2026:CGHC:21294-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 396 of 2026

1 - Rahul Kumar Mishra S/o Tribhuvan Prasad Mishra Aged About 32 Years R/o Pragati Nagar, Near Shiv Mandir, Bada Ashok Nagar, Gudhiyari, Raipur District Raipur Chhattisgarh

2 - Tribhuvan Prasad Mishra S/o Shyam Sundar Mishra Aged About 62 Years R/o Pragati Nagar, Near Shiv Mandir, Bada Ashok Nagar, Guidhiyari, Raipur District Raipur Chhattisgarh

3 - Smt. Vandana Mishra W/o Tribhuvan Prasad Mishra Aged About 58 Years R/o Pragati Nagar, Near Shiv Mandir, Bada Ashok Nagar, Guidhiyari, Raipur District Raipur Chhattisgarh

4 - Sunil Kol S/o Mohan Kol Aged About 26 Years R/o Ward No. 10, Kolan Tola, Dalko Kothar, 228, Papaundh, Shahdol, District Shahdol M.P.

... Appellant(s)

versus

1 - Aavas Financiers Ltd Earlier Known As A.U. Housing Finance Limited, Having Registered Office At 201, 202 Second Floor, South And Square, Mansarovar Industrial Area, Jaipur Rajasthan, Branch Office At B-1, Second Floor, Nagdev Plaza, Kutchery Chowk, Raipur Chhattisgarh Through Jagdev Singh, Area Legal Manager At Petitioner Bank

2 - The Tahsildar, Raipur District Raipur Chhattisgarh

3 - Naib Tahsildar Raipur District Raipur Chhattisgarh

4 - District Magistrate Cum Collector Raipur District Raipur Chhattisgarh

... Respondent(s)

For Appellant(s)	:	Mr. Raman Mishra, Advocate.
For Respondent/State	:	Mr. S. S. Baghel, Govt. Advocate.
For Respondent No. 1	:	Mr. Ayush Mishra, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

***Per* Ramesh Sinha, Chief Justice**

07/05/2026

1. Heard Mr. Raman Singh, learned counsel for the appellant as well as Mr. S. S. Baghel, learned Govt. Advocate, appearing for the Respondent/State, Mr. Ayush Mishra, learned counsel appearing for the Respondent No.1.

2. The present writ appeal has been filed by the writ appellants against the order dated 01.04.2026 passed by the learned Single Judge in WPC No. 1424 of 2026 whereby the writ petition filed by Respondent No.1/Aavas Financiers Ltd. under Article 226 of the Constitution of India seeking execution of the order dated 24.03.2025 passed under Section 14 of the SARFAESI Act was disposed of with a direction to the Tahsildar, Tahsil Raipur, District Raipur to comply with and execute the said order within a period of 30 days. Thereafter, the writ appellants preferred the instant appeal before this Hon'ble Court with the following prayer:-

> “i. That, this Hon'ble court kindly be pleased to Admit the present Writ Appeal and call for the entire records pertaining to W.P.(C) No. 1424 of 2026 for its kind perusal.

ii. That, this Hon'ble court kindly be pleased to Set aside/quash the impugned order dated 01.04.2026 passed by the learned Single Judge in W.P.(C) No. 1424 of 2026, whereby direction has been Issued to execute the order dated 24.03.2025 passed by the District Magistrate, Raipur in Case No.328/B-121/2021-22.

iii. That, this Hon'ble court kindly be pleased to Stay the operation, implementation and effect of the impugned order dated 01.04.2026 Annexure A-1, during the pendency of the present Writ Appeal, and further be pleased to hold that continuation of execution proceedings during pendency of S.A. No. 538 of 2025 before the Debts Recovery Tribunal is impermissible in law.

iv. That, this Hon'ble court kindly be pleased to Stay all further proceedings for execution of the order dated 24.03.2025 passed by the District Magistrate, Raipur, in Case No.328/B-121/2021-22 including any coercive steps for taking possession of the subject property.

v. That, this Hon'ble court kindly be pleased to Direct maintenance of status quo with respect to possession and nature of the secured asset during the pendency of the present appeal.

vi. Award cost of the proceedings in favour of the Appellants.

vii. That, this Hon'ble court kindly be pleased to pass any other relief/order or direction, as this Hon'ble Court deems fit and proper looking to the facts and circumstance of the case and in the interest of justice, along with cost of the proceeding”

3. The brief facts of the case are that the respondent No.1/Bank initiated proceedings against the present appellants under the

provisions of the SARFAESI Act, 2002 and obtained an order dated 24.03.2025 from the District Magistrate, Raipur under Section 14 of the Act for taking possession of the secured asset. Being aggrieved by the said order, the appellants preferred Securitisation Application No. 538 of 2025 before the Debts Recovery Tribunal, Jabalpur under Section 17 of the SARFAESI Act challenging the legality, validity and procedural compliance of the action initiated by the Respondent-Bank, including the order passed under Section 14, and the said proceedings are presently pending adjudication before the Tribunal.

