2025:CGHC:48910

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5041 of 2025

Bank Of India Through Authorised Officer, Shri Suraj Kumar, S/o Shri Kamlesh Prasad, Aged About 40 Years, Office At- Arb, Bank Of India, Naya Raipur, District Raipur, C.G.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Revenue And Disaster Management Department, Atal Nagar, Mahanadi Bhawan, Raipur, District Raipur C.G.

2 - The Collector-Cum - District Magistrate, Bilaspur, District-Bilaspur C.G.

3 -The Tehsildar, Bilaspur, District- Bilaspur C.G.

4 - The Superintendent Of Police, Bilaspur, District- Bilaspur C.G.

5 - The Sub Divisional Magistrate, Bilaspur, District- Bilaspur C.G.

6 - M/s Mahamaya Vaccine, Through Proprietor, Fanindra Mishra, S/o Late Mool Chand Mishra, R/o Near Shiv Mandir, Vidya Upnagar, Diprapara, Bilaspur, District- Bilaspur C.G.

7 - Jyoti Mishra W/o Fanindra Mishra R/o Near Shiv Mandir, Vidya Upnagar, Diprapara, Bilaspur, District- Bilaspur C.G.

8 - Syama Devi Mishra W/o Late Mool Chand Mishra R/o Near Shiv Mandir, Vidya Upnagar, Diprapara, Bilaspur, District- Bilaspur C.G.

... Respondent(s)

For Petitioner : Mr. Saket Pandey, Advocate
For Respondent-State : Ms. Akansha Verma, PL.

Hon'ble Shri Arvind Kumar Verma, Judge

Order on Board

24.09.2025

1. Petitioner has filed this writ petition with following reliefs:

> "10.1 That, the records pertaining to the proceedings before the respondents may kindly be called for kind perusal of this Hon'ble Court.
>
> 10.2 That, this Hon'ble Court may kindly direct the Respondent No.2 to 5 to assist in granting the physical possession of the mortgaged properties for petitioner bank, also to conclude the proceedings under Section 14 of the Act of 2002, in Revenue Case No.03/B-121/2024-25 with use of required force, in the interest of justice.
>
> 10.3 Any other relief, which this Hon'ble Court may deemed just and fit in facts and circumstances of the case."

2. As this Court is not deciding the rights of the parties and the petitioner has sought relief for direction to the Respondents No. 2 to 5 to grant possession of the mortgaged property of the land pursuant to the order dated 23.01.2025 (Annexure P/1) passed by the Respondent No. 2/District Magistrate in a proceeding under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Act of 2002'), this case is being heard without notice to the Respondents No. 6 to 8.

3. Learned counsel for the petitioner submits that the petitioner is a secured creditor. The Respondents No.6 to 8 are debtors, their loan accounts became non-performing assets, pursuant thereto, the proceedings under Section 13 of the Act of 2002 was initiated and thereafter, the proceeding under Section 14 of the Act of 2002 was filed before the Respondent No.2/District Magistrate. The authority under Section 14 of the Act of 2002 considering the facts and circumstances of the case has passed an order on 23.01.2025 (Annexure P/1) directing the Respondent No. 3/Tehsildar to handover the vacant possession of the mortgaged property to petitioner. The eviction memo is not issued till date, the possession has not been handed over.

4. On the other hand, learned counsel for the Respondents/State contended that if for any reason, possession could not be taken, the order passed by the Respondent No. 2/District Magistrate will be complied with.

5. I have heard learned counsel for the parties and perused the documents placed along with the writ petition.

6. For ready reference, proviso clause of Section 14 of the Act of 2002 is reproduced as under :

> "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 the 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. The borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;
>
> v. consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a nonperforming 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;

vii. the borrower has 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:

viii. 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 Authorised 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 within a period of thirty days from the date of application.]

[Provided [also] that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.]

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.]

[(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise 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 of 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 authorised 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."

7. The Act of 2002 provides that when Section 14 proceeding is moved, the Officer shall, after satisfying the contents of the affidavit, shall pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the date of application and, if no order is passed within period prescribed for reasons beyond control, after recording reasons in writing, shall pass order, but shall not exceed sixty days in aggregate. The Act of 2002 further provides that the reasons shall also be recorded in the order for such extension.

8. In the case at hand, Respondent No.2/District Magistrate has passed an order dated 23.01.2025 (Annexure P/1) under Section 14 of the Act of 2002. However, as of now, more than several months has already been lapsed. Perusal of the documents would show that the Respondent No.3/Tehsildar, in compliance of the order Annexure P/1, has not issued eviction memo for taking over the possession of the mortgaged property.

9. Considering facts of the case, above submission of counsel for the parties, particularly the provisions of Section 14 of the Act of 2002 and the period prescribed therein, the writ petition at this stage is disposed of with a direction to respondents No.2 to 5 to comply with the order dated 23.01.2025 (Annexure P/1) and conclude the proceedings under Section 14 of the Act of 2002 after giving proper opportunity of hearing to respondents No.6 to 8, expeditiously, preferably within a period of '60 days' from the date of receipt of copy of this order.

CC as per rules.

Sd/-
(Arvind Kumar Verma)
Judge

J.