

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 447 of 2015

1. Rajkumar Kuchwaha S/O Late Shri Dauprasad Kuchwaha Aged About 53 years R/O Juna Bilaspur, Tahsil & District Bilaspur (C.G.) Revenue District Bilaspur (C.G.)

---- Petitioner

Versus

1. Bank Of India, Through Authorised Officer Main Branch, Dayalband Bilaspur (C.G.) Tahsil & District Bilaspur (C.G.)
2. Shri Suresh Kuchwaha S/O Late Shri Dauprasad Kuchwaha
3. Smt. Jamuna Devi Kachwaha W/O Late D.P. Kachwaha

Both 2 & 3 R/O Pacharighat, Juna Bilaspur, Police Station City Kotwali, Bilaspur, Tahsil & District Bilaspur (C.G.)

---- Respondent

For Petitioner

Shri Rajeev Bharat, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

12/03/2015

Heard learned counsel for the parties.

1. In this petition under Article 226/227 of the Constitution of India the petitioner is seeking quashment of the proceeding pending before the Chief Judicial Magistrate, Bilaspur, in MJC No.7/13, which has been instituted by the respondent Bank under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act').

2. Learned counsel for the petitioner would submit that under Section 14 of the Act, it is the District Magistrate who is empowered to assist the secured creditor in taking possession of the secured asset and not the Chief Judicial Magistrate and, therefore, the CJM has no jurisdiction in the matter.
3. The issue raised in this petition has been set at rest by this Court in the matter of **Cent Bank Home Finance Limited v. Ballu Ram Yadav & Another**¹, wherein the following has been held :

“7. On a bare perusal of the provisions contained in Section 14 it would appear that the District Magistrate or the Chief Metropolitan Magistrate which includes CJM in the non-metropolitan area, as held by the Kerala High Court in **Volume (IV) 2006 Banking Cases 536** in the matter of **Solaris Systems Vs. Oriental Bank and Commerce**, shall have the power to take possession of the secured assets or document and forward such assets and documents to the secured creditors.....”

4. In view of the above, the writ petition, being devoid of merit, is liable to be and is hereby dismissed.

JUDGE

Gowri

¹ WP (C) No.7047 of 2009 (decided on 10-3-2010)