4. During pendency of the aforesaid proceedings before the Debts Recovery Tribunal, the respondent-bank filed W.P.(C) No. 1424 of 2026 before this Court seeking execution of the order dated 24.03.2025. The appellants appeared before the learned Single Judge and specifically brought to the notice of the Court that the matter was already pending before the Debts Recovery Tribunal, Jabalpur, however, by order dated 01.04.2026, the learned Single Judge directed the Tahsildar, Raipur to execute the order passed under Section 14 of the SARFAESI Act within 30 days on the ground that no interim stay had been granted by the Tribunal. Being aggrieved by the said order permitting coercive execution during pendency of the statutory proceedings before the Debts Recovery Tribunal, the present writ appeal has been preferred.

5. Learned counsel for the appellants submits that the impugned order dated 01.04.2026 passed by the learned Single Judge is

wholly unsustainable in law and deserves to be set aside, as the learned Single Judge failed to appreciate that the Appellants had already invoked the statutory remedy available under Section 17 of the SARFAESI Act by filing Securitisation Application No. 538 of 2025 before the Debts Recovery Tribunal, Jabalpur challenging the very order dated 24.03.2025 passed under Section 14 of the Act. It is submitted that once the competent statutory forum was already seized of the matter, the learned Single Judge ought to have exercised judicial restraint and refrained from issuing directions permitting coercive execution of the same order, particularly when the legality and validity of the said action is still pending adjudication before the Tribunal. It is further submitted that the learned Single Judge proceeded solely on the ground that no interim stay had been granted by the Tribunal, without appreciating that permitting execution during pendency of the statutory proceedings would render the remedy under Section 17 of the SARFAESI Act illusory, ineffective and nugatory.

6. Learned counsel further submits that the learned Single Judge erred in relying upon judgments dealing with the ministerial duty of authorities under Section 14 of the SARFAESI Act without appreciating the distinguishing feature of the present case, namely that the foundational order itself is under challenge before the Debts Recovery Tribunal. It is also submitted that the Appellants were not afforded reasonable opportunity to file a detailed reply and the matter was disposed of at the admission

stage itself, thereby causing serious prejudice and violating the principles of natural justice. It is argued that if the impugned order is allowed to operate, coercive possession of the secured asset may be taken during pendency of the proceedings before the Tribunal, resulting in irreparable injury to the Appellants and reducing the pending adjudication before the Tribunal to a mere academic exercise. Therefore, it is prayed that the impugned order dated 01.04.2026 be set aside and further proceedings pursuant thereto be stayed during pendency of the proceedings before the Debts Recovery Tribunal.

7. Learned counsel appearing for the Respondents/State opposes the submissions made by the learned counsel for the appellants and submits that the learned Single Judge has rightly passed the impugned order directing execution of the order dated 24.03.2025 passed by the District Magistrate, Raipur under Section 14 of the SARFAESI Act, as admittedly no interim stay has been granted by the Debts Recovery Tribunal, Jabalpur in favour of the Appellants. It is submitted that the State authorities are under statutory obligation to assist in implementation of the order passed under Section 14 of the Act and have no adjudicatory role in the dispute between the secured creditor and the borrowers. Therefore, no interference with the impugned order is called for in the present writ appeal.

8. We have heard learned counsel for the parties and perused the impugned order and other documents appended with writ appeal.

9. From perusal of the order passed by learned Single Judge, it is evident that the order dated 24.03.2025 passed by the District Magistrate, Raipur under Section 14 of the SARFAESI Act has not been stayed by the Debts Recovery Tribunal, Jabalpur in Securitisation Application No. 538 of 2025 preferred by the present appellants. The learned Single Judge has merely directed the concerned Tahsildar to comply with and execute the order passed under Section 14 of the SARFAESI Act in accordance with law. The Hon'ble Supreme Court in **R.D. Jain & Co. Vs. Capital First Limited and Others**, 2023 (1) SCC 675 and **Kotak Mahindra Bank Ltd. Vs. Girnar Corrugators Pvt. Ltd. and Others**, 2023(3) SCC 2010 has clearly held that the authorities exercising powers under Section 14 of the SARFAESI Act perform a ministerial function and are under obligation to assist the secured creditor in taking possession of the secured asset. In absence of any interim protection granted by the competent Tribunal, the revenue authorities cannot refuse or indefinitely delay execution of the order passed under Section 14 of the Act.

10. We are of the considered opinion that the learned Single Judge has rightly exercised jurisdiction while directing implementation of the order passed by the District Magistrate, Raipur and no jurisdictional error or perversity is made out warranting interference in the present writ appeal. Mere pendency of proceedings before the Debts Recovery Tribunal, in absence of

any interim stay order, cannot be a ground to restrain execution of the order passed under Section 14 of the SARFAESI Act.

11. Thus, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error in the impugned order warranting interference by this Court. Therefore, the writ appeal being devoid of merit is liable to be and is hereby **dismissed**. No cost(s).

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Alok