2026:CGHC:21607

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2353 of 2026

1 - Sanjiv Choudhary S/o Jagdish Choudhary Aged About 48 Years R/o -House No. -06 Gandhinagar Kosanala Bhilai -District Durg C.G. (Partner Of Kaiser Infra)

... Petitioner(s)

versus

1 - District Magistrate District Durg C.G.

2 - Tehsildar Durg Tehsil District -Durg C.G.

3 - State Of Chhattisgarh Through- Principal Secretary, Revenue

4 - Uco Bank Bhilai Through Its Authorized Officer

... Respondents

(Cause-title taken from the Case Information System)

For Petitioner :- Mr. Saurabh Sharma, Advocate

For State :- Mr. Shobhit Mishra, Dy. G.A.

For Respondent No. 4 :- Mr. P.R. Patankar, Advocate

SB-Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

08.05.2026

1. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the notice dated 04.05.2026 issued by the Tehsildar, Durg, whereby physical possession of the petitioner's immovable property is proposed to be taken on 11.05.2026 in proceedings initiated under the SARFAESI Act, 2002.

2. Facts of the case are that the petitioner is in possession of a residential property mortgaged with respondent No. 4 Bank. The Bank initiated measures under the SARFAESI Act. In the said proceedings, the District Magistrate, Durg passed an order dated 19.01.2026 under Section 14 of the Act for taking possession of the secured asset. Pursuant thereto, the Tehsildar issued notice dated 04.05.2026 directing handing over of physical possession on 11.05.2026. It is further the case of the petitioner that a securitisation application under Section 17 of the SARFAESI Act bearing SA No. 113/2024 is already pending before the DRT, Jabalpur. It is also brought on record that the DRT, Lucknow, by order dated 25.03.2026, has passed an interim order whereby the e-auction process may continue, however issuance of sale certificate stands stayed and is subject to final outcome of the proceedings.

3. The petitioner has filed this Writ Petition seeking following reliefs:-

> *"A. issue a writ of prohibition or any other appropriate writ, order or direction restraining the Tehsildar from taking physical possession on the basis of notice dated 04.05.2026 whereby the date of possession has been fixed as 11.05.2026.*
>
> *B. issue a writ of mandamus or any other suitable order or direction directing urgent listing of First Appeal No. FA/47/2026 for admission before the appropriate Hon'ble Bench, in view of the imminent possession date;*
>
> *C. quash and set aside the warrant of possession notice dated 04.05.2026 issued by Tehsildar, Durg.*
>
> *D. pass an order restraining the Respondents No. 1, 2, and 4 from taking physical possession of the property in question until the Debt Recovery Tribunal resumes its functions, so that the Petitioner may avail the statutory remedy under Section 17 of the SARFAESI Act;*
>
> *E. pass any other order or direction which this Hon'ble Court may deem fit and proper in the interest of justice."*

4. Learned counsel for the petitioner submits that the Debt Recovery Tribunal, Jabalpur has passed an order dated 25.03.2026 in Securitisation Application No. 113/2024 filed by the borrower, wherein an interim order has been passed permitting the respondent Bank to proceed with the e-auction process. However, it has been specifically directed that any action taken by the respondent Bank shall remain subject to the final outcome of the

said proceedings, and no final coercive action, including issuance of sale certificate or completion of further steps, can be taken without the approval of the Tribunal. It is further submitted that despite the aforesaid order, the Tehsildar has issued notice dated 04.05.2026 to the petitioner as well as the guarantors for handing over physical possession of the property in favour of the concerned Bank, thereby initiating coercive action in haste. At this stage, learned counsel for the petitioner submits that since physical possession is proposed to be taken within two days as per the notice dated 04.05.2026, the petitioner may be granted some breathing time to approach the concerned Debt Recovery Appellate Tribunal at Allahabad and seek appropriate interim protection.

5. Learned counsel for respondent No. 4 Bank, however, strongly objects to the prayer made on behalf of the petitioner. It is submitted that the order dated 25.03.2026 was already in existence and the petitioner has failed to challenge or seek modification or variation of the same in a timely manner. It is contended that the petitioner has approached this Court only after issuance of the notice dated 04.05.2026, which reflects lack of diligence on his part. It is further submitted that the present petition is not maintainable in view of the availability of an efficacious statutory remedy before the concerned Debt Recovery Appellate Tribunal, and therefore, the petitioner ought to be

relegated to the appropriate forum instead of invoking writ jurisdiction under Article 226 of the Constitution of India.

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

7. Having considered the rival submissions and perused the material available on record, this Court finds that the petitioner has already initiated proceedings under Section 17 of the SARFAESI Act, which are stated to be pending before the competent Tribunal. It is further noticed that the possession notice dated 04.05.2026 provides a very short window for dispossession of the petitioner from the subject property. The petitioner has also expressed an intent to approach the Debt Recovery Appellate Tribunal for seeking appropriate interim relief against the impugned action. The dispute involves civil consequences affecting possession of immovable property, which may cause serious prejudice if coercive action is taken without affording reasonable opportunity to avail statutory remedy.

8. In the aforesaid circumstances, this Court is of the view that the balance of convenience and ends of justice require that limited protection be granted to the petitioner to enable him to effectively approach the competent statutory forum. Accordingly, without expressing any opinion on the merits of the case, this writ petition is disposed of with the following directions that the petitioner is granted 15 (Fifteen) days' time from today to approach the

concerned Debt Recovery Appellate Tribunal for appropriate relief against the order dated 25.03.2026 as well as the consequential SARFAESI proceedings.

9. Till the expiry of the aforesaid period of 15 days, the respondents, including the Tehsildar concerned, shall not take any coercive steps or dispossess the petitioner from the subject property pursuant to notice dated 04.05.2026. It is made clear that in the event the petitioner fails to approach the competent Tribunal within the aforesaid period, the respondents shall be at liberty to proceed further in accordance with law.

10. It is further clarified that this Court has not expressed any opinion on the merits of the case, and all questions of fact and law are left open to be decided by the competent forum.

11. The writ petition stands **disposed** of in the above terms.

sd/-
(Amitendra Kishore Prasad)
Judge

Vishakha