



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No. 23941 of 2025
Date of decision: 20.08.2025

AU SMALL FINANCE BANK

....Petitioner

V/S

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MS. JUSTICE RAMESH KUMARI, JUDGE

Present:- Ms. Deepika Mittal, Advocate (Arguing Counsel) and
Mr. Bharat Mani Goyal, Advocate for the petitioner.

Mr. Vipin Pal Yadav, Addl. Advocate General, Punjab.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The present writ petition has been filed by petitioner/bank aggrieved by non-execution of the order dated 14.02.2025 (Annexure P-3) passed by the Chief Judicial Magistrate, Ludhiana under the provisions of Section 14 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act for brevity).

2. It is rather surprising that concerned Tehsildar-cum-Duty Magistrate, Ludhiana i.e. respondent no. 3 have failed to discharge their statutory duty of assisting and handing over physical possession of the secured asset to the petitioner Bank.

3. Non-Performing Assets (NPAs) are a huge burden on the public exchequer, banking and financial system, and, thus, prompt enforcement of recovery mechanism under the SARFAESI Act is paramount for liquidity in the system.

4. In view of the above, this court by way of writ of mandamus directs respondent no.3 or the concerned authority to execute the order dated 14.02.2025

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(Annexure P-3) passed under Section 14 of SARFAESI Act by handing over physical possession of the secured asset to the petitioner Bank as expeditiously as possible, preferably, within a period of 30 days. The petitioner/bank, thereafter, can proceed to adopt all possible legitimate means to liquidate the secured asset to recover the due amount.

5. The petition for the time being stands disposed of in the terms aforesaid. Needless to say that the guidelines laid down by Coordinate Bench in ***Bank of Maharashtra Vs. District Magistrate, Hisar And Others*** [CWP-7018-2022 decided on 28.05.2024] be adhered to by the concerned authorities.

6. We hasten to add that this order shall however be subject to any restraint/ interim/ final order which may have been passed by any judicial forum, in favour of the borrowers/ guarantor/ any aggrieved person, who is party to this lis.

7. It is surprising to note that time and again this Court is coming across cause of actions raised by the Banks aggrieved by the fact that an order passed under Section 14 of the SARFAESI Act is not executed. The scheme of the SARFAESI Act enjoins the District Magistrate to pass an order under Section 14 of the SARFAESI Act within the extended period of 60 days, and thereafter, the Tehsildar or the concerned Revenue Authority to execute such order without any unnecessary delay. Merely because, time frame is not prescribed for execution of an order passed under Section 14 of the SARFAESI Act does not mean that the District Magistrate and the concerned Revenue Authority sits over the file, thereby frustrating the object of SARFAESI Act, which is *inter alia* to expeditiously recover the mounting bad debts in shape of NPA which are a huge burden on the public exchequer.



8. It is further surprising to note that a Coordinate Bench of this Court, vide common order as early as 14.05.2024, passed in a bunch of petitions including CWP No. 11499 of 2019 and CWP No. 7738 of 2023, laid down not only the procedure to be followed by the District Magistrate/Chief Judicial Magistrate, as the case may be, to deal with an application u/s 14 of SARFAESI Act, but also prescribing timeline for implementation and execution of such orders passed u/s 14 of SARFAESI Act.

9. The Apex Court in **R.D. Jain & Co. Versus Capital First Limited and Others, 2023 (1) SCC 675** while explaining the width and ambit of jurisdiction under section 14 SARFAESI Act held thus :-

“23. However, for taking physical possession of the secured assets in terms of Section 14(1) of the SARFAESI Act, the secured creditor is obliged to approach the CMM/DM by way of a written application requesting for taking possession of the secured assets and documents relating thereto and for being forwarded to it (secured creditor) for further action. The statutory obligation enjoined upon the CMM/DM is to immediately move into action after receipt of a written application under Section 14(1) of the SARFAESI Act from the secured creditor for that purpose. As soon as such an application is received, the CMM/DM is expected to pass an order after verification of compliance of all formalities by the secured creditor referred to in the proviso in Section 14(1) of the SARFAESI Act and after being satisfied in that regard, to take possession of the secured assets and documents relating thereto and to forward the same to the secured creditor at the earliest opportunity.

24. As mandated by Section 14 of the SARFAESI Act, the CMM/DM has to act within the stipulated time-limit and pass a suitable order for the purpose of taking possession of the secured assets within a period of 30 days from the date of application which can be extended for such further period but not exceeding in the aggregate, sixty days. Thus, the powers exercised by the CMM/DM is a ministerial act. He cannot brook delay. Time is of the essence. This is the spirit of the special enactment.



*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.”*

10. It appears that the functionaries of the State have either not been made known of this order passed by the Coordinate Bench of this Court on 14.05.2024 or they are intentionally not complying with the same.

11. In view of the above, this Court is compelled to direct the Chandigarh Judicial Academy to hold an Orientation Course for all District Magistrates and Tehsildars of all the districts in the States of Punjab, Haryana and U.T., Chandigarh, as early as possible.

12. Learned counsel for the States of Punjab and Haryana, present in the Court, are directed to facilitate the direction contained in para 11 (supra).

13. A copy of this order be forwarded to the Chief Secretaries of Punjab, Haryana and to the Deputy Commissioner, U.T., Chandigarh for