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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 5397 of 2026

- 1 - Dr. Bhavesh Acharya (In Person) S/o Shri B.S. Acharya Aged About 42 Years R/o A 17, Basant Park, New Purena, Mahaveer Nagar, Raipur P.S. New Rajendra Nagar, District Raipur, Chhattisgarh 4920006.
- 2 - B.S. Acharya S/o Lt Shri Sarveshwar Acharya Aged About 71 Years R/o A 17, Basant Park, New Purena, Mahaveer Nagar, Raipur P.S. New Rajendra Nagar, District Raipur, Chhattisgarh 4920006.
- 3 - Pushpa Acharya W/o Shri B.S. Acharya Aged About 62 Years R/o A 17, Basant Park, New Purena, Mahaveer Nagar, Raipur P.S. New Rajendra Nagar, District Raipur, Chhattisgarh 4920006.

... Petitioner(s)

versus

- 1 - State Of Chhattisgarh Through Collector, Raipur, District Raipur, Chhattisgarh
- 2 - Naib Tahsildar Raipur, District Raipur, Chhattisgarh
- 3 - Capri Global Housing Finance Co. Ltd. Through Authorised Officer, III Floor, Citi Center, T-6, Plot No. 1, M.P. Nagar, Zone - 1, Bhopal District Bhopal, Madhya Pradesh. Also At Shop No. 205, Lal Ganga Business Park, N.H. 43, Pachpedi Naka, Raipur, District Raipur Chhattisgarh

... Respondent(s)

For Petitioner(s)	:Dr. Bhavesh Acharya, petitioner in person No.1.
For State/Respondent(s)	:Shri Shobhit Mishra, Dy GA.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

16/10/2026

1. Petitioner in person who is an Advocate by profession has filed this Writ
Petition against the impugned notice dated 16.09.2026 (Annexure P/1)
issued by Naib Tahsildar, Raipur C.G. by which, forcible dispossession of the
petitioner from the residential property bearing Khasra No.257/19-20 (New
Khasra No.257/30), area admeasuring 1500 sq. ft. , PH 113, New 67, RNM

Raipur-11, tehsil Raipur, District Raipur C.G. 492006, A-17, Basant Park, GTB Nagar, New Purna Raipur Chhattisgarh has been ordered by Naib Tehsildar pursuant to the order dated 15.07.2026 passed by the Chief Judicial Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter, "the SARFAESI Act"). Following reliefs has been sought by petitioner in person:-

1. Issue an appropriate writ, order or direction, calling for the records of the proceedings culminating in the order dated 15.07.2026 passed by the learned Chief Judicial Magistrate, Raipur, under Section 14 of the SARFAESI Act, and quash or set aside the said order if this Hon'ble Court finds that the mandatory statutory conditions were not fulfilled or verified in accordance with law;

2. Issue an appropriate writ, order or direction quashing or setting aside the consequential execution notice/order or action of the Naib Tahsildar, Raipur, District: Raipur, fixing 22.10.2026 for taking possession of the petitioner's residential property,

3. Pending disposal of the petition or further orders of this Hon'ble Court, keep the operation and implementation of the order dated 15.07.2026 passed under Section 14 in abeyance, to the extent necessary to preserve the petitioner's possession and prevent further coercive action;

4. Direct the respondents to maintain the existing position in respect of the secured property and not to confirm or complete any sale, transfer or creation of third-party interest during the period of interim protection, subject to such further orders as this Hon'ble Court may pass;

5. Grant liberty to the petitioner to approach the competent DRT under Section 17 of the SARFAESI Act as soon as the forum having jurisdiction resumes regular functioning or becomes practically accessible, and direct that the present interim protection shall continue for such reasonable period as this Hon'ble Court may specify to enable the petitioner to seek appropriate relief before that forum;

6. In the alternative, if this Hon'ble Court is not inclined to adjudicate the substantive challenge to the Section 14

order, direct that the execution remain stayed for a short, fixed period to enable the petitioner to approach the competent DRT, without prejudice to the rights and contentions of either party;

