



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5968 OF 2025

(The South Indian Bank Ltd. Vs. M/s. J.S. Transport Corporation & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.N. Kumar, Counsel for the petitioner.

Mr. R.H. Agrawal, Counsel (through VC) with Mr. Shamish
Agrawal, Counsel for the respondents.

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CORAM : ANIL S. KILOR AND
RAJ D. WAKODE, JJ.
APRIL 15, 2026

The petitioner – Bank has approached this Court by filing this Writ Petition raising challenge to the order dated 5/8/2025 passed below Exhibit 1 by the 4th Additional Chief Judicial Magistrate, Nagpur, in Criminal Miscellaneous Application No. 2749/2025, thereby rejecting the application preferred by the petitioner – secured creditor under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “Act of 2002”).

2] The reason for rejection of said application is that in earlier proceedings, i.e., in Criminal Miscellaneous Application No. 705/2025, there is an order in existence passed under Section 14 of the Act of 2002 in respect of the secured assets relating to the subject matter of the said application. The learned Judge observed that once possession warrant is issued by the Court in Criminal Miscellaneous Application No. 705/2025 in respect of the secured assets, the Court

again cannot assist the secured creditor for taking possession of the same secured assets for a different loan transaction.

3] Thus, it is evident that the only ground, on which the application was rejected, is that, similar order cannot be passed in respect of a different loan transaction.

4] Mr. S.N. Kumar, learned Counsel for the petitioner, has relied upon a judgment of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in the case of *Sri Balaji Centrifugal Castings Vs. ICICI Bank Limited and Ors.* [MANU/HY/0030/2018 decided on 12/7/2018], wherein, it is held that there is no bar to a secured creditor maintaining more than a single application under Section 14(1) of the Act of 2002 for securing the possession of the very same secured asset. While arriving at such a conclusion, the Court observed thus :

“18. The other aspects argued by Sri Vedula Venkataramana, learned senior counsel, with regard to the secured shed sold by the bank ceasing to be of such character and status after its sale, thereby divesting the bank of its right to invoke Section 14 of the SARFAESI Act, does not merit consideration in the light of the judgment of the Supreme Court in Blue Coast Hotels Limited 2018 SCC ONLINE SC 237(supra). No doubt, that was not a case where Section 14 of the SARFAESI Act had been invoked prior to the sale, as in the case on hand, but the observations of the Supreme Court to the effect that even after such sale, the secured creditor would be at liberty to invoke the power thereunder squarely settles the issue. Further, we find no logic or rationale in the plea that a secured creditor can invoke the power

under Section 14 of the SARFAESI Act only once. To accept this proposition would mean that an unscrupulous borrower may defeat the very purpose of initiation of SARFAESI proceedings by prevailing over the Advocate-Commissioner appointed in exercise of power under Section 14 and thereby nullify the entire recovery proceedings initiated by such secured creditor. The language of the provision demonstrates that an application can be made thereunder for taking possession of the secured asset or if it is required to be sold or transferred. Therefore, there is no embargo evident from the provision itself curtailing the right of the secured creditor to invoke it but only once. Be it noted that this provision is a machinery provision intended to give effect to the regime created under the SARFAESI Act, whereby a secured creditor is allowed the benefit of deviating from the ordinary legal process for recovering its dues and bring a mortgaged asset to sale for the said purpose, by duly following the procedure prescribed thereunder. Such a machinery provision cannot be construed or interpreted in a narrow compass to the extent that it would defeat the very purpose underlying the enactment, as advocated by Sri Vedula Venkataramana, learned senior counsel. Significantly, in M/S. Kathikkal Tea Plantations v. State Bank of India MANU/TN/1926/2009: AIR 2010 Madras 24, Dilip Kumar Singh v. State of U.P. 2013 ILR Vol. 1 Allahabad 113 and Punjab National Bank v. State of U.P. 2017 (2) Banking Cases 500 (Allahabad), the Madras and Allahabad High Courts held that Section 14 of the SARFAESI Act could be invoked by a secured creditor even after sale of the secured asset.”

5] Mr. R.H. Agrawal, learned Counsel for the respondents, is not disputing the aforesaid legal position, however, he opposed the petition on the ground that the petitioner is already having an order in respect of M/s. J.S. Transport Corporation under Section 14 of the Act of

2002, and therefore, second application, for same purpose, is not maintainable.

6] Per contra, Mr. Kumar, learned Counsel for the petitioner, submits that the order dated 5/6/2025 passed below Exh. 1 by the 13th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur, in Criminal Miscellaneous Application No. 1930/2025, under Section 14 of the Act of 2002, was in respect of the third property, which is not same as involved in the present petition.

7] Thus, it is evident that the objection raised by Mr. Agrawal to the maintainability of the petition does not survive.

8] As far as other objection is concerned, Mr. Agrawal submits that there are some proceedings filed before the National Company Law Tribunal (NCLT), Mumbai, which are pending, and against one of the respondents, interim moratorium is in force.

9] Mr. Kumar, learned Counsel for the petitioner, has pointed out that earlier, two proceedings were filed before NCLT; both were denied to be registered, and thereafter, re-filing was made, and after re-filing, one of the applications was rejected on merits. He has further relied upon a judgment of a Co-ordinate Bench of this Court in the case of *Bank of Baroda Vs. Union of India* [MANU/MHOR/9725/2024 decided on 3/5/2024], wherein, it is held that in case of re-filing, interim moratorium will not commence. Paragraph 15 of the said judgment, which is relevant, reads thus :

“15. In addition to the above, considering that interim moratorium commences on e-filing of the applications, i.e., uploading of the document prior to any scrutiny, there is a possibility that parties who have had their applications declined due to failure to comply with the notices and timelines issued by Respondent No.2, proceed to e-file their applications again. In such cases, the aggrieved persons have a remedy under Rule 63 of the NCLT Rules to prefer an appeal within the period stipulated. Any application which had earlier been dismissed and is refiled without resorting to the due process under law, ought not to be considered valid and shall not be considered as 'filed' for the purposes of Section 96 of the IBC. The same shall be ignored and no cognizance shall be taken of the same.”

10] In light of the above referred law laid down by a Co-ordinate Bench of this Court, it cannot be said that interim moratorium is commenced in this petition.

11] Accordingly, the Writ Petition is allowed. Order dated 5/8/2025 passed below Exhibit 1 by the 4th Additional Chief Judicial Magistrate, Nagpur, in Criminal Miscellaneous Application No. 2749/2025, is quashed and set aside. Consequently, Criminal Miscellaneous Application No. 2749/2025, filed by the petitioner – bank, is allowed.

(JUDGE)

(JUDGE)

Sumit