Case Citation: (2026) ibclaw.in 6116 HC

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANDEEP N. BHATT

ON THE 7th OF OCTOBER, 2026

WRIT PETITION No. 40958 of 2026

CNR No.: MPHC020394622026

CANARA BANK

Versus

ADDITIONAL DISTRICT MAGISTRATE AND OTHERS

Appearance:

Shri Arpit Guru - Advocate for the petitioner.

Shri Pradhumna Malpani - GA for the State.

Ms. Yashi Maheshwari, Advocate for respondent nos. 2 to 5.

ORDER

1. Present petition has been preferred under Article 226 of the Constitution of India seeking following reliefs :

(a) Allow the present writ petition.

b) Issue an appropriate writ, thereby quashing and setting‘aside the impugned order dated 07.09.2026, passed by Respondent No.1/Additional District Magistrate, Indore in Case No.0165/B-121/2026-27,

(c) Issue an appropriate writ, directing Respondent No.1/Additional District Magistrate, Indore to proceed with

and allow the application dated 03.07.2026 preferred by the Petitioner-Bank under Section 14 of the SARFAESI Act and to pass appropriate consequential orders for taking physical possession of the secured asset;

(d) That, this Hon'ble Court may considers fresh consideration necessary, issue an appropriate writ, order or direction directing Respondent No.1/Additional District Magistrate, Indore to reconsider and decide: afresh the Petitioner's application under Section 14 of the SARFAESI Act.

IBC Laws | www.ibclaw.in

(e) Pass such other or further writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.

2. Heard counsel for both the parties.

3. It is contended by counsel for the petitioner that while deciding the application under section 14 of the SARFAESI Act [in short "the Act"], the concerned Additional District Magistrate [in short " ADM"] has to consider the aspect that the application is filed by giving necessary details, which is required under section 14 of the Act and also to verify that whether the documents regarding valid mortgage is produced on record or not ? and whether the provisions of Section 13(2) and 13(4) of the Act are complied with or not ? and he has no power to adjudicate the other aspects of the matter and by pointing out the observations made in the impugned order, he has submitted that the ADM has exceeded his / her jurisdiction by entering into, which is not permissible under the law. In support of his contention regarding the scope of the consideration under section 14 of the Act by the ADM, he has relied upon the judgment delivered in the case of ***M/s R.D. Jain and Co. Vs. Capital First Ltd and others [Civil Appeal no. 175/2022 decided on 27th July, 2022]***, of which, para nos. 8 and 8.1 are relevant for the purpose of consideration, therefore, he has submitted that the impugned order is required to be set aside and respondent no. 1 / Add. District Magistrate is required to be directed to decide the application in accordance with law or granting permission to file fresh application to the petitioner under section 14 of the Act. Though it is observed that some documents are not filed with a view to avoid such situation, let the petitioner be granted

liberty by asking to set aside and further has further submitted that the petitioner has filed all the documents, though the ADM has wrongly observed in the impugned order that all the relevant are not filed.

4. Per-contra, learned counsel for the respondent / State has opposed the request made by counsel for the petitioner and submitted that the ADM has rightly passed the impugned order by observing that all the relevant documents are not filed and also considering the aspect regarding earlier action taken within few days after issuance of demand notice and therefore, he has submitted that there is not error committed by the respondent / Authority while deciding application under section 14 of the Act, as the Authority is duty bound to scrutinize the application under section 14 of the Act and thereafter, pass appropriate order.

5. Counsel for the respondent nos. 2 to 5 / mortgager has also submitted that the respondent / ADM has not committed any error as the petitioner has failed to provide necessary details and documents before the ADM for consideration in accordance with law, more particularly, for the proceeding of section 14 of the Act and the observation made by the ADM is from the record available in the matter and there is no illegality or error committed by the ADM, therefore, no interference is required.

6. I have considered the rival submissions made at the bar as also the provisions of sections 13(2), 13(4) and 14 of the Act, which are reproduced as under :

> **13. Enforcement of security interest.**
> (2)Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any installment thereof, and his account in respect of such debt is classified by the secured creditor as non-performing

asset, then, the secured creditor may require the borrower by notice in writing to discharge in full his liabilities to the secured creditor within sixty days from the date of notice failing which the secured creditor shall be entitled to exercise all or any of the rights under sub-section (4).[Provided that-

(i)the requirement of classification of secured debt as non-performing asset under this sub-section shall not apply to a borrower who has raised funds through issue of debt securities; and

(ii)in the event of default, the debenture trustee shall be entitled to enforce security interest in the same manner as provided under this section with such modifications as may be necessary and in accordance with the terms and conditions of security documents executed in favour of the debenture trustee;]

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely:

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset: [Substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, Section 8 (30 of 2004), for Cl.(b) (w.e.f. 11.11.2004).]

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt:Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt.]

Prior to its substitution, Clause(b) read;(b) take over the management of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale and realise the secured asset;

(c) appoint any person (hereafter referred to as the manager), to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt.

14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.

(1)Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset 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 asset, 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

(b)forward such asset and documents to the secured creditor.

[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 nonperforming 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 secl1red 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 assets [within a period of thirty days from the date of application] [Inserted by Act No. 1 of 2013] :-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.] [Substituted by Act No. 44 of 2016.][Provided further 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.] [Inserted by Act No. 44 of 2016.]

(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.

(3)No act of the Chief Metropolitan Magistrate or the District Magistrate [any officer authorised by the Chief Metropolitan Magistrate or District Magistrate] [Inserted by Act No. 1 of 2013] done in pursuance of this section shall be called in question in any Court or before any authority.

7. Moreover, mortgage as well as secured assets are also defined under the provisions of the Act. It is also relevant to refer to para no. 8.1 and 9 of the judgment delivered in the case of ***M/s R.D. Jain and Co. Vs. Capital First Ltd and others.*** whereby the Hon'ble Supreme Court has specifically held that *"Section 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets".*

8. Considering the specific observation of the Hon'ble Supreme Court, otherwise also, various judgments by the various High Courts and the Apex Court, now the law is well settled that the District Magistrate / Additional District Magistrate is not required to carry out the adjudicatory process regarding the contentions raised by the parties and he has to examine only relevant aspect/s, like mortgage deed, the documents regarding valid mortgage, the documents regarding compliance of section 13(2) and 13(4) of the Act and thereafter by keeping in mind the provision of Section 14 of the Act, he has to pass appropriate order. In the present case, the ADM has exceeded its jurisdiction by entering into the process of adjudication, therefore, the impugned order is required to be quashed and set aside by granting permission to the petitioner to file fresh application along with all

Case Citation: (2026) ibclaw.in 6116 HC

relevant documents, provided that unnecessary dispute regarding non-availability of the documents along with the application and on receipt of such application, the respondent / ADM shall look into the proceeding and shall decide strictly in accordance with law by keeping in mind only the provision of section 14 of the Act and decide the same as expeditiously as possible preferably within a period of 30 days from the date receipt of certified copy of this order in accordance with law.

9. With the aforesaid direction, present petition is disposed of accordingly.

10. However, this Court has not expressed any further opinion about the contentions raised by the parties in present petition.

CC as per rules.

(SANDEEP N. BHATT)
JUDGE

amol

IBC Laws | www.ibclaw.in