2026:CGHC:21890

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2314 of 2026

1 - Central Bank Of India Through Its Authorized Officer Branch Sadar Bazar Raipur, District- Raipur (C.G.).

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Its Secretary Department Of Revenue Mantralaya Mahanadi Bhawan Atal Nagar Nava Raipur District- Raipur (C.G.).

2 - The District Collector And District- Magistrate Raipur (C.G.).

3 - Shri Ankit Kashyap S/o Late Arjun Lal Jaiswal R/o House No 134 Ward No 05, Brahman Colony Simga P.S Simga District- Balodabazar-Bhatapara (C.G.) Other Address- Suit No 703 7th Floor Awadh -A Near Paradise Hotel Samrajya Resident P.S. Khamtarai District- Raipur (C.G.).

... Respondent(s)

For Petitioner(s)	**:**	Mr. Anand Shukla, Advocate.
For Respondent(s)/State	**:**	Mr. Soumitra Kesharwani, Panel Lawyer.

Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

11/05/2026

1. By way of this petition, the petitioner has prayed for following reliefs:-

   "i. That the Hon'ble Court may kindly be pleased to quash the impugned order dated 26.11.2025 passed by the learned District Magistrate, Raipur.

   ii. That the Hon'ble Court may kindly be pleased to direct the respondent No.02 to decide the application preferred by the Petitioner Bank under Section 14 of the SARFAESI ACT as per the mechanism stipulated thereunder.

   iii. To kindly make any other order or writ that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioner."

2. Brief facts of the case, is that, respondent No. 3, namely Ankit Kashyap, had availed a loan facility amounting to Rs. 28,63,000/- (Rupees Twenty-Eight Lakhs Sixty-Three Thousand only) from the petitioner Bank vide sanction letter dated 18.09.2023, by creating security interest over various secured assets in favour of the petitioner Bank; it is submitted that after availing and utilizing the aforesaid loan amount, respondent No. 3 failed to adhere to the terms and conditions of the loan agreement and defaulted in repayment of the outstanding dues, as a consequence whereof the loan account was classified as a Non-Performing Asset (NPA)

on 26.02.2025; it is further submitted that the outstanding liability against respondent No. 3 as on 27.02.2025 stood at Rs. 28,84,636/-; thereafter, in order to enforce the security interest created in its favour and to recover the outstanding dues in accordance with the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the petitioner Bank issued a demand notice under Section 13(2) of the Act on 27.02.2025 calling upon the borrower and guarantors to discharge their liability within the statutory period of 60 days; however, despite due service of the said notice, respondent No. 3 failed to liquidate the outstanding dues within the prescribed period, and consequently, upon expiry of the statutory period, the petitioner Bank proceeded to take measures under Section 13(4) of the SARFAESI Act on 26.05.2025; it is further submitted that in compliance with the mandatory statutory requirements, possession notice was also duly published in English and Hindi newspapers namely “The Hitavada” and “Haribhoomi” respectively on 27.05.2025; despite issuance of notices and repeated opportunities, the borrower and guarantors failed to hand over peaceful possession of the secured assets to the petitioner Bank, compelling the petitioner to initiate proceedings under Section 14 of the SARFAESI Act by filing an application before the competent authority on 13.06.2025 seeking assistance for taking physical possession of the secured assets for the purpose of sale and

recovery of the outstanding dues; it is contended that while exercising powers under Section 14 of the SARFAESI Act, the District Magistrate/Chief Metropolitan Magistrate performs only a ministerial function of rendering assistance to the secured creditor in taking possession of the secured assets and is not vested with adjudicatory powers to examine the legality or propriety of the actions taken by the secured creditor under the provisions of the Act; however, ignoring the settled legal position and the statutory mandate contained under Section 14 of the SARFAESI Act, respondent No. 2 dismissed the petitioner's application on the ground that no document demonstrating authorization of the Authorized Officer had been filed along with the application under Section 14, and being aggrieved by the said order and action of respondent No. 2, the petitioner has approached this Court by way of the present writ petition.

3. Learned counsel appearing on behalf of the petitioner submits that the application filed by the petitioner Bank under Section 14 of the SARFAESI Act has been dismissed merely on account of a curable defect, namely non-production of the authorization letter of the Authorized Officer, which could have been rectified if an opportunity had been granted by the concerned Court; it is further submitted that the learned Chief Judicial Magistrate, Raipur ought to have afforded a reasonable opportunity to the petitioner Bank to cure the said procedural defect instead of dismissing the application outright, particularly when the defect was neither

substantive nor fatal to the maintainability of the proceedings; however, without granting any such opportunity and without considering the settled principles governing curable defects, the application came to be rejected in a mechanical manner, which action is wholly contrary to law and principles of natural justice, and therefore the impugned order is liable to be set aside.

4. On the other hand, learned counsel appearing on behalf of the State opposes the submissions advanced by learned counsel for the petitioner and contends that the impugned order has been passed strictly in accordance with law and does not warrant any interference by this Court in exercise of its extraordinary writ jurisdiction.

5. I have heard learned counsel for the parties and perused the material available on record.

6. Considering the facts and circumstances of the case, and further taking into consideration the fact that although an affidavit had been filed along with the application under Section 14 of the SARFAESI Act by the concerned officer of the petitioner Bank describing himself to be the authorized officer, the formal authorization letter in support thereof was not placed on record, and on that ground alone the learned Chief Judicial Magistrate, Raipur declined to consider the application on merits; upon hearing learned counsel for the petitioner Bank and perusing the material available on record, it appears that while the affidavit of the concerned officer had been filed, the document specifically

authorizing the said officer on behalf of the Bank was not available on record at the relevant time, which was merely a curable procedural defect; therefore, without entering into the merits of the controversy and in the interest of justice, the impugned order dated 26.11.2025 deserves to be and is hereby set aside, granting liberty and opportunity to the petitioner Bank to place the requisite authorization letter before the concerned Court, and upon such authorization letter being filed, the learned Chief Judicial Magistrate, Raipur is directed to reconsider the application afresh and pass appropriate orders strictly in accordance with law without being influenced by the earlier order passed in the matter.

7. With this observation and direction, the writ petition is disposed of.

Sd/-

(Amitendra Kishore Prasad)

Judge

Raghu Jat