

06.02.2026
SL No.81
Court No.6
(gc)

CO 1748 of 2025

**Sarfaraz Ahmed & Ors.
Vs.
Union Bank of India & Anr.**

Mr. S. Sanyal,
Ms. Priyakshi Banerjee

.....for the Petitioners.

Mr. Pankaj Kumar Mukherjee,
Mr. Sayak Ranjan Ganguly

...for the Opposite Parties.

1. The Court is not inclined to interfere with the order passed by the DRAT. Section 14(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (in short "said Act") allows the District Magistrate to pass such orders that will ensure compliance of the order allowing handing over physical possession of the secured asset to the secured creditor. Accordingly, the Appellate Tribunal did not accept the plea of the petitioners that the District Magistrate had become *functus officio* after passing the order under Section 14 of the said Act and could not have passed the subsequent orders. The Tribunal recorded that the District Magistrate initially passed an order on November 12, 2020, directing Sri Kausik Paul, WBCS (Executive) to take possession of the assets and documents relating thereto and forward the same to the secured creditor with police assistance. Another order was passed on September 7, 2022,

appointing Sri Subrata Palit, WBCS (Executive) to carry out the directions which were given to Sri Kausik Paul, as Kausik Paul had been transferred without executing the order of the District Magistrate. Again, another order was passed on January 4, 2024, by which a third officer was authorized to take over possession of the assets and documents with police assistance. The Tribunal recorded, that in order to implement the order passed under Section 14 of the said Act, three officers were appointed by the District Magistrate. The erstwhile officers could not take physical possession of the assets and hand over the same. They had been transferred. The Tribunal recorded that Section 14 permitted the secured creditor to file a nine point affidavit. The District Magistrate was required to satisfy himself about the factual context of the affidavit and thereafter pass necessary orders by directing possession of the secured assets to be taken over. The role of the District Magistrate was simply to assist the secured creditor in taking over possession. The proceeding under Section 14 did not involve any adjudicatory process. It was not a *quasi-judicial* function that the rights and liabilities of the parties had to be determined in the said proceeding. The steps taken by the District Magistrate were ministerial, and as such, when the first two officers designated by the District Magistrate were transferred,

the District Magistrate had to implement his order by appointing a third officer.

2. This is not a case in which the District Magistrate has passed fresh orders on the basis of a disposed of application under Section 14. All that the District Magistrate did was to substitute the name of the officer designated to take over possession, by another officer, upon the transfer of the originally appointed officer. The secured creditor is not required to approach the District Magistrate again and again by filing fresh applications till the possession is handed over. A mere change in the name of the officer authorized to take over possession did not amount to repeated orders under section 14 of the said Act, in a disposed of application.
3. Under such circumstances, this revisional application is not entertained and is dismissed.
4. However, as the petitioners have already challenged the entire SARFAESI proceeding before the learned DRT-III, Kolkata, the learned DRT-III, Kolkata will proceed with the hearing of the S.A. expeditiously, and disposed of the same within four months.
5. The secured assets that may be taken over by the bank, shall be kept in the safe custody of the bank for a period of four months or till disposal of the SA, whichever is earlier.

6. This order is passed without prejudice to the petitioners' right to make a one time offer to the bank, which the bank will decide in accordance with law.
7. There shall be no order as to costs.
8. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)