

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 4337/2026

Aavas Financiers Limited, (Formerly Known As Au Housing Finance Ltd) Registered And Corp. Office At 201-202, 2Nd Floor, Southend Square, Mansarover Industrial Area, Jaipur, Rajasthan, Through Its Authorized Signatory - Balkaur Singh S/o Shri Sarjodhan Singh, Aged About - 31 Years, R/o 3/24, New Sanganer Road, Sfs Mansarovar, Jaipur, Rajasthan (Working As Zonal Legal Manager).

----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary, Department Of Home, Govt. Secretariat, Jaipur, Rajasthan.
2. The Superintendent Of Police, Sri Ganganagar, Rajasthan.
3. The Station House Officer, Police Station- Lalgarh Jattan, District- Sri Ganganagar, Rajasthan.
4. Pooja W/o Shri Shishpal, R/o Chak Khera, 2 Llg, Lalgarh Jattan, Ganganagar, Rajasthan Also At Patta No. 02, Plot No. B/2, Village Chak Khera, Tehsil- Sadul Shahr, District- Sri Ganganagar, Rajasthan. (Borrower)
5. Shish Pal S/o Shri Raghu Veer, R/o Ward No. 09, Chak Khera, Lalgarh Jattan, Sri Ganganagar, Rajasthan. (Co-Borrower)
6. Amritpal Singh S/o Shri Mukhtyar Singh, R/o Ward No. 01, Chak Khera, Lalgarh Jattan, Sri Ganganagar, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Durgesh Khatri
For Respondent(s)	:	-

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

25/02/2026

1. The instant writ petition has been filed by the petitioner with the following prayer:-

It is, therefore, most humbly and respectfully prayed that this writ petition may kindly be allowed and

A. by an appropriate writ order or direction, the respondent no. 02 and 03 be directed to forthwith remove trespassers from the mortgaged property i.c Patta no. 02, Plot no. B/2, Village, Chak Kheda. Tehal Sadul Shahar, District Sri Ganganagar. Rajasthan, measuring 2250 square feet which was in physical possession of the petitioner company and to take further steps in handing over the vacant and physical possession of the said property to the authorized officer of the company in time bound manner. B. Any other appropriate order or relief which this Hon'ble Court may deem just and proper in the facts and circumstances of this case may also kindly be passed in favour of the humble petitioner.

C. Cost of the Writ petition may also be awarded in favor of the Petitioner.

2. By way of filing this writ petition, the petitioner is seeking directions against the respondents for getting physical possession of the subject land.

3. Learned counsel for the petitioner submits that the respondent Nos.4 to 6 borrowed certain amount from the petitioner - Bank and when they failed to repay the same, their bank accounts were declared as Non-Performing Assets (NPA) and, thereafter the proceedings under Section 14 of the Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 (for short "the Act of 2002") was initiated against them before the court of Chief Judicial Magistrate, Jaipur District, Jaipur, who allowed the application vide order dated 07.08.2025 and directed the concerned Police Superintendent to take the possession of the subject land from the borrowers. Learned counsel submits that the aforesaid order passed by the Chief Judicial Magistrate was enforced and, accordingly, the possession of the said premises was taken on 24.12.2025 from the borrowers but on a subsequent date, they have taken forceful possession of the subject land. In spite of passing of considerable time, till date no effective steps have been taken by the Police for restoration of the possession, hence, under

these circumstances, interference of this Court is warranted.

4. In support of his contentions, learned counsel for the petitioner has placed reliance upon the judgment passed by the co-ordinate Bench of this Court at Principal Seat at Jodhpur in case of **Atma Ram Bishnoi & Another Vs. District Collector & Others** while deciding **S.B. Civil Writ Petition No.8983/2022**.

5. Heard and considered the submissions made at the Bar and perused the material available on record.

6. The fact narrated above clearly indicates that the respondent Nos.4 to 6 have taken loan from the petitioner - Bank and have failed to repay the same, hence, proceedings under Section 14 of the Act of 2002 was initiated against them before the Chief Judicial Magistrate, Jaipur District, Jaipur by way of filing an application and the same was allowed vide order dated 07.08.2025 and, accordingly, the possession of the subject land was taken from the respondents on 24.12.2025.

7. It appears that by using the muscle power, they have taken the possession of the subject land forcefully on 24.12.2025 for which no FIR was registered against them.

8. In spite of passing of considerable time, till date no steps have been taken by the Investigating Agency to take back the possession from the respondents, hence, under these circumstances, the petitioner has approached this Court by way of filing the instant writ petition.

9. The co-ordinate Bench of this Court at Principal Seat at Jodhpur in the case of **Atma Ram Bishnoi** (supra) has taken a serious note of the identical situation and has passed the following order:-

"The facts narrated above clearly show that the respondent No.1 had taken loan from the petitioner and in the process, he had mortgaged his property for securing the loan amount. It is also clear that the respondent No.1 had not repaid the loan amount, therefore, the proceedings under the Act of 2002 were initiated against him. The proceedings aforesaid culminated into issuance of possession notice by the petitioner bank for securing the loan amount. After the petitioner having taken over possession of the mortgaged property of the respondent No.1, the respondent No.1 through his muscle power has forcibly taken over possession of the mortgaged property and has been enjoying the same without repayment of the loan amount due to the petitioner. The petitioner in these circumstances approached the respondent No.2 - Superintendent of Police, Sri Ganganagar and respondent No.4-District Collector, Sri Ganganagar by way of filing appropriate representations as per the Rules for securing possession of the mortgaged property.

It is informed that till date, the possession of mortgaged property has not been restored to the petitioner bank. The State functionaries are under an obligation to restore rule of law. If the petitioner is not allowed to take possession of the mortgaged property, it will amount to a clear case of defiance of rule of law and therefore, the respondents Nos.2 and 4 are under an obligation to act in consonance with the provisions of law for restoring possession of the petitioner in the circumstances when the petitioner has already approached them.

This Court is surprised that on one hand, a person had taken loan and when the same was not repaid, the possession of the mortgaged property was taken over by the petitioner bank as per law but by sheer muscle power, the petitioner bank has been dislodged and possession of the mortgaged property has been forcibly taken over by the respondent No.1 and despite having represented to the law enforcing officer, nothing has been done to uphold majesty of law till date. The situation is alarming and the State functionaries are warned that if they do not act in such a situation, it will create lawlessness in the State of Rajasthan which will be viewed very seriously by this Court. Therefore, this court is of the view that stern action should be taken against the respondent No.1 for restoring possession of the mortgaged property immediately to the petitioner.

In view of the discussion made above, the writ petition merits acceptance and therefore, the same is allowed. The respondent No.2 District Collector, Sri Ganganagar and respondent No.4 - Superintendent of Police, Sri Ganganagar are directed to act immediately for restoring possession of the mortgaged property to the bank in accordance with law.

The entire exercise shall be carried out by the respondents within a period of four weeks from the date of receipt of certified copy of this order."

10. Since the controversy involved in this writ petition is identical and similar to the case of **Atma Ram Bishnoi** (supra), this Court finds no valid reason to take a different view.

11. Accordingly, the writ petition stands disposed of by issuing directions to the respondent Nos.1 to 3 to take all possible endeavors to restore the possession of the mortgaged property to the petitioner -Bank in accordance with law.

12. Needful exercise would be undertaken by the respondent Nos.1 to 3 within a period of six weeks from the date of receipt of the certified copy of this order.

(KULDEEP MATHUR),J

11-sonia/-