IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.17091 of 2026
Decided on : 29.09.2026

Usha Kunwar and Anr. ...Petitioners

Versus

State Bank of India and Ors.
…Respondents.

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?[1]

For the petitioner	:	M/s Akash Dehru and Ram Kumar, Advocates.
For the respondent(s)	:	Mr. Arvind Sharma, Sr. Advocate with Ms. Kiran Sharma, Advocate, for respondents No.1 to 3. Mr. Gobind Korla, Additional Advocate General, for the respondents/State.

G.S. Sandhawalia, Chief Justice *(Oral)*

Challenge in the present writ petition is to the orders dated 25.09.2025 (Annexure P-16) and 03.10.2025 (Annexure P-17), which are proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), passed by the two District Magistrates, namely the District Magistrate, Sirmaur, and the District Magistrate, Solan.

[1] *Whether the reporters of the local papers may be allowed to see the Judgment?* Yes

2. Similarly, the consequential orders passed by the revenue authorities, namely the Tehsildar, for implementation of the said orders, dated 15.10.2025, 12.11.2025, and 08.01.2026 (Annexure P-18), are also challenged.

3. The communication dated 16.09.2026 (Annexure P-28) issued by the Naib Tehsildar, Sub-Tehsil Parwanoo, at Mauza/Sub-Mahal Ambota, Khata/Khatauni No.99 Min/205 to 216, Khasra No.19, wherein physical possession of the mortgaged property is scheduled to be taken tomorrow, is also subject matter of challenge.

4. Learned counsel for the petitioners has submitted that though there are two properties involved, one situated at Rajgarh, District Sirmaur, and another at Parwanoo, District Solan, but he is not pressing the proceedings whereby the order under Section 14 of the SARFAESI Act was passed by the District Magistrate, Sirmaur, on 25.09.2025 (Annexure P-16), since an interim stay is already in operation in respect of the said property granted in ***Special Leave Petition No.27646 of 2024, titled Anil Kumar Sachdeva vs. Lal Singh others***, who is stated to be husband of petitioner No.1. In the said proceedings, the order of the learned Single Judge

of this Court dated 25.05.2026, issuing clarification, was stayed by the Hon'ble Apex Court on 25.08.2026.

5. It is thus made clear that we are not dealing with the property or the issue pertaining to the property situated at Rajgarh, District Sirmaur. The proceedings herein arise out of the demand notice issued under Section 13(2) of the SARFAESI Act on 27.02.2025, whereby a sum of Rs.7,49,88,052/- (Rupees Seven Crores Forty-Nine Lakhs Eighty-Eight Thousand and Fifty-Two) was outstanding as on 27.02.2025 and has been assessed on account of the borrower having been classified as a Non-Performing Asset (NPA). A possession notice under Section 13(4) of the SARFAESI Act was subsequently issued on 02.07.2025. A criminal complaint dated 18.08.2025 had also been lodged by the respondent-Bank regarding the theft, which occurred at the property, which had been taken over.

6. On an application filed under Section 14 of the SARFAESI Act, the District Magistrate, Solan, passed an order dated 03.10.2025 (Annexure P-17), whereby possession of the mortgaged property situated at Parwanoo was ordered to be taken over on account of the outstanding loan liability. It is in pursuance of the said order, police assistance has been

requisitioned for 30.09.2026 by the concerned Tehsildar vide communication dated 16.09.2026.

7. It is pertinent to mention that the Securitisation Application bearing S.A. No.211 of 2025 filed by the petitioner before the Debts Recovery Tribunal (DRT) has already been dismissed, noting that there is an outstanding liability and the fact that the account could not be restructured, with liberty reserved to apply for review before the competent authority. A criminal complaint has also been registered by the Bank against the husband of the petitioner and other persons under the provisions of the Bharatiya Nyaya Sanhita (BNS).

8. Apparently, an efficacious remedy of appeal is available against the order passed before the Debts Recovery Appellate Tribunal (DRAT) under Section 18 of the Act. A period of almost four months has already expired since the passing of the said order.

9. It is also pertinent to mention that on an earlier occasion, we had dealt with this issue. Firstly, in ***CWP No.3020 of 2026, titled Usha Kanwar and Anr. Vs. State Bank of India and Ors.***, filed by the petitioner, which was withdrawn on 03.07.2026. The same reads as under:-

> *"Counsel for the petitioners submits that the petitioner has submitted an offer to the*

respondent-Bank for the reduction of the payment of the outstanding amount, as per Rules, which is apparently pending under consideration. It is further submitted that the petitioners have also been asked to deposit the 10% of the offered amount and notarized statement of assets and liabilities of borrower and guarantors, as per E-mail dated 18.06.2026.

2. In view of the above, counsel for the petitioners does not wish to press the present petition and prays for liberty to file a fresh petition on the same cause of action, if need so arises.

3. Accordingly, the present writ petition is dismissed as withdrawn, with liberty, as prayed for. Pending miscellaneous application(s), if any, also stand disposed of accordingly."

10. The respondent-Bank had also approached this Court by filing ***CWP No.1127 of 2026, titled State Bank of India Vs. District Magistrate, Sirmour and Ors***., seeking directions for taking over possession of the property situated at Rajgarh, District Sirmaur, which we are not dealing with, as the noticed subject matter is under consideration before the Apex Court. In view of the pendency of the Regular Second Appeal, in order to obviate any difficulty, liberty was granted on 09.01.2026 to approach the learned Single Judge for seeking clarification as to which lands were subject matter of

the securitisation proceedings. Accordingly, an order came to be passed by the learned Single Judge in CMP No.4014 of 2024 in RSA No.347 of 2014 on 25.05.2026. The said order of clarification has been challenged by the husband of petitioner No.1 before the Hon'ble Supreme Court.

11. Learned counsel for the respondents/Banks has placed on record letter dated 25.09.2026 issued by the District Magistrate, District Sirmaur, HP, wherein it has been mentioned that the Apex Court has taken cognizance of the matter and has formally ordered a stay on all current proceedings. As we noticed earlier, we are not concerned with that aspect and we are dealing with the property at Parwanoo, which falls in District Solan, HP and there is no apparent stay.

12. In such circumstances, keeping in view the law laid down by the Hon'ble Apex Court in ***Authorized Officer, State Bank of Travancore and another vs. Mathew K.C., (2018) 3 SCC 85*** as the SARFAESI Act is a complete code in itself providing an exhaustive mechanism for redressal of grievances, the Hon'ble Apex Court has held that writ petitions under Article 226 of the Constitution of India ought not to be entertained when an alternate statutory remedy of appeal is

available under Section 18 of the Act, and this Court should not exercise its extraordinary writ jurisdiction in such commercial matters.

13. The said principle has been reiterated by the Hon'ble Apex Court in ***South Indian Bank Ltd. and others vs. Naveen Mathew Philip and another, (2023) 17 SCC 311***, following the earlier dictum in ***United Bank of India vs. Satyawati Tondon and others, (2010) 8 SCC 110***.

14. In view of the aforesaid, we do not find any plausible reason to entertain the present writ petition. More so, the petitioner is admittedly not in a position even to deposit any substantial amount to demonstrate its bona fides. Accordingly, the writ petition is dismissed in limine. Pending application(s), if any, shall also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

29th September, 2026
(Gaurav Rawat)