, District Raipur Chhattisgarh

3 - District Magistrate Cum Collector Raipur, District Raipur Chhattisgarh

4 - Rahul Kumar Mishra S/o Tribhuvan Prasad Mishra R/o Pragati Nagar, Near Shiv Mandir, Bada Ashok Nagar, Gudhiyari, Raipur District Raipur Chhattisgarh

5 - Tribhuvan Prasad Mishra S/o Shyam Sundar Mishra R/o Pragati Nagar, Near Shiv Mandir, Bada Ashok Nagar, Gudhiyari, Raipur District Raipur Chhattisgarh

6 - Smt. Vandana Mishra W/o Tribhuvan Prasad Mishra R/o Pragati Nagar, Near Shiv Mandir, Bada Ashok Nagar, Gudhiyari, Raipur District Raipur Chhattisgarh

7 - Sunil Kol S/o Mohan Kol R/o Ward No. 10, Kolan Tola, Dalko Kothar, 228, Papaundh, Shahdol, District Shahdol M.P.

... Respondents

For Petitioner	:	Mr. Ayush Verma, Advocate
For Respondents 1 to 3/State	:	Mr. Amit Nayak, Panel Lawyer
For Respondents 4 to 7	:	Mr. Raman Mishra, Advocate

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)
Order on Board
01.4.2026

1. 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 24.3.2025 passed by the learned District Magistrate, Raipur under the provisions of Section 14 of the Secutarization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act of 2002').

2. Learned counsel appearing for the petitioner submits that despite there being clear order passed under Section 14 of the Act of 2002, by the District Magistrate, Raipur vide Annexure-P/1, the Tahsildar, Raipur failed to discharge his statutory duty. He further submits that non-performing Assets are a huge burden on the public exchequer, banking and financial system and, therefore, the Tahsildar, Tahsil Raipur, Distt. Raipur is under obligation to comply with the direction/order passed by the District Magistrate under the provisions of Section 14 of the Act of 2002. Hence, learned counsel prays that direction may be issued to the Tahsildar, Raipur to comply with the order dated 24.3.2025 passed by the District Magistrate, Raipur under Section 14 of the Act of 2002.

3. Learned counsel appearing for respondents 4 to 7 submits that the private respondents, who are borrowers, have challenged the impugned Order dated 24.3.2025 (Annexure-P/1) before the Debt Recovery Tribunal (DRT), Jabalpur bearing Secutarization Application No.538/2025, which has been listed for hearing on 21.9.2026, therefore, relief sought for by the petitioner may not be granted.

4. When specific question was posed to learned counsel appearing for respondents 4 to 7, as to whether any stay order has been passed by DRT, Jablapur in the aforesaid application, he submits that no such order has been passed. Since no stay order has been passed by DRT, Jabalpur, this Court is inclined to grant relief to the petitioner.

5. I have heard learned counsel for the parties and perused the material available on record.

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

7. The Hon'ble Supreme Court in the matter of **R.D. Jain & Co. Vs. Capital First Limited and Others, reported in 2023 (1) SCC 675,** 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.

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."

8. In the matter of **Kotak Mahindra Bank Limited Vs. Girnar Corrugators Private Limited and Others, reported in 2023 (3) SCC 210**, 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.

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.
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> **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."

9. Accordingly, Tahsildar, Tahsil Raipur, Distt. Raipur is directed to comply with the order dated 24.3.2025 passed by the District Magistrate, Raipur in Case No.328/B-121/2021-22 (Annexure-P/1) expeditiously, preferably within a maximum period of **30 days** from the production of a copy of this order.

10. With aforesaid observation and direction, this petition stands disposed of.

11. Pending interlocutory application(s), if any, stands disposed of.

Sd/-

(Naresh Kumar Chandravanshi)

Judge

Bini