HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 11383/2026
URN: CW / 25249U / 2026

Ummeed Housing Finance Private Limited, Reg. Office At Office No. 2009-2014, 20Th Floor, Magnum Global Park, Sector 58, Gurgaon, Haryana - 122011 Through The Authorized Officer Mr. Jai Sharma, Branch Office At 3rd Floor, Axis Mall, Bhagwan Das Road, C-Scheme, Jaipur, Rajasthan-302001.

----Petitioner

Versus

1. Commissioner of Police, Jaipur, Rajasthan.
2. Deputy Commissioner of Police (North) Jaipur, Rajasthan.
3. Station House Officer, Police Station-Jaisinghpura Khor, District- Jaipur, Rajasthan.
4. District Magistrate, Jaipur, Rajasthan.
5. Mrs. Radha Devi W/o Shri Satish Singh, Residing At A-24, Bajrang Colony, Jaisinghpura Khor, Jaipur, Rajasthan-302027
6. Mr. Satish Singh S/o Shri Sukhdev Singh, Residing At A-24,bajrang Colony, Jaisinghpura Khor, Jaipur, Rajasthan-302027
7. Mr. Alok Singh Thakur S/o Shri Satish Singh Thakur, Residing At 24-A, Bajrang Colony, Jaisinghpura Khor, Jaipur, Rajasthan-302027

----Respondents

For Petitioner(s)	:	Mr. Akshay Khandelwal for Mr. Saransh Ghiya
For Respondent(s)	:	Mr. Somitra Chaturvedi, Dy.G.C

HON'BLE MR. JUSTICE ANAND SHARMA

Order

20/07/2026

1. Mr. Somitra Chaturvedi, Dy.G.C. appeared and accepted notices on behalf of respondent Nos.1 to 4.

2. Learned counsel for the petitioner submits that the private-respondents availed loan facility from the petitioner financial institution however when he failed to repay the same proceedings under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 (for short the 'Act of 2002') were initiated and after carrying out proceedings under Section 14(2) of the Act of 2002, an application under Section 14 of the Act of 2002 was moved before the concerned District Magistrate, Jaipur. Learned counsel submits that the application under Section 14 of the Act of 2002 filed by the petitioner was allowed by the District Magistrate granting directions to the police authorities to provide police assistance and the rectified on 04.07.2023. Learned counsel submits that by aid of police, physical possession of the secured assets was taken by the petitioner on 24.12.2025. After taking possession, in view of Section 14 of the Act of 2002, the petitioner had legitimate right to continue the possession, yet in quite malicious and unauthorized manner, the private respondents re-entered in the secured premises. Feeling aggrieved, the petitioner again approached the concerned District Collector by way of filing an application with a prayer to direct for restoration of possession. However, an application filed by the petitioner has been dismissed vide order dated 13.04.2026 by the concerned District Magistrate with the findings that after passing the initial final order dated 04.07.2023, the District Magistrate become *functus officio.*

3. This Court finds that the similar controversy arose before this Court where after passing the order under Section 14

and after taking possession thereunder by the secured creditor, the borrower re-entered in the secured premises, this Court held that the concerned Magistrate does not become *functus officio* and cannot be rendered powerless to issue appropriate directions under Section 14(2) of the Act of 2002. In the case of **Jana Small Finance Bank Limited Vs. State Of Rajasthan & Ors.** in **S.B. CWP No. 10026/2026**, this Court has held as under:

> "11. Core questions involved in these matters is that once the District Magistrate/Chief Metropolitan Magistrate issues directions under Section 14 of the Act of 2002 directing for taking physical possession of the secured asset with the police assistance and pursuant thereto, possession is also handed over to the secured creditor, a writ petition under Article 226 of the Constitution of India would be maintainable or not, in the event the borrower forcibly re-enters the secured asset in violation of such order, or whether an alternative remedy is available under the provisions of the Act of 2002.
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> 12. Since, the controversy revolves around the provisions of Section 14(1) and (2), relevant portion thereof is being reproduced hereunder:-
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> > *"**14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.—**(1) Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets 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 assets, 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*
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> > *(b) forward such asset and documents to the secured creditor:*
> >
> > *[1][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 non-performing 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 secured 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 assets1 [within a period of thirty days from the date of application]:

[1][Provided [2][also] 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.]

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.]*

[3][(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."

