Case Citation: (2026) ibclaw.in 6117 HC

IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 30th OF SEPTEMBER, 2026

WRIT PETITION No. 39479 of 2026

CNR No.: MPHC030262592026

HINDUJA FINANACE LIMITED THROUGH AUTHORISED OFFICER SHRI PANKAJ JOSHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms. Jyoti Pandey - Advocate for the petitioner.

Ms Ekta Vyas - Panel Lawyer for the respondent/State.

ORDER

This petition under Article 226 of the Constitution of India has been filed by the petitioner seeking following reliefs:-

> *"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,*
> *Direct Respondent nos. 2 and 3 to vacate the secured asset and restrain them from interfering with the peaceful possession of the petitioner Bank Over the mortgaged property in any manner whatsoever,*
> *B. 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,*
> *C. Issue an appropriate writ, order, or direction, directing the concerned police authorities to take action in according with law against Respondent Nos. 2 and 3 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:
D. Pass any other writ, order, or direction which this Hon'ble court may deem fit and proper in the facts and circumstance of the present case, in the interest of justice, and
E. Award costs of the present petition in favour of the petitioner."

Learned counsel for the petitioner submits that the petitioner is a banking institution which had extended financial assistance to respondent Nos.2 and 3 against creation of security interest over the property in question. Since the borrowers committed default in repayment of the outstanding loan amount, the petitioner-Bank initiated proceedings under the provisions of the SARFAESI Act. It is submitted that a demand notice under Section 13(2) of the SARFAESI Act was issued on 18.04.2025; however, despite service of the said notice, the outstanding dues were not liquidated by the borrowers.

Learned counsel for the petitioner further submits that, upon consideration of the documents and material placed before it, the competent Court passed an order dated 30.01.2025 under Section 14 of the SARFAESI Act directing that physical possession of the secured property be taken and handed over to the petitioner-Bank. In furtherance of the said order, the Tehsildar, Tehsil Dabra, issued notice dated 25.02.2025 for taking physical possession of the secured asset and handing over the same to the petitioner-Bank in execution of the order passed under Section 14 of the SARFAESI Act.

It is contended that pursuant to the aforesaid order, possession proceedings were undertaken in the presence of the Tehsildar, Dabra and, in compliance with the order dated 30.01.2025, a Panchnama was prepared and

duly signed on 11.04.2025. According to learned counsel for the petitioner, after the petitioner-Bank had obtained lawful possession of the secured asset pursuant to the statutory proceedings, respondent Nos.2 and 3, on 29.08.2025, allegedly broke open the locks of the secured property and unlawfully re-entered and occupied the premises.

Learned counsel for the petitioner submits that the petitioner-Bank, through a communication sent by registered post on 29.08.2025, brought the aforesaid acts of respondent Nos.2 and 3 to the notice of the Tehsildar, District Gwalior, and requested that appropriate steps be taken for restoration of possession. It is submitted that despite the lawful possession having already been taken by the petitioner-Bank in pursuance of the order passed under Section 14 of the SARFAESI Act, respondent Nos.2 and 3 have continued to remain in unauthorized occupation of the secured asset and have failed to vacate the same.

Learned counsel for the petitioner submits that the alleged acts of respondent Nos.2 and 3 are wholly unauthorized and contrary to the proceedings undertaken under the SARFAESI Act. Once possession of the secured asset had been taken in accordance with the order passed under Section 14 of the SARFAESI Act, the borrowers could not have taken the law into their own hands and re-entered the secured property by allegedly breaking open the locks. It is, therefore, submitted that the petitioner-Bank is entitled to restoration of physical and vacant possession of the secured asset and for necessary assistance from the district administration and police authorities for giving effect to the order passed under Section 14 of the

SARFAESI Act.

Having heard learned counsel for the petitioner and having perused the material placed on record, this Court finds that the grievance raised by the petitioner essentially relates to implementation of the order passed under Section 14 of the SARFAESI Act and restoration of possession of the secured asset. The material placed before this Court indicates that an order dated 30.01.2025 was passed for taking physical possession of the secured property and handing over the same to the petitioner-Bank and that possession proceedings were thereafter undertaken pursuant thereto, culminating in preparation of the Panchnama dated 11.04.2025.

The petitioner has specifically alleged that, after possession proceedings had been completed, respondent Nos.2 and 3 forcibly re-entered the secured property by breaking open the locks and have thereafter continued in occupation thereof. The said grievance has also been brought to the notice of the concerned revenue authorities by the petitioner-Bank. In the facts and circumstances of the case, once the statutory proceedings under Section 14 of the SARFAESI Act had been undertaken and possession of the secured asset had been taken pursuant to the order of the competent authority, the district administration is required to ensure that the said proceedings are effectively implemented and that the secured creditor is not deprived of possession otherwise than in accordance with law.

Accordingly, in the peculiar facts and circumstances of the case, the present petition is disposed of with a direction to the District Magistrate, Gwalior to take immediate and effective steps, in accordance with law, for

restoration of physical and vacant possession of the secured/mortgaged property to the petitioner-Bank, in implementation of the order dated 30.01.2025 passed under Section 14 of the SARFAESI Act.

The District Magistrate, Gwalior shall ensure necessary administrative assistance for taking over physical possession of the secured asset, while the Superintendent of Police, Gwalior shall ensure adequate police assistance so that the possession proceedings are carried out peacefully and effectively and the petitioner-Bank is put in physical and vacant possession of the secured property.

The aforesaid exercise shall be undertaken forthwith, preferably without any avoidable delay, after verifying the identity and description of the secured asset and the relevant possession proceedings. In the event any obstruction or resistance is offered during implementation of the aforesaid order, the concerned authorities shall deal with the same strictly in accordance with law.

With the aforesaid directions, the petition stands disposed of.

(MILIND RAMESH PHADKE)
JUDGE

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