

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE OM NARAYAN RAI

C.O. No. 951 of 2026

Somnath Cold Storage Private Limited & Others
vs.
Punjab National Bank & Another

For the Petitioners : Mr. Samrat Sen, Sr. Adv.
Mr. Bikramjit Mandal, Adv.

For the Opposite Party/Bank : Mr. Saptansu Basu, Sr. Adv.
Mr. Abhishek Banerjee, Adv.
Ms. Parna Roy Choudhury, Adv.
Ms. Payel Ghosh, Adv.
Ms. Trisa Chanda, Adv.

Heard on : 31.03.2026

Order on : 31.03.2026

OM NARAYAN RAI, J.:-

1. This revisional application is primarily directed against an order dated February 25, 2026 passed by the learned Debts Recovery Tribunal – I, Kolkata whereby IA No.3488 of 2025 filed by the petitioners in connection with SARFAESI Application being SA 185 of 2025 has been dismissed. Challenge has also been mounted to an order dated December 19, 2025 passed by the learned Chief Judicial Magistrate in Misc. Case No. 472 of 2025.
2. Mr. Sen, learned senior advocate appearing for the petitioners submits that the Tribunal has exceeded its jurisdiction in passing the order impugned

and that being so the petitioners may not be relegated to the appellate remedy under Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter the SARFAESI Act, 2002).

3. In order to demonstrate the perceived excess of jurisdiction, Mr. Sen submits that while deciding the petitioners' interlocutory application against an order passed by the learned Chief Judicial Magistrate on an application under Section 14 of the SARFAESI Act, 2002 filed by the opposite party, the Tribunal has come to a conclusive finding that the classification of the relevant account as Non-Performing Asset (hereafter 'NPA') is valid.
4. It is submitted by Mr. Sen that such a conclusive finding at the interlocutory stage could not have been made by the Tribunal inasmuch as the same would adversely affect the petitioners' main application i.e. SA 185 of 2025 where the issue of classification of the relevant account as NPA has been raised and is one of seminal importance.
5. It is next argued that an order dated December 19, 2025 was passed by the learned Chief Judicial Magistrate, Purba Bardhaman in Misc. Case No.472 of 2025 whereby the said learned Chief Judicial Magistrate reviewed the order dated September 20, 2025 (hereafter "the original order") passed by him under Section 14 of the SARFAESI Act, 2002 and extended the time for execution thereof although the said order was to be originally executed within ninety days from the date it was passed. It is submitted that such an order could have only been passed upon a fresh application under Section 14 of the SARFAESI Act, 2002 having been made by the Bank and the same could not have been passed by exercising a non-existent review jurisdiction,

as such jurisdiction does not vest with the learned Chief Judicial Magistrate under Section 14 of the SARFAESI Act, 2002. In support of his contention that an authority under Section 14 of the SARFAESI Act, 2002 has no power to review its own order, he relies on a Coordinate Bench Judgment of this Court in the case of ***Punjab National Bank vs. The State of West Bengal & Others***¹.

6. Mr. Basu, learned senior advocate appearing for the Bank submits that it is settled law that any adjudication at the interlocutory stage is always *prima facie* and tentative and that being so, the argument advanced on behalf of the petitioners that the order dated February 25, 2026 is bad for coming to a conclusive finding as regards validity of the classification of NPA cannot be countenanced. It is submitted that the matter is at large before the Debts Recovery Tribunal and the same would be considered, in accordance with law, at the time of final hearing of the SARFAESI Application.
7. In answer to the contention pertaining to the order dated December 19, 2025 passed by the learned Chief Judicial Magistrate in Misc. Case No.472 of 2025 whereby time for execution of the order dated September 20, 2025 passed under Section 14 of the SARFAESI Act, 2002 has been extended, Mr. Basu invites the attention of this Court to Section 148 of the Code of Civil Procedure, 1908 and submits that an authority, which passes an order always has the jurisdiction to extend the time for completion of an act mandated by such order. It is further submitted that in terms of Section 14(2) of the SARFAESI Act, 2002, the learned Chief Judicial Magistrate was

¹ WPA 21860 of 2025; decided on November 10, 2025

well empowered to extend time for the purpose of securing compliance with the order passed by the said learned Chief Judicial Magistrate on September 20, 2025.

8. Having heard the learned senior advocates appearing for the respective parties and having considered the material on record, this Court is of the view that none the orders impugned not call for any interference.
9. In so far as the first point urged on behalf of the petitioners is concerned, it is not in dispute that the observation made by the learned Tribunal as regards validity of the classification of the account as NPA, has been made while adjudicating an interlocutory application and that such observation must be read and understood in the context of repelling a challenge to the Section 14 of the SARFAESI Act, 2002 order since a point as regards validity of the NPA was raised by the learned advocate appearing for the petitioners before the learned Tribunal.
10. The observation would therefore only be tentative and it would be open to the petitioners to canvass all points available to the petitioners in support of their contention as regards legality or validity of the classification of the NPA at the time of final hearing of the SARFAESI application pending before the Debts Recovery Tribunal. The learned Debts Recovery Tribunal shall decide the issue as regards validity of the classification of the account as NPA fully and finally at the time of hearing of the SARFAESI application without being influenced by any of the observations made at the interlocutory stage.
11. As regards the second contention pertaining to the order dated December 19, 2025 passed by the learned Chief Judicial Magistrate, while it is true that the learned Chief Judicial Magistrate has used expressions like

“reviewing the petition” and *“considering the arguments and reasons presented in the petition”* in the order impugned, the same would *ipso facto* not lead to a conclusion that the learned Chief Judicial Magistrate has exercised a non-existent jurisdiction.

12. Section 14(2) of the SARFAESI Act, 2002 provides that the authority under Section 14 of the SARFAESI Act, 2002 would be entitled to take or cause to be taken such steps and use or cause to be used such force as may in his opinion be necessary for the purpose of securing compliance with the provisions of Section 14(1) of the SARFAESI Act, 2002. An order passed by such authority facilitating taking over possession of a secured asset would be one under Section 14(1) of the SARFAESI Act, 2002. Therefore such authority would be well empowered to pass such orders under Section 14(2) of the SARFAESI Act, 2002 as would be necessary for the purpose of securing compliance with the order passed by it under Section 14(1) of the SARFAESI Act, 2002 .
13. It is well established that if an authority exercises a power that it has but cites the wrong provision of law, the act done in such exercise of power or the exercise of power itself is not invalidated; instead, it is upheld by referencing and attributing it to the correct source of authority. This Court sees no reason as to why the same logic should not apply when an authority, while possessing the requisite power, uses incorrect terminology or expressions in the exercise of that power.
14. In the case at hand, this Court is of the considered opinion that the learned Chief Judicial Magistrate has extended the time for execution of its order in

terms of the provisions of Section 14(2) of the SARFAESI Act, 2002, which jurisdiction definitely vests in such authority.

15. As regards the judgment in the case of ***Punjab National Bank*** (supra), the same was passed on a different set of facts. In the said case, the original order passed by the learned Additional Chief Judicial Magistrate, Arambagh did not contain one of the properties that was sought to be subsequently introduced/incorporated in the said order by way of a subsequent order. Such an act is impermissible and this Court accordingly did not permit it. The case at hand is not so at all.
16. In such view of the matter, neither the order dated December 19, 2025 passed by the learned Chief Judicial Magistrate nor the order dated February 25, 2026 passed by the Tribunal can be faulted. Therefore, no interference is called for with any of the orders impugned.
17. CO 951 of 2026 stands disposed of with the above observations. No costs.
18. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)

DL-24

Ct-06

(S.R.)