

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 6759 of 2026**

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JOGI BHUSHANKUMAR KARSHANDAS THRO POA HOLDER
BHUSHANKUMAR KARSHANDASBHAI JOGI & ORS.

Versus
STATE OF GUJARAT & ANR.

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Appearance:

RITESH D PATADIA(6460) for the Applicant(s) No. 1,2,3,4
MR PREMAL S RACHH(3297) for the Respondent(s) No. 2
MR PRANAV DHAGAT, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 07/07/2026

ORDER

1. By filing the present petition under Article 227 of the Constitution of India the petitioners have challenged the order dated 27.4.2026 passed by Learned Additional Chief Judicial Magistrate, Jetpur in Criminal Misc. Application No.233 of 2026, whereby he has appointed certain official as the Court Commissioner for taking possession of the secured assets under Section 14 of the SARFAESI Act.
2. It is submitted by learned advocate appearing for the petitioners, that merely because Section 14(1) of the SARFAESI Act empowers Learned Magistrate to appoint any person subordinate to him in this regard, it is not open for Learned Magistrate to appoint any person, in fact, the person so appointed must be capable of executing the orders passed by him. Vide impugned order Learned Magistrate has appointed the staff subordinate to him as a Court Commissioner for taking over the possession of the secured assets.
3. He submitted that the order impugned in the present petition is bad

in law, in view of the decision of the Apex Court in case of **NKGSB Cooperative Bank Limited versus Subir Chakravarty** and others reported in **2022(10) SCC 286**. He therefore submitted to quash and set aside the impugned order.

4. Learned Advocate Mr. Premal Rachh appearing for the respondent No.2 submits that the order impugned in the present petition be quashed and set aside for the reasons stated herein above, and Learned Magistrate be directed to pass an order afresh expeditiously.

5. Heard learned advocates for the parties. Having regard to the submissions made by learned advocate appearing for respondent No. 2, the petition stands allowed. The impugned order is hereby quashed and set aside.

6. Learned Magistrate shall take a decision as regards appointment of the Court Commissioner afresh in accordance with the law and having regard to the principles laid down by the Hon'ble Apex Court in case of **NKGSB Cooperative Bank Limited (Supra)**, Learned Magistrate shall take such a decision as expeditiously as possible, preferably within a period of four weeks from the date of the receipt of the present order.

Manshi

(M. R. MENGDEY,J)