

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP(C) 1054/2026
CM(2750/2026)**

Mohammad Sharief Rather

...Petitioner(s)

Through: Mr. Tariq M Shah, Advocate

Vs.

J&K Bank Limited and Ors.

...Respondent(s)

Through: Mr. Adil Asimi, Advocate

CORAM:

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE.**

ORDER

12.05.2026

01. In this petition filed under Article 226 of the Constitution of India, the petitioner is seeking to throw challenge to an order passed by the Chief Judicial Magistrate, Shopian ["the trial Court"] dated 28th August, 2023 by having resort to Section 14 of the SARFAESI Act.

02. The impugned order is challenged primarily on the ground that in terms of the order impugned the trial Court has appointed and authorized SHO Police Station, Shopian to take possession of the immovable property/secured assets i.e., land measuring 3 Kanals and 10 Marlas along with factory building constructed thereon falling in Khasra No. 212, Khata No. 66 and Khewat No. 12, situated at Amshipora, Shopian and in doing so the SHO Police Station, concerned is likely to take over the

residential house situated there, despite the fact that the aforesaid land and house have not been mortgaged with the respondent-Bank.

03. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the apprehension voiced by the petitioner is totally baseless and frivolous. The trial Court is very clear and categoric in its order and has directed the SHO Police Station, concerned to take over the possession of the secured asset i.e., land measuring 3 Kanals and 10 Marlas along with the factory building existing thereupon, and not any other land which is not a subject matter of mortgage deed executed by the petitioner in favour of the respondent-Bank by deposit of title deed for securing the loan amount.

04. From the material on record, it transpires that petitioner is resisting the auction sale of the mortgaged property by creating a confusion that the respondent-Bank is intending to take over the possession and sell the property other than the mortgaged property. It is in this background, an argument was raised that the residential house which is being taken over pursuant to the impugned order is on another parcel of land measuring 1 Kanal and 11 Marlas.

05. Be that as it may, we do not find any legal or factual infirmity in the order passed by the trial Court. The order clearly

refers to the property which is subject matter of mortgage and,

therefore, it is expected that the SHO Police Station, concerned will take over the possession of the subject land which measures 3 Kanals and 10 Marlas and houses a two storied building which at the time of mortgage was indicated as a factory building irrespective of whether it continues to be a factory or has been converted into a residential house. He shall handover the possession to the Authorized Officer for further proceedings.

06. With the aforesaid observations, we find no merit in this petition and no good ground is made out to interfere with the order impugned passed the trial Court. The petition is, accordingly, **dismissed**.

(SANJAY PARIHAR) (SANJEEV KUMAR)
JUDGE JUDGE

SRINAGAR:

12.05.2026

"Mir Arif"

