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WP-26606-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 14th OF AUGUST, 2026WRIT PETITION No. 26606 of 2026

*AAVAS FINANCIERS LIMITED THROUGH AUTHORISED OFFICER
SHRI JAGDEV SINGH*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

*Shri Rahul Ganeshe - Advocate alongwith Ms. Jyoti Pandey -
Advocate for the petitioner.*

Shri Sohit Mishra - Govt. Advocate for the State.
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ORDER

The present petition under Article 226 of the Constitution of India has been filed by the petitioners seeking following reliefs:-

"A. A. Issue an appropriate writ, order, or direction directing the Respondents, particularly Respondent No. 1 and the concerned police authorities, to forthwith restore physical and vacant possession of the secured/mortgaged property to the Petitioner Bank,

B. Direct Respondent Nos. 2, 3, and 4 to vacate the secured Jasset and restrain them from interfering with the peaceful possession of the Petitioner Bank over the mortgaged property in any manner whatsoever,



C. Direct the concerned authorities to provide adequate police assistance and protection to the Petitioner Bank for implementation of the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and for securing possession of the secured asset,

D. Issue an appropriate writ, order, or direction directing the concerned police authorities to take action in accordance with law against Respondent Nos. 2, 3, and 4 and to register an FIR with respect to the illegal acts of breaking open the locks of the secured asset, criminal trespass, and unlawful occupation of the mortgaged property;

E. Pass any other writ, order, or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, in the interest of justice, and

F. Award costs of the present petition in favour of the Petitioner."

Learned counsel for the petitioner submits that the petitioner, being a secured creditor, had initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act"). Pursuant thereto, the learned Chief Judicial Magistrate, Vidisha, passed an order dated 04.03.2024 under Section 14 of the SARFAESI Act in MJCR/357/2023,



directing taking over of physical possession of the secured property and handing over the same to the petitioner. In pursuance thereof, physical possession of the secured property was taken over by the petitioner on 11.02.2025 in the presence of the Tehsildar, Lateri, District Vidisha, and a Panchnama was duly prepared and signed on the same date. Learned counsel further submits that, after lawful possession had been handed over to the petitioner, Respondent Nos.2 to 4 forcibly broke open the locks of the secured property and unlawfully re-entered and occupied the mortgaged premises. The petitioner thereafter approached the Collector, Vidisha, by submitting a representation dated 26.05.2026, seeking restoration and protection of possession, but no effective action has been taken till date. Hence, the present petition has been filed seeking restoration of possession with necessary police assistance. Learned counsel has placed reliance upon the judgment dated 16.06.2025 passed by the Division Bench of this Court in W.P. No.1681 of 2025 (Cholamandalam Investment and Finance Company Limited Vs. The District Magistrate, District Gwalior & Ors.), wherein, in similar circumstances, this Court has held that there is no legal impediment in providing assistance to the secured creditor for restoration of possession where the borrower, after possession had already been handed over pursuant to an order under Section 14 of the SARFAESI Act, illegally re-enters the secured asset. The said judgment has specifically observed that the competent authority can execute the order again in such circumstances.

Per contra, learned Government Advocate appearing for the State opposed the submissions advanced on behalf of the petitioner and submitted



that once possession of the mortgaged property had been handed over to the petitioner pursuant to the order passed under Section 14 of the SARFAESI Act, it was incumbent upon the petitioner to safeguard the same. Since the petitioner failed to do so, enabling the borrowers to re-enter the premises, the order passed under Section 14 of the SARFAESI Act, having already been executed, cannot again be enforced for securing possession. On the aforesaid grounds, prayer has been made for dismissal of the present petition.

Heard learned counsel for the parties and perused the record.

The controversy involved in the present petition is squarely covered by the judgment dated 16.06.2025 passed by the Division Bench of this Court in Cholamandalam Investment and Finance Company Limited (*supra*). In the said case also, possession of the secured asset had initially been handed over to the secured creditor pursuant to an order passed under Section 14 of the SARFAESI Act, but thereafter the borrower had re-entered the secured property. The Division Bench, after considering the provisions of Section 14 of the SARFAESI Act, held that there is no legal bar upon the competent authority in re-executing the order or providing necessary assistance to the secured creditor for restoration of possession.

The aforesaid principle has also been followed by this Court in W.P. No.24112 of 2026 (*Capri Global Housing Finance Limited through its Authorised Officer Sandeep Dixit Vs. The State of Madhya Pradesh and Others*), decided on 13.07.2026, wherein, in identical circumstances, this Court directed the respondent authorities to provide necessary assistance to the secured creditor for dispossessing the borrower from the mortgaged



property and restoring possession thereof to the secured creditor.

In view of the aforesaid settled legal position, once possession of the secured asset had been lawfully taken pursuant to the order passed under Section 14 of the SARFAESI Act and the borrower thereafter illegally re-entered the secured premises, the petitioner cannot be left remediless merely on the ground that the earlier order under Section 14 has already been executed. Permitting such an illegal re-entry to continue would defeat the very object of the statutory proceedings undertaken under the SARFAESI Act.

Accordingly, this Court is of the considered opinion that the petitioner is entitled to the relief of restoration of possession. Consequently, Respondent No.1/competent authority is directed to provide necessary assistance and aid, including police assistance, if required, to the petitioner for dispossessing Respondent Nos.2 to 4 from the secured/mortgaged property and for restoring physical possession thereof to the petitioner in accordance with law, in terms of the order dated 04.03.2024 passed by the learned Chief Judicial Magistrate, Vidisha in MJCR/357/2023 under Section 14 of the SARFAESI Act.

It is, however, made clear that so far as the prayer for registration of an FIR against Respondent Nos.2 to 4 is concerned, the petitioner shall be at liberty to approach the competent police authority in accordance with law, and the competent authority shall consider the same and take appropriate action, if warranted, strictly in accordance with law.

With the aforesaid directions, the present petition stands allowed and



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disposed of.

No order as to costs.

(MILIND RAMESH PHADKE)
JUDGE

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