CGHC010324902021 2026:CGHC:45681

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 4952 of 2021

Judgment Reserved On :10.09.2026.

Judgment Delivered On : 29.10.2026.

1 - Aadhar Housing Finance Ltd. Regional Office Shop No. 1 Ab, 2nd Floor, Shyam Plaza, Near Pandari Bus Stand, Pandari Raipur Chhattisgarh Pin 492001, (New Address)

Previous Office Address Aadhar Housing Finance Ltd. Branch Office 302-302 A-3, R Floor, Ganga Midas, Fafadih, Raipur Chhattisgarh Through Its Authorised Officer, Anirudha Kumar S/o N. Prasad Aged About 42 Years Branch Manager, Branch Office Aadhar Housing Finance Ltd. 1st Floor Krishna Sonchatra Compound, Near Rnt Square, Tarbahar Road, Bilaspur Chhattisgarh 495004 R/o 608, Shivam Harsh Kingdom, Sarkanda Bilaspur District Bilaspur Chhattisgarh

... Petitioner(s)

versus

1 - Manpreet Singh S/o Kulwant Singh R/o Shankar Nagar, Ward No. 10, Near Shiv Mandir Rajnandgaon Chhattisgarh

2 - Smt. Manjeet Kaur (Wrongly mentioned as Manpreet Kaur in impugned order) W/o Manpreet Singh R/o Shankar Nagar Ward No. 10, Near Shiv Mandir Rajnandgaon Chhattisgarh

3 - Sheikh Wafeed S/o Abdul Shareef Shanti Nagar, Ward No. 11, Tahsil And District Rajnandgaon Chhattisgarh

4 - District Magistrate/collector Rajnandgaon Office Of The Collector Rajnandgaon District Rajnandgaon Chhattisgarh

... Respondent(s)

For Petitioner(s)	:	Shri Atul Kumar Kesharwani, Advocate.
For Respondent No.3	:	Shri Pushpendra Kumar Patel, Advocate.
For State/Respondent No.4	:	Shri Soumitra Kesharwani, PL.

Hon'ble Mr. Justice Amitendra Kishore Prasad
C A V Order

1. This Writ Petition has filed against the impugned order dated 06.09.2021 passed by the Respondent No.4/District Magistrate, Rajnandgaon C.G. whereby application preferred by the petitioner under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 {for short 'SARFAESI ACT'} has been rejected.

2. Brief facts giving rise to this case are that initially respondent no. 01 & 02/borrowers, borrowed loan from the petitioner financial institution to the tune of Rs. 7,96,388/-, and as a security, mortgaged their House built over Khasra No. 101/5, P.H.N 35, R.N.M Rajnanadgaon-1, Tahsil & District Rajnandgaon (C.G.), and the agreement in this regard was also executed on 24.05.2017. Respondent no. 01 & 02 failed to repay the loan amount to the petitioner Financial Institution, as a result of which, their loan account no. 00131442 was declared as Non Performing Asset by the petitioner on 10.08.2019. Thereafter, a notice u/s 13(2) of SARFAESI Act has been issued to the borrowers for payment of outstanding amount of Rs. 8,29,436/-. However, despite the said notice, the borrowers have failed to repay the amount mentioned in the notice, and consequently the petitioner financial institution had filed an application u/s 14 of the SARFAESI Act, before respondent no. 04 [District Magistrate, Rajnandgaon (C.G.)], which was registered as Case No. 202003090100010/77-B/121/Year 2019-20. Learned District Magistrate passed the impugned order dated 06.09.2021, holding thereby that the application of petitioner u/s 14 of the Act cannot be allowed for the fact that the secured asset has been sold to respondent no. 03

(Subsequent Purchaser), vide registered sale deed dated 13.12.2019. Hence, the petitioner has filed the instant writ petition.

