

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6352 OF 2025

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Vidyanand Cooperative Bank
Through Dinkar P Deshmukh

... Petitioner

V/s.

Sanjay Mahadev Chavan

... Respondent

Mr. Drupad Sopan Patil for petitioner.

CORAM : AMIT BORKAR, J.

DATED : MAY 9, 2025

P.C.:

1. The present writ petition raises a limited, albeit legally significant, issue touching upon the jurisdiction of the Chief Judicial Magistrate while acting under Section 14 of the *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002* (hereinafter referred to as “the *SARFAESI Act*”). The petitioner challenges an order passed by the learned Chief Judicial Magistrate, whereby the petitioner’s application seeking correction of an alleged clerical error in the description of the secured asset—specifically, a substitution of measurement of land to *1H 43R*—came to be rejected.

2. The factual matrix giving rise to the petition is succinct. The secured creditor had approached the learned Chief Judicial Magistrate under Section 14 of the *SARFAESI Act* seeking possession of a secured immovable property. In the course of execution of the order, it came to light that there existed a

typographical error in the schedule of property concerning the measurement of land. The petitioner, accordingly, moved an application for correction of the said clerical error. However, the learned Magistrate declined to entertain the application on the ground that he lacked jurisdiction to carry out such correction post-finality of the order.

3. The principal issue that thus arises for consideration is whether the learned Chief Judicial Magistrate, while acting under Section 14 of the SARFAESI Act, possesses incidental powers to correct an obvious clerical or arithmetical error in the description of the property forming the subject matter of the order.

4. It is trite law that the jurisdiction conferred on a judicial or quasi-judicial authority is not a mere mechanical exercise of statutory text, but carries with it certain implied powers necessary to give effect to its substantive mandate. The maxim *ubi jus ibi remedium* is no less applicable in the realm of procedural or ministerial corrections, particularly when the error sought to be corrected is manifest on the face of the record.

5. A careful reading of Section 14 of the SARFAESI Act reveals that the Chief Judicial Magistrate is vested with the responsibility of facilitating possession of secured assets on the basis of a lawful request made by the secured creditor. The provision, though procedural in nature, embodies the exercise of judicial discretion for the limited purpose of enforcement of statutory security rights.

6. It is well-settled in law that every court or authority has inherent or ancillary powers to correct typographical, clerical, or

arithmetical mistakes in its order or record so as to carry out the true intention of the order. The power to correct a clerical or arithmetical mistake is implicit in every judicial or quasi-judicial proceeding. In the same vein, the principle finds statutory recognition in Section 152 of the Code of Civil Procedure, 1908 which permits correction of clerical or arithmetical errors in judgments, decrees or orders.

7. In the facts of the present case, the error sought to be corrected pertains to the measurement of the land—an aspect which does not touch upon the merits or legality of the substantive order, but merely the accuracy of its execution. It does not entail any adjudication of title or right, nor does it alter the basis of the possession order passed under Section 14. It is, on the face of it, a clerical or typographical oversight.

8. The learned Chief Judicial Magistrate, in my considered view, was not powerless to entertain and decide the petitioner's application for correction. A narrow and literal interpretation of the statute that defeats the very purpose of the order or renders it incapable of implementation due to clerical imperfection is to be eschewed. A judicial authority, particularly one entrusted with the solemn duty of facilitating possession of property, must not be rendered *functus officio* when the cause of justice merely requires a minor rectification in expression, not in substance.

9. In the circumstances, and without going into the correctness of the measurement or the factual veracity of the error, this Court is of the opinion that the petitioner may be permitted to file a fresh

application before the learned Chief Judicial Magistrate seeking rectification of the said clerical error.

10. Accordingly, the petitioner is at liberty to file a fresh application before the learned Chief Judicial Magistrate pointing out the specific nature of the clerical error. Upon such application being filed, the learned Chief Judicial Magistrate shall consider and dispose of the same on its own merits, in accordance with law, within a period of seven days from the date of such filing.

11. In view of the above discussion, the writ petition stands disposed of with liberty to the petitioner to file a fresh application for correction of the clerical error before the Chief Judicial Magistrate. The learned Magistrate shall decide the application, if filed, in accordance with law within seven days.

12. No order as to costs.

(AMIT BORKAR, J.)