

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Jay Sengupta

CRR 2465 of 2025

Abu Taleb Mondal
Vs.
The State of West Bengal & Anr.

For the Petitioner : Ms. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee
Ms. Sarbani Dutta

For the State : Mr. Manoranjan Mahata

Heard on : 10.07.2025

Judgment on : 10.07.2025

Jay Sengupta, J.:

This is an application challenging the order dated 29.03.2025 passed by the learned Additional Chief Judicial Magistrate, Alipore, in Criminal Misc. Case No. 37 of 2025 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

Learned counsel appearing on behalf of the petitioner submits that the learned Magistrate erred in assuming jurisdiction under Section 14 of the SARFAESI Act. As per Section 14 of the said Act only the Chief Metropolitan Magistrate in the metropolitan area or the

District Magistrate can assume jurisdiction to pass an order under such provision. If the provision is read carefully, it would be quite obvious that for the metropolitan area not only the CMM but the District Magistrate can also pass an order whereas for other areas only the District Magistrate has the power to pass such order.

Learned counsel appearing on behalf of the State strongly opposes the challenge made to the jurisdiction of CJM or ACJM in passing an order under Section 14 of the said Act. He relies on judgment of the Hon'ble Apex Court passed in Civil Appeal No. 6295 of 2015 (The Authorized Officer, Indian Bank Vs. D. Visalakshi and Anr.) and submits that a CJM is equally competent to deal with the application moved by the secured creditor under Section 14 of the Act of 2002.

In D. Visalakshi (Supra) the Hon'ble Apex Court, *inter alia*, held as follows. :-

“ 46. Applying the principle underlying this decision, it must follow that substitution of functionaries (CMM as CJM) qua the administrative and executive or so to say non-judicial functions discharged by them in light of the provisions of Cr.P.C., would not be inconsistent with Section 14 of the 2002 Act; nay, it would be a permissible approach in the matter of interpretation thereof and would

further the legislative intent having regard to the subject and object of the enactment. That would be a meaningful, purposive and contextual construction of Section 14 of the 2002 Act, to include CJM as being competent to assist the secured creditor to take possession of the secured asset.

47. Having said this, we need not to dilate on other decisions pressed into service regarding the approach to be adopted in the matter of interpretation of statutes.

48. To sum up, we hold that the CJM is equally competent to deal with the application moved by the secured creditor under Section 14 of the 2002 Act. We accordingly, uphold and approve the view taken by the High Courts of Kerala, Karnataka, Allahabad and Andhra Pradesh and reverse the decisions of the High Courts of Bombay, Calcutta, Madras, Madhya Pradesh and Uttarakhand in that regard. Resultantly, it is unnecessary to dilate on the argument of prospective overruling pressed into service by the secured creditors (Banks).”

Therefore, it is abundantly clear that substitution of functionaries (CMM as CJM) qua the administrative and executive or so to say non judicial functions discharged by them in the light of provisions of Cr.P.C., would not be inconsistent with Section 14 of the 2002 Act.

The Hon'ble Apex Court in clear terms has held that CJM is equally competent to deal with application moved secured creditor under Section 14 of the said Act.

Therefore, an ACJM for the area exercising all the powers of a CJM would also be entitled to exercise such powers.

Incidentally, the nomenclature of CMM is no more there in the new Code of Procedure i.e., the BNSS.

In view of the above, I do not find any merit in this application.

Accordingly, the same is dismissed, however, without no order as to costs.

Urgent Photostat certified copy of this judgment be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)