HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

S.B. Civil Writ Petition No. 6841/2026
URN: CW / 15039U / 2026

Au Small Finance Bank Limited, (Erstwhile Au Financiers India Limited) Having Its Registered Office At 19-A, Dhuleshwar Garden, Ajmer Road, Jaipur Through Its Authorized Officer.

----Petitioner

Versus

1. Deputy Commissioner Of Police, Jaipur, Rajasthan.
2. District Collector And Magistrate, Jaipur, Rajasthan.
3. Sho, Police Station Kot Khawada, Chaksu, Jaipur.
4. Vivek Sarswati Vidhya Mandir Shiksha Samiti Kotkhawada (Borrower), R/o Vsvms Kotkhawda Chaksu, Jaipur, District Jaipur, Rajasthan 303908.
5. Anil Kumar Sharma (Co-Borrower) S/o Sita Ram Sharma, R/o 24, Jaipur, Harinarayanpura, Jaipur, Rajasthan-303901.
6. Sunil Kumar Sharma (Co-Borrower) S/o Sita Rm Sharma, R/o 24, Jaipur, Harinarayanpura, Jaipur, Rajasthan-303901, Also At Patta No. 01, Gram Panchayat Harinarayanpura, Panchayat Samiti Chaksu, District Jaipur, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Ravi Kumar Palsaniya with Mr. Vikash Meena and Mr. Prateek Sanwariya
For Respondent(s)	:	Ms. Devakriti Vashishtha with Ms. Sunita Meena, AGC for Mr. Bhuwnesh Sharma, AAG Mr. Somitra Chaturvedi, Dy. GC

HON'BLE MR. JUSTICE ANAND SHARMA

<u>Order</u>

<u>07/07/2026</u>

1. By way of filing this writ petition, the petitioner – Finance Company submitted that although, on application under

Section 14 of SARFAESI Act, 2002, possession of the secured assets was ordered to be given by the concerned Magistrate to the petitioner being secured creditor, and in compliance of directions given by the concerned Magistrate, possession thereof was actually handed over to the petitioner, yet thereafter, in quite unauthorized manner by using force, the borrower has entered into the secured premises, however, the respondent- police authorities are not restoring the possession of the petitioner - Finance Company.

2. The aforesaid writ petition has been opposed by learned counsel for the respondents.

3. The identical issue came for consideration of this Court in a batch of writ petitions led by **S.B. CWP No. 10026/2026 (Jana Small Finance Bank Ltd. Vs. State of Raj. & Ors.)** decided on 30.06.2026, in which following observations and directions have been given:

> *"14. The expression "for the purpose of securing compliance with the provisions of sub-section (1)" is apparently having wide amplitude and cannot be interpreted in a narrow manner. Once possession is handed over under the orders of concerned Magistrate under Section 14, it would essentially mean the right of secured creditor to continue such possession which is an integral part of proceedings under Section 14. Section 14(2) of the Act of 2002 would also make it clear that such provision confers enabling power upon the concerned Magistrate for ensuring compliance of any order passed by the Magistrate under Section 14. If possession delivered under the Magistrate's authority is subsequently disturbed by force or trespass, the Magistrate's power under Section 14(2) can reasonably be construed as extending to restoration of status quo ante, so that the original order is not frustrated.*

15. This Court finds that after passing order under Section 14 for taking over possession of the secured asset and handing over the same to the secured creditor, concerned Magistrate does not become functus officio and the apprehension of the petitioner that after passing initial order under Section 14 of the Act of 2002, concerned Magistrate is rendered powerless, is totally misconceived and is misinterpretation of clear language of Section 14(2) of the Act of 2002. In view of the language of the aforesaid provision, it is clear that the concerned Magistrate is having power not only to take possession through police assistance of the secured asset, but power is also vested with him for passing subsequent orders for ensuring the compliance of earlier order passed by the Magistrate. Any other interpretation of the aforesaid provision is likely to frustrate the proceedings under Section 14 and to render the powers conferred to the concerned Magistrate as meaningless and ineffective.

16. Under these circumstances, this Court is of the opinion that ensuring compliance of the order earlier passed under Section 14 is also integral and indispensable part of powers conferred to the Magistrate under Section 14(2) of the Act of 2002, in case, the borrower or any other person violates the directions given by the concerned Magistrate under Section 14 and unauthorizedly re-enters in the premises of secured asset then the aggrieved secured creditor is well within its right to approach the concerned Magistrate by way of filing an application under Section 14(2) of the Act of 2002 with a prayer to secure compliance of earlier order passed by the Magistrate. Such application shall be examined in accordance with law by the concerned Magistrate and appropriate orders for securing compliance of the earlier order can be passed. Thus this Court, on the basis of foregoing discussion, comes to the conclusion that the petitioners are having efficacious remedy under the provisions of Section 14(2) of the Act of 2002 before the concerned Magistrate.

17. In the instant cases, admittedly the petitioners have not approached the concerned Magistrate by way of filing any such application under Section 14 (2) of the Act of 2002. This Court *finds that under such circumstances, the present writ petitions filed by the petitioners are totally premature and not maintainable. In view foregoing discussions, the writ petitions filed by the petitioner can not be entertained and are hereby dismissed.*

18. However, mere dismissal of the present writ petitions shall not curtail rights of the petitioner financial institution to approach the concerned Magistrate by way of filing an application under Section 14(2) for securing compliance of earlier order passed by the Magistrate under Section 14. Any such proceedings shall be treated in continuation to the earlier proceedings under Section 14 of the Act of 2002. The concerned Magistrate, upon filing of such application, shall examine the contents of the application and shall pass appropriate orders strictly in accordance with law, for securing compliance of its earlier order passed by the concerned Magistrate for the purpose of taking possession of the secured asset and to hand over such possession to the secured creditor. In the event, any such application is filed, same shall be decided expeditiously by the concerned Magistrate."

4. Learned counsel appearing for both the parties are in agreement that the issue involved in this writ petition is squarely covered by order dated 30.06.2026 passed by this Court in S.B. CWP No. 10026/2026 (supra).

5. In view of above consensus arrived at between learned counsel for the parties, this writ petition is also disposed of in the same terms and with the same directions as given in order dated 30.06.2026 passed in S.B. CWP No. 10026/2026.

6. Pending application(s), if any, shall also stand(s), disposed of.

(ANAND SHARMA),J

30/DIVYA