3. Learned counsel for the petitioner submits that Respondent no. 04 has erred in law by entering into the merits of the case and thereby adjudicating the rights and entitlement of the parties. The powers conferred to District Magistrate while exercising powers under Section 14 of the SARFAESI Act are purely ministerial in nature and not adjudicatory as has been held by the Hon'ble Supreme Court in the matter of **R.D. Jain & Co. v. Capital First & Ors.** reported in **(2023) 1 SCC 675,** paragraph 25 of which reads as under:-

> ***"25.*** *As observed and held by this Court in NKGSB Coop. Bank [NKGSB Coop. Bank Ltd. v. Subir Chakravarty, (2022) 10 SCC 286 : (2023) 1 SCC (Cri) 157] , the step taken by the CMM/DM while taking possession of the secured assets and documents relating thereto is a ministerial step. It could be taken by the CMM/DM himself/herself or through any officer subordinate to him/her, including the Advocate Commissioner who is considered as an officer of his/her court. Section 14 does not oblige the CMM/DM to go personally and take possession of the secured assets and documents relating thereto. Thus, we reiterate that the step to be taken by the CMM/DM under Section 14 of the SARFAESI Act, is a ministerial step. While disposing of the application under Section 14 of the SARFAESI Act, no element of quasi-judicial function or application of mind would require. The Magistrate has to adjudicate and decide the correctness of the information given in the application and nothing more. Therefore, Section 14 does not involve an adjudicatory process qua points raised by the borrower against the secured creditor taking possession of secured assets."*

4. Learned counsel for the petitioner submits that it is the settled proposition of law that, any transfer of property in favour of a third party by the mortgagor would not oust the right of secured creditor from redemption of the loan amount from the mortgaged property. As per section 14 of SARFAESI Act, the DM is only required to satisfy with the contents of the application and not more than that, however in the instant case, he has exceeded its jurisdiction which is not vested upon him by virtue of section 14 of the SARFAESI Act. Hence, it is prayed that the impugned order dated 06.09.2021 may be set aside and the matter may be remanded back to respondent no. 04 for considering it afresh.
5. On the other hand, counsel for respondent No.3 would support the impugned order.
6. Learned State counsel would also submit that the District Magistrate has rightly passed the impugned order holding that the property in question has been sold therefore, order cannot be passed for possession of secured assets.
7. I have heard learned counsel for the parties and perused the documents annexed with the petition carefully.
8. The principal question that arises for consideration in the present writ petition is whether, while exercising jurisdiction under Section 14 of the SARFAESI Act, the District Magistrate is empowered to enter into the merits of the claim and adjudicate upon disputed questions concerning the rights of the parties.
9. Section 14 of the SARFAESI Act has been enacted to facilitate the secured creditor in obtaining possession or control of the secured asset. The provision enables the secured creditor to approach the concerned Chief Metropolitan

Magistrate or District Magistrate for assistance in taking possession of the secured asset. However, once the secured asset has been mortgaged in favour of the secured creditor and the loan account has been classified as a Non-Performing Asset, the secured creditor is entitled to take recourse to the measures contemplated under the SARFAESI Act, subject to fulfilment of the statutory requirements. Moreover, while considering an application under Section 14 of the SARFAESI Act, the District Magistrate is not vested with the jurisdiction to adjudicate upon the merits of the secured creditor's claim or to determine disputed questions of fact concerning the rights of the parties. Such adjudicatory issues fall within the jurisdiction of the Debts Recovery Tribunal, as contemplated under the statutory scheme of the SARFAESI Act.

11. In the present case, the fact that the mortgaged property was subsequently transferred in favour of a third party could not, by itself, confer upon the District Magistrate jurisdiction to adjudicate upon the validity, effect or legal consequences of such transfer while considering the application under Section 14 of the SARFAESI Act.

12. The role of the District Magistrate under Section 14 is ministerial in nature. The legal position in this regard stands settled by the Hon’ble Supreme Court in **R.D. Jain & Co.** (supra), wherein it has been reiterated that the proceedings under Section 14 do not involve an adjudicatory process with respect to the objections or disputes raised by the borrower against the secured creditor. Therefore, the District Magistrate was not justified in entering into the merits of the dispute or in undertaking a detailed examination of the rights and claims of the parties on the basis of the subsequent sale of the secured asset.

