



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

149

CWP-28525-2024 (O&M)

Date of Decision: 21.10.2024.

India Shelter Finance Corporation Limited

...Petitioner.

Versus

District Magistrate-cum-Deputy Commissioner,
Faridabad & Ors.

..Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Puja Chopra, Advocate for the petitioner.

LISA GILL, J. (Oral)

1. Prayer in this writ petition is for directing respondents No.2 and 3 to hand over actual physical possession of mortgaged properties/ secured assets pursuant to order dated 19.07.2024 under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, SARFAESI Act).
2. Notice of motion.
3. Mr. Sukhdeep Parmar, Sr. DAG, Haryana, who is on advance notice, accepts notice on behalf of the respondents.
4. Detailed order dated 28.05.2024 was passed in CWP-7018-2022 by this Court in the matters involving non-implementation of orders passed under Section 14 of SARFAESI Act or delay in passing of such orders. Relevant portion thereof reads as under:-

“It is to be noticed that on earlier occasions, the matters pertaining to State of Haryana as well as Punjab had been taken up on the same dates and certain directions were passed in CWP-11499-2019 pertaining to the State of

Punjab. Matters pertaining to the State of Punjab stand disposed of on 14.05.2024 (CWP-11499-2019 and connected matters) with certain directions being issued. We further take note of the fact that guidelines/instructions dated 21.05.2024 placed before us are almost identical/akin to instructions dated 21.04.2024 which have been issued by the State of Punjab and as have been reproduced in order dated 14.05.2024 in CWP-11499-2019 and connected matters. In order to further streamline the process of disposal of applications filed under Section 14 of SARFAESI Act and effective implementation of orders passed thereunder, similar directions as under are passed in the present writ petitions as well:-

(i) Application filed by the secured creditor under Section 14 of SARFAESI Act should be disposed of by District Magistrate/Metropolitan Magistrate within the stipulated statutory period i.e. 30 days from the date of application and if the order is not passed within the said period for reasons beyond his control, he may after recording reasons in writing for the same pass the order within a period not exceeding an aggregate of 60 days.

(ii) Such order as passed under Section 14 of SARFAESI Act should be implemented expeditiously and positively within a period of 60 days as had been directed vide order dated 06.09.2021 in CM-3178-CWP-2021 in CWP-4916-2020 subject to order(s), if any of Court of competent jurisdiction or any legal impediment. In case the order under Section 14 of SARFAESI Act is not implemented within 60 days the officer entrusted with the duty of implementation of the order shall submit a specific report giving reasons for non-implementation of the order and the same should be put up before the District Magistrate within a week of submission of this report who shall immediately pass appropriate orders for implementation of the order under Section 14 of SARFAESI Act.

(iii) Any party whose application under Section 14 of SARFAESI Act has not been disposed of within 60 days of its filing or the order passed under Section 14 of SARFAESI Act has not been implemented within 60 days of passing the said order would be entitled to represent before the Divisional Commissioner concerned, who shall within 15 days of receipt of such representation consider the same and issue appropriate directions for decision of the application under Section 14 of SARFAESI Act or implementation of the order passed under Section 14 of SARFAESI Act as the case may be.

(iv) As observed in order dated 06.09.2021 in CWP-4916-2020 that though there is no provision for an advance notice to be given to the occupant/owner of the property before taking physical possession, but it would be desirable, that an advance notice of at least 15 days be served on the occupant before taking physical possession by the officer so deputed by the District Magistrate, so that persons to be dispossessed are not caught unawares.

(v) Any person aggrieved of any order under Section 14 of SARFAESI Act needless to say is entitled to avail his remedy under Section 17 of SARFAESI Act.

(vi) It shall be the duty of the Bank/FI to immediately inform the office of the implementing Authority/District Magistrate about any settlement etc. with the borrower. In case settlement is ultimately not possible, the Bank/FI is at liberty to file appropriate application before District Magistrate, upon which necessary action for securing possession be directed to be resumed.

(vii) Guidelines dated 21.05.2024, issued to the Divisional Commissioners/Deputy Commissioners/District Revenue Officers in the State of Haryana as attached with affidavit dated 28.05.2024 of Deputy Secretary to Government of Haryana, Revenue and Disaster Management, Department, Haryana, Chandigarh, should be strictly complied with.

(viii) Senior Police official not below the rank of DSP, be appointed as Nodal Officer in all the districts for monitoring the matters in respect to SARFAESI Act.

(ix) Regular monitoring of all pending applications under Section 14 of SARFAESI Act/implementation thereof shall be carried out firstly at the level of the District Magistrate and then at the level of Financial Commissioner, Revenue, on a monthly basis to ensure expeditious disposal. In case, it is found that proceedings have been postponed for frivolous grounds, disciplinary action may be taken in accordance with law.

(x) The State would take necessary steps to put in place a system whereby the entire information about filing of applications under Section 14 of SARFAESI Act and their status is reflected on the website of the Department itself.

5. At this stage, we do not find any ground to cause interference except to observe that directions as per order dated 28.05.2024 be complied with strictly. Petitioner is also at liberty to approach the Divisional Commissioner concerned with the grievance(s) as raised in this writ petition. We are sanguine that the matter shall be considered by Divisional Commissioner concerned in terms of decision dated 28.05.2024 passed in CWP-7018-2022.

6. This writ petition is disposed of accordingly.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

21.10.2024.

komal

Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No