

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1061 of 2018**

M/s Ashish Kumar Singh, through its Proprietor-Ashish Kumar Singh, son of Udaybhan Singh, aged about 35 years, resident of Mahalpara, Tahsil-Baikunthpur, District – Koriya (C.G.)

---- Petitioner

Versus

1. Bank of Baroda, Office of Bank of Baroda, Baikunthpur, Branch Koriya, District Koriya (C.G.) through authorized officer of Bank Shri Suresh Pal Singh.
2. The Collector, Baikunthpur, District – Koria (C.G.)

For Petitioner	:	Mr. Shikhar Bakhtiyar, Advocate.
For Respondent No.1	:	Mr. Ankit Singhal, Advocate.
For Respondent No. 2	:	Mr. S.P. Kale, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/04/2018

(1) This writ petition is directed against the order passed under Section 14 of Secularization of Financial Assets and Enforcement of Security Interest Act, 2002 (for the 'the SARFAESI Act") by District Magistrate, Koria Baikunthpur providing assistance to the Respondent-Bank for taking possession of the subject property.

(2) Learned counsel appearing for the petitioner would submit that though 9 point affidavit as required in first proviso to Section 14(1) of the SARFAESI Act was filed by the respondent-Bank but no *prima facie* satisfaction has been recorded by the learned District Magistrate while granting application under Section 14 of the SARFAESI Act.

(3) On the other hand, learned counsel appearing for the respondent No. 1-Bank would submit that 9 point affidavit was filed by the respondent-Bank that all the basic requirements necessary for granting the application of respondent-Bank of delivery of possession of the secured asset are asserted in the affidavit along with the application filed before the District Magistrate, Korla.

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

(5) At this stage, learned counsel for the petitioner contended that no satisfaction has been recorded as the order impugned did not state that respondent -Bank has served upon the notice issued under Section 13(2) of the SARFASI Act demanding an amount in dispute within sixty days and copy of affidavit in support of application under Section 14 of the SARFASI Act has filed along with the writ petition.

(6) Paragraph 4 of the affidavit clearly states that as the notice under Section 13(2) of the SAFRASI Act has been served upon the petitioner on 13.01.2016, demanding Rs.38,10,690/- within sixty days, which states as under:-

“(iv) The applicant Bank has served upon the Opponents on 13/1/16 Notice dt:issued under Section 13 (2) of the Secularization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002, demanding the Opponents to pay to the Applicant Bank Rs.38,10,690/- (Rupees thirty eight lacs, ten thousand, six hundred ninety only.”

(7) In the matter of **Standard Chartered Bank Vs. V. Noble Kumar and others**¹, their Lordships of the Supreme Court have held as under:-

¹ (2013) 9 SCC 620

“We have perused the affidavit and it substantially complies with the conditions stipulated in the newly introduced proviso. May be the appellant did it by way of abundant caution to avoid any litigation.

Apart from that we are satisfied on examination of the content of the affidavit that all the basic requirements necessary for granting the request of the appellant of delivery of the possession of the secured asset are asserted to have existed on the date of application. Therefore, we do not see any illegality in the impugned order. The appeal is allowed. The order of the High Court is set aside.”

(8) In view of the aforesaid observation made by the Supreme Court in the matter of **Standard Chartered Bank (supra)** and after going through the record, I am satisfied that requisite requirement necessary for granting application for delivery of possession of secured assets are mentioned in the affidavit and available on the record when the order impugned was passed.

(9) In view of above discussion, I do not find any illegality in the order impugned warranting interference by this Court in the instant writ petition.

(10) Accordingly, the writ petition being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