7. Pass such further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, including costs.

2. Petitioner in person submits that the impugned notice was issued on 16.09.2026 fixing the date of execution of the said notice on 22.10.2026 for taking possession, but he received the said notice on 13.10.2026. He submits that he has been declared Non Performing Asset by the Bank and proceedings under Section 13 & 14 of the SARFAESI Act has already been initiated against him.
3. Petitioner in person submits that after receiving the said notice he was about to approach the Debt Recovery Tribunal (DRT), Jabalpur but when he came to know that DRT Jabalpur is not functioning and D.R.T.-2 Ahmedabad (Incharge of DRT Jabalpur), has been assigned the cases of DRT Jabalpur , however, since the date of execution of impugned notice has been fixed on 22.10.2026, as such, he has filed this writ petition praying for some breathing time to approach D.R.T.-2 Ahmedabad (Incharge of DRT Jabalpur).
4. Petitioner in person submits that he has taken total 40 Lakhs of loan and he has already paid Rs.9 lakhs and he is willing to deposit 75% of the loan amount by 20th January, 2027 as by that time, some of his policies (ULIP) Plans would get matured and thereafter, he will contact the Bank for settlement of his loan amount, as such, he prays for some breathing time till he reaches D.R.T.-2 Ahmedabad (Incharge of DRT Jabalpur) and respondents authorities may be directed not to take any coercive steps against him.

5. Petitioner in person further submits that in **Mathew Varghese v. M. Amritha Kumar, (2014) 5 SCC 610**, the Hon'ble Supreme Court emphasised the importance of the statutory safeguards governing the sale of secured assets and the opportunity afforded to the borrower under the applicable provisions of the Act and Rules. The judgment underscores that the secured creditor must follow the prescribed procedure rather than defeat the borrower's statutory protection through irregular sale steps. In **M. Rajendran v. KPK Oils and Proteins India Pvt. Ltd., 2025 SCC OnLine SC 2036**, the significance of valid publication of the sale notice for determining the stage at which the right of redemption is extinguished under the amended Section 13(8). The petitioner therefore seeks preservation of the property until the validity and dates of the relevant sale steps are established. In **Radha Krishan Industries v. State of Himachal Pradesh, (2021) 6 SCC 771**, availability of an alternative remedy is ordinarily a reason for judicial restraint but does not extinguish the constitutional jurisdiction of the High Court. Recognised exceptions include violation of natural justice and proceedings without jurisdiction. The petitioner submits that the present case warrants consideration under the exceptional circumstances pleaded above. The petitioner further acknowledges the caution expressed in **South Indian Bank Ltd. v. Naveen Mathew Philip, (2023) 17 SCC 311**, that High Courts should ordinarily refrain from interfering in SARFAESI recovery proceedings where an efficacious statutory remedy is available. The petitioner submits that the present case is distinguishable on its pleaded facts because the immediate request is to preserve the property for a limited period, not to obtain a final adjudication of the debt under Article 226.

6. Learned State counsel submits that petitioner in person has approached this Court very belatedly as impugned notice was issued on 16.09.2026 and it is not very reliable to assume that petitioner in person received the said notice on 13.10.2026, however, as petitioner in person submits that he will deposit 75 % of the loan amount by 20th January, 2027, the same will be considered by the Bank/ Respondent No.3 - Capri Global Housing Finance Co. Ltd.
7. Having heard petitioner in person and counsel for the State, particularly the submission made by petitioner in person that he is ready to deposit 75 % of the loan amount by 20th January, 2027 and DRT Jabalpur is not functioning at present and D.R.T.-2 Ahmedabad (Incharge of DRT Jabalpur), has been assigned the cases of DRT Jabalpur, further the fact that notice dated 16.09.2026 is said to have been received by petitioner in person on 13.10.2026, as such, petitioner in person is granted 15 working days time to approach D.R.T.-2 Ahmedabad (Incharge of DRT Jabalpur) and the concerned authorities of respondents are directed not to take any coercive steps against the petitioners till 20th November, 2026.
8. Petitioner in person may also approach the concerned Bank authorities for any settlement of loan along with a copy of this order within 10 days so as to apprise the bank authorities about passing of this order. He is further directed to approach the bank authorities for settlement of loan amount prior to 20th January, 2027 in case he is able to deposit any amount regarding loan prior to 20th January, 2027.
9. With this direction and observation, this Writ Petition is **disposed off**.

Sd/-

(Amitendra Kishore Prasad)
Judge

Avinash