NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (C) No. 1725 of 2017

Aditya Birla Finance Limited, having its registered office at A-4, Aditya Birla Centre, S.K. Ahire Marg, Worli, Mumbai-400030 and Branch Office at 4th Floor, Lal Ganga Shopping Mall, G.E. Road, Raipur-492001 (Chhattisgarh) through its authorized officer/Representative Mahesh Parashar, aged 36 years.

---- Petitioner

Versus

1. State of Chhattisgrh, through the Secretary, Home Department Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. District Magistrate, Raipur, Officer of the Collector, Raipur (C.G.)
3. Gagan Bedi, R/o Bedi House, Street No.02, Fafadih Raipur, Besides Lal Ganga MIDAS, Raipur-492001 (C.G.)
4. Joginder Pal Bedi, R/o Bedi House, Fafadih Raipur, Besides Lal Ganga MIDAS, Raipur-492001 (C.G.)
5. M/s Pooja Bricks, Near Carrom Factory Service Road, Tatibandh, Raipur-492099 (C.G.) through its Proprietor Mr. Joginder Pal Bedi, R/o Bedi House, Street No.02, Fafadih Raipur, Besides Lal Ganga MIDAS, Raipur-492001 (C.G.)

---- Respondents

For Applicant: Mr. Ashish Shrivastava, Advocate.
For Respondent/State: Mr. Shashank Thakur, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

03/07/2017

Heard.

(1) Learned counsel for the petitioner would submit that the petitioner has filed an application under Section 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (henceforth “SARFAESI Act”) and virtue

of amendment incorporated in the proviso to Section 14 of the SARFAESI Act with effect from 1st September, 2016, the said application has to be decided not exceeding sixty days and in the instant case the said amendment incorporated in the proviso to Section 14 of the SARFAESI Act has not been complied with.

(2) I have heard learned counsel appearing for the petitioner and perused the order impugned with utmost circumspection.

(3) Section 14 of the SARFAESI Act states as under:-

> **"14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset. (1)** Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him-
>
> (a) take possession of such asset and documents relating thereto; and
>
> (b) forward such assets and documents to the secured creditor;
>
> Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorized officer of the secured creditor, declaring that -
>
> (i) xx xxx xxx
>
> (ii) xx xxx xxx
>
> (iii) xx xxx xxx
>
> Provided further that on receipt of the affidavit from the Authorized 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 [also] 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 further period ***but not exceeding in aggregate sixty days***."

(4) A careful perusal of the provisions contained in Section 14 of the SARFAESI Act would show that application under Section 14 of the SARFAESI Act has to be adjudicated within a period of 60 days from the date of filing of the application under Section 14 of the SARFAESI Act, that has not been complied with in the instant case, which is apparent from the copy of order sheet Annexure P-8.

(5) Thus, the District Magistrate, Raipur is directed to comply with the second proviso to Section 14 of the SARFAESI Act in its letter & spirit while decide the said application expeditiously preferably within a period of 10 days from today, if the statutory period has already expired.

(6) With the aforesaid observation, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-