13. The Hon'ble Supreme Court being conscious of the judgment passed in **R.D. Jain & Co.** (supra), observed the following in the matter of **Balkrishna Rama Tarle v. Phoenix ARC (P) Ltd.,** reported in **(2023) 1 SCC 662:-**

> ***18.*** *Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial steps and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before the Debts Recovery Tribunal.*
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> ***19.*** *Under the circumstances in the present case, no error has been committed by the High Court in setting aside the order dated 27-8-2021 passed by the designated authority keeping the application pending till the secured creditor initiates the legal proceedings for eviction of the tenant cannot get the possession in an application under Section 14 of the SARFAESI Act. The High Court has rightly directed the designated authority to proceed further with the application under Section 14 of the SARFAESI Act, and*

to dispose of the same in accordance with the provisions of Section 14 of the SARFAESI Act.

12. Also, the High Court of Calcutta in the matter of **Only wheel and Others vs. Bank of Baroda and Others** reported in **2025 SCC OnLine Cal 7217,** observed in paragraph 25, 26 as under:-

25. *The aforesaid proposition of law laid down in R.D. Jain (supra) was reiterated by the Hon'ble Supreme Court in Phoenix ARC (supra). In the said reports it was held that the nature of inquiry to be conducted by the Chief Metropolitan Magistrate or the District Magistrate under Section 14 of the 2002 Act is limited to the verification of compliance of the proviso to Section 14(1) of the 2002 Act. The powers of the Chief Metropolitan Magistrate or the District Magistrate under Section 14 of the 2002 Act are essentially administrative or executive functions. The Chief Metropolitan Magistrate or the District Magistrate is not required to adjudicate the dispute between the borrower and the secured creditor and or between the third party and the secured creditor with respect to the secured asset and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act before the DRT.*

26. *From the aforesaid discussion it follows that the powers of the Chief Metropolitan Magistrate or the District Magistrate under Section 14 of the 2002 Act are administrative or executive functions. Such authorities do not exercise judicial or quasi judicial functions under the 2002 Act.*

13. On a consideration of the entire matter, this Court is of the view that the District Magistrate, while exercising jurisdiction under Section 14 of the SARFAESI Act, travelled beyond the scope of the jurisdiction vested in him and entered into an adjudicatory exercise which is not contemplated under the said provision. As in the instant case, the District Magistrate, passed the impugned order dated 06.09.2021, holding thereby that the application of petitioner under Section 14 of the SARFAESI Act cannot be allowed for the fact that the secured asset has been sold to respondent no. 03 (Subsequent Purchaser), vide registered sale deed dated 13.12.2019, which is erroneous and unsustainable in view of the foregoing discussion.

14. Accordingly, the present Writ Petition is **allowed**. The impugned order dated 06.09.2021 passed by Respondent No.4/District Magistrate, Rajnandgaon (C.G.), is hereby set aside.

15. The matter is remanded to the District Magistrate, Rajnandgaon, for consideration of the petitioner's application under Section 14 of the SARFAESI Act afresh, strictly in accordance with law and within the scope of the jurisdiction conferred under the said provision. The District Magistrate shall pass an appropriate order within a period of 30 days from the date of receipt of a copy of this order, after affording due opportunity of hearing to the concerned parties.

15. The petitioner-financial institution shall extend full cooperation in the proceedings before the District Magistrate. Sd/-

(Amitendra Kishore Prasad)
Judge

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The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
10.09.2026	29.10.2026	------	29.10.2026

HEAD NOTE:-

(WPC No. 4952 of 2021)

The powers exercised by the Chief Metropolitan Magistrate/District Magistrate under Section 14 of the SARFAESI Act, 2002, are administrative or executive in nature and do not involve any judicial or quasi-judicial function. The authority is required to verify compliance with the statutory requirements prescribed under Section 14 and cannot adjudicate upon disputed questions concerning the rights of the secured creditor, borrower or third party.