13. Bare perusal of the aforesaid provisions would make it clear that under Section 14(1) necessary orders can be passed by the Chief Metropolitan Magistrate or District Magistrate, as the case may be for the purpose of taking possession of the secured asset. Section 14(2) of the Act further provides that for the purpose of securing compliance with the provisions of sub-section (1) the Chief Metropolitan Magistrate or District Magistrate may direct for taking necessary steps or cause to be used force which in his opinion is necessary.

*14.**The expression "for the purpose of securing compliance with the provisions of sub-section** (1)" is apparently having wide amplitude and cannot be interpreted in a narrow manner. Once possession is handed over under the orders of concerned Magistrate under Section 14, it would essentially mean the right of secured creditor to continue such possession which is an integral part of proceedings under Section 14. Section 14(2) of the Act of 2002 would also make it clear that such provision confers enabling power upon the concerned Magistrate for ensuring compliance of any order passed by the Magistrate under Section 14. If possession delivered under the Magistrate's authority is subsequently disturbed by force or trespass, the Magistrate's power under Section 14(2) can reasonably be construed as extending to restoration of status quo ante, so that the original order is not frustrated.*

15. This Court finds that after passing order under Section 14 for taking over possession of the secured asset and handing over the same to the secured creditor, concerned Magistrate does not become functus officio and the apprehension of the petitioner that after passing initial order under Section 14 of the Act of 2002, concerned Magistrate is rendered powerless, is totally misconceived and is misinterpretation of clear language of Section 14(2) of the Act of 2002. In view of the language of the aforesaid provision, it is clear that the concerned Magistrate is having power not only to take possession through police assistance of the secured asset, but power is also vested with him for passing subsequent orders for ensuring the compliance of earlier order passed by the Magistrate. Any other interpretation of the *aforesaid provision is likely to frustrate the proceedings under Section 14 and to render the powers conferred to the concerned Magistrate as meaningless and ineffective.*

16. Under these circumstances, this Court is of the opinion that ensuring compliance of the order earlier passed under Section 14 is also integral and indispensable part of powers conferred to the Magistrate under Section 14(2) of the Act of 2002, in case, the borrower or any other person violates the directions given by the concerned Magistrate under Section 14 and unauthorizedly re-enters in the premises of secured asset then the aggrieved secured creditor is well within its right to approach the concerned Magistrate by way of filing an application under Section 14(2) of the Act of 2002 with a prayer to secure compliance of earlier order passed by the Magistrate. Such application shall be examined in accordance with law by the concerned Magistrate and appropriate orders for securing compliance of the earlier order can be passed. Thus this Court, on the basis of foregoing discussion, comes to the conclusion that the petitioners are having efficacious remedy under the provisions of Section 14(2) of the Act of 2002 before the concerned Magistrate.

17. In the instant cases, admittedly the petitioners have not approached the concerned Magistrate by way of filing any such application under Section 14 (2) of the Act of 2002. This Court finds that under such circumstances, the present writ petitions filed by the petitioners are totally premature and not maintainable. In view foregoing discussions, the writ petitions filed by the petitioner can not be entertained and are hereby dismissed.

18.However, mere dismissal of the present writ petitions shall not curtail rights of the petitioner financial institution to approach the concerned Magistrate by way of filing an application under Section 14(2) for securing compliance of earlier order passed by the Magistrate under Section 14. Any such proceedings shall be treated in continuation to the earlier proceedings under Section 14 of the Act of 2002. The concerned Magistrate, upon filing of such application, shall examine the contents of the application and shall pass appropriate orders strictly in accordance with law, for securing compliance of its earlier order passed by the concerned Magistrate for the purpose of taking possession of the secured asset and to hand over such possession to the secured creditor. In the event, any such application is filed, same shall be decided expeditiously by the concerned Magistrate.".

4. In view of above judgment, this Court finds that since the controversy involved in the instant case is squarely covered by the judgment dated 30.06.2026 passed in the case of **Jana Small Finance Bank Limited (supra),** therefore, the order dated 13.04.2026 passed by District Magistrate/Collector, Jaipur is

hereby quashed and set-aside and the matter is remanded back to the District Magistrate Collector for reconsidering the application for restoration of possession filed by the petitioner in the light of above judgment in the case of **Jana Small Finance Bank Ltd. (supra)** on receiving certified copy of this order, the concerned Magistrate shall make an endeavour to decide the application expeditiously and preferably within a period of two months from the date of receipt of certified copy of this order.

5. Pending application(s), if any, shall also stand(s), disposed of.

(ANAND SHARMA),J

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