


HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 5068/2026

Bank Of Baroda, Branch Mpb 50, Rajeev Gandhi Nagar, Mahaveer Nagar, Kota, Rajasthan- 324005 Through Authorized Officer Shri Sandeep Singh

-----Petitioner

Versus

1. Superintendent Of Police, Kota City, Rajasthan
2. Station House Officer, Police Station Mahaveer Nagar, Kota City.
3. Mr. Manoj Gandhi S/o Shri Jay Kumar Gandhi, Aged About 46 Years, Address- House No. 55 And 56, Competition Colony, Tehsil Ladpura, Kota, Rajasthan- 324005 (Borrower Of Credit Facility)
4. Mr. Jay Kumar Gandhi S/o Shri Guru Datta Mal, Aged About 76 Years, Address- House No. 55 And 56, Competition Colony, Tehsil Ladpura, Kota, Rajasthan- 324005 (Co-Borrower Of Credit Facility And Mortgagor)

-----Respondents

For Petitioner(s) : Ms. Anubha Singh.

HON'BLE DR. JUSTICE NUPUR BHATI

Order

24/03/2026

1. This petition has been filed seeking following prayer:

"It is therefore, most respectfully prayed that the Hon'ble Court may graciously be pleased to issue the writ of mandamus and, appropriate orders may be passed-

(a) The possession of the secured/ mortgaged property at House No. 55 and 56, Competition Colony, Mahaveer Nagar-III, Dadabadi, Kota, Tehsil Ladpura, Kota, Rajasthan-324005 be restored back to the Petitioner Bank; and

(b) The Respondent No. 1 & 2 may be directed to take possession from the Respondent No. 3 & 4

and restore the possession to the Petitioner Bank;
and

(c) Heavy cost may be ordered against the Respondent No: 3 & 4 in the facts and circumstances of the case and the said cost may be directed to be given to the Petitioner-Bank; and

(d) Appropriate compensation with regard to the forcible possession taken by the Respondent No. 3 may also be awarded in favour of the Petitioner Bank; and

(e) Any other relief, order or direction, which this Hon'ble Court deems just and proper in the facts and circumstance of the case may also be passed in favor of the Petitioner.

2. Learned counsel for the petitioner submits that the respondent Nos. 3 & 4 borrowed a loan from the petitioner-Bank and after making defaults in the payment of installments of 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 (hereinafter referred as 'the Act of 2002') were initiated against respondent Nos.3 & 4. The proceedings aforesaid culminated to issuance of lawful possession by the petitioner-Bank for securing the loan amount. The Chief Judicial Magistrate, Kota vide order dated 08.11.2024 authorized the police officials to help the petitioner-Bank to take possession of the mortgaged property. On 15.05.2025, the petitioner-Bank got the possession of the property and after locking and sealing the property, it deputed security guard for security of the property. However, on 16.03.2025, the respondent No.3 have taken unlawful possession of the mortgaged property by breaking the locks which was put by the petitioner-Bank, for which an FIR No.237/2025 has been registered with the Police

Station Mahaveer Nagar, Kota, but inspite passing of considerable time, no effective steps have been taken by the Police for restoration of the possession, hence, under these circumstances, the present writ petition is preferred by the petitioner-Bank

3. 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 the case of **Atma Ram Bishnoi & Another Vs. District Collector & Others** while deciding **S.B. Criminal Writ petition No.8983/2022 and other connected matters** on **21-01-2025** and the judgment passed by Coordinate Bench of this Court in the case of **Aavas Financieries Limited Vs. State of Rajasthan & Ors.** while deciding **S.B. Civil Writ Petition No 13424/2025** on **08-09-2025.**

4. Heard learned counsel for the petitioner and considered the submissions made by learned counsel for the petitioner.

5. 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.”

6. 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.

7. Accordingly, the writ petition stands disposed of by issuing directions to the respondent Nos.1 and 2 to take all possible endeavours to restore the possession of the mortgaged property to the petitioner-Bank in accordance with law preferably within a period of six weeks from the date of receipt of the certified copy of this order.

8. With the above direction, the petition is disposed of.

9. All pending application(s) also stand disposed of.

(DR. NUPUR BHATI),J