

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 796 of 2017**

JM Financial Asset Reconstruction Company Ltd., A Company incorporated under the Companies Act, 1956 having its Registered Office at 7th Floor Energy Appasaheb Marathe Marg, Prabhadevi Mumbai 400025 and amongst other, an office at 3rd Floor, B Wing Suashish IT Park, Plot No. 68-E, Dattapada Road Opp. Tata Steel, Borivali (East) Mumbai 400066, through its Authorised Officer Vivesh Mehra S/o Shri Vijay Mehra.

---- Petitioner**Versus**

1. District Magistrate Raipur Tahsil & District Raipur Chhattisgarh.
2. R. K. Jain Construction, through its Proprietor Shri Vikas Jain, Shop No. 311- 312 3rd Floor, Lalganga Shopping Mall G.E. Road Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Vikash Pandey, Advocate.
For State	:	Mr. Arun Sao, Dy. Adv. General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****02/11/17**

1. Learned counsel appearing on behalf of petitioner would submit that the petitioner / secured asset has filed an application under Section 14(1) and (2) of the SARFAESI Act, 2002 before respondent No. 1- District Magistrate, Raipur for taking possession of the secured asset on 08.03.2017 which is pending consideration since then and has not been finally decided by the District Magistrate, Raipur.
2. I have heard learned counsel for the petitioner.
3. In order to appreciate the submissions raised by learned counsel for the petitioner, it would be appropriate to notice proviso to Section 14 of the SARFAESI Act -

"14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset-

(1) xxxxx

Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets (within a period of thirty days from the date of application) :

Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such also period but not exceeding in aggregate sixty days."

4. On careful perusal of the aforesaid proviso would show that the District Magistrate is required to pass a suitable order for the purpose of taking possession of the secured asset within thirty days from the date of application and if, for any reason beyond his control that order could not be passed then he may, after recording reasons of the same, pass an order within such period but not extending 60 days as such outer limit of 60 days has been provided by the Legislature.

5. In view of the above, it is directed that the learned District Magistrate would decide the application under Section 14 of the Act in view of the proviso to Section 14 as quoted herein above and pass an order within the aforesaid period without further delay.

6. With the aforesaid observation, the writ petition is disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge