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21.05.2026
Ct. No.07
J.Das

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11525 of 2026

M/S R. K. D. Infrastructure Private Limited
Vs.
Union of India and Ors.

Mr. Dilip Kumar Samanta
Mr. Biswapriya Samanta
Mr. Suhotro Palit
...For the petitioner

Ms. Parna Roy Choudhury
Ms. Payel Ghosh
Ms. Trisa Chanda
...For the respondent bank

1. The grievance of the petitioner is directed against an order dated 22 January 2026 and the consequential order dated 31 March 2026 passed under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI).

2. It is submitted on behalf of the petitioner that both the above orders passed under section 14 of the SARFAESI Act, 2002 are beyond the prescribed period of sixty days which the section mandates and are liable to be quashed. To this extent, the District Magistrate is *functus officio* to pass any order beyond the sixty day prescribed period under section 14 of the SARFAESI. In support of such contentions, the petitioner relies on the decision in *Kanwar Singh Saini v. High*

Court of Delhi (2012) 4 SCC 307 at para 23 to contend that where a statute gives a right and provides a forum for adjudication of rights, remedy has to be sought only under the provisions of that Act. The petitioner also relies on an unreported decision in *PNB Housing Finance Limited vs. The State of West Bengal* [WPA 30154 of 2024, High Court at Calcutta dated 17 February 2025] to contend that any order passed under section 14 must be within the sixty day period.

3. On behalf of the respondent bank it is submitted that the writ petition is liable to be dismissed on the ground of suppression and misrepresentation of facts. It is contended that the petitioner has suppressed that similar reliefs have been sought for before the Debts Recovery Tribunal which is in *seisin* of the proceedings under SARFAESI. The petitioner borrower in collusion and connivance with his family members and other third parties is thwarting any recovery proceedings. There is an aggregate amount of Rs.22 crores which is due and payable to the respondent bank. The date of taking possession has been fixed today but the borrower on one pretext or the other has been frustrating the entire recovery proceedings.

4. In reply, the petitioner submits that the aggregate dues are only Rs.6 crores and he is willing to make payment in liberal installments.

5. Section 14 of the SARFAESI Act 2002 provides as follows:

> ***14***. *Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.*
> *(1) Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him*
> *(a) take possession of such asset and documents relating thereto; and*
> *(b)forward such asset and documents to the secured creditor.*
> *[Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that-*
> *(i)the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;*
> *(ii)the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;*
> *(iii)the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above.*
> *(iv)the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;*
> *(v)consequent upon such default in repayment of the fInancial assistance the account of the borrower has been classified as a nonperforming asset;*
> *(vi)affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower;*
> *(vii)the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;*
> *(viii)the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secl1red assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;*

(ix)that the provisions of this Act and the rules made thereunder had been complied with:
Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets [within a period of thirty days from the date of application] [Inserted by Act No. 1 of 2013]:-
Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.] [Substituted by Act No. 44 of 2016.]
[Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.] [Inserted by Act No. 44 of 2016.]
(1A)[The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,-
(i)to take possession of such assets and documents relating thereto; and
(ii)to forward such assets and documents to the secured creditor.]
(2)For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.
(3)No act of the Chief Metropolitan Magistrate or the District Magistrate [any officer authorised by the Chief Metropolitan Magistrate or District Magistrate] [Inserted by Act No. 1 of 2013] done in pursuance of this section shall be called in question in any Court or before any authority.

6. The above section confers power on secured creditors to avail assistance from the Court of the Chief Judicial Magistrate/the Chief Metropolitan Magistrate/the District Magistrate as the case may be in obtaining possession and control of the secured asset. This is one of the pivotal provisions of the SARFAESI Act and the same has been enacted for the benefit of the bank and the financial institution in order to expedite recovery of their dues by taking physical possession of secured assets without intervention of Court.

7. In *C. Bright v. Distt. Collector*, (2021) 2 SCC 392 it has been held as follows:

> *"21. The Act was enacted to provide a machinery for empowering banks and financial institutions, so that they may have the power to take possession of secured assets and to sell them. The DRT Act was first enacted to streamline the recovery of public dues but the proceedings under the said Act have not given desirous results. Therefore, the Act in question was enacted. This Court in Mardia Chemicals [Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311] , Transcore [Transcore v. Union of India, (2008) 1 SCC 125 : (2008) 1 SCC (Civ) 116] and Hindon Forge (P) Ltd. [Hindon Forge (P) Ltd. v. State of U.P., (2019) 2 SCC 198 : (2019) 1 SCC (Civ) 551] has held that the purpose of the Act pertains to the speedy recovery of dues, by banks and financial institutions. The true intention of the legislature is a determining factor herein. Keeping the objective of the Act in mind, the time-limit to take action by the District Magistrate has been fixed to impress upon the authority to take possession of the secured assets. However, inability to take possession within time-limit does not render the District Magistrate functus officio. The secured creditor has no control over the District Magistrate who is exercising jurisdiction under Section 14 of the Act for public good to facilitate recovery of public dues. Therefore, Section 14 of the Act is not to be interpreted literally without considering the object and purpose of the Act. If any other interpretation is placed upon the language of Section 14, it would be contrary to the purpose of the Act. The time-limit is to instil a confidence in creditors that the District Magistrate will make an attempt to deliver possession as well as to impose a duty on the District Magistrate to make an earnest effort to comply with the mandate of the statute to deliver the possession within 30 days and for reasons to be recorded within 60 days. In this light, the remedy under Section 14 of the Act is not rendered redundant if the District Magistrate is unable to handover the possession. The District Magistrate will still be enjoined upon, the duty to facilitate delivery of possession at the earliest."*

8. The decisions cited on behalf of the petitioner are both distinguishable and inapposite. There is no quarrel with the general proposition of law laid down in *Kanwar Singh Saini (Supra).* However, the same is inapplicable and of no relevance. Similarly, the decision in *PNB Housing Finance*

Limited vs. The State of West Bengal (supra) is not an authority for the proposition that the designated authority becomes *functus officio* after a lapse of sixty days.

9. It is also admitted that on the self same cause of action i.e. the orders passed under section 14 of the Act, there are several proceedings filed before the concerned DRT. In fact, the petitioner himself has filed a proceeding before the DRT III Kolkata challenging the impugned order passed under section 14 of the Act. This fact has not been averred in the writ petition and there is gross suppression and distortion in the filing of the same.

10. In any event, there is an alternative remedy under section 17 of the SARFAESI which provides a statutory remedy in assailing orders passed under section 14 of the Act. There are no exceptional grounds which warrant interference.

11. In view of the above, both on the ground of alternative remedy and suppression the instant writ petition is dismissed. Costs are assessed at Rs.50,000/- to the paid by the petitioner to Nabadisha an organization, by Kolkata Police to be utilized for the care, education and upliftment of underprivileged children.

12. It is clarified that the Officer-in-Charge, Karaya Police Station is to implement the orders passed

under section 14 in accordance with law without any undue delay.

13. With the above directions, WPA 11525 of 2026 stands dismissed.

(Ravi Krishan Kapur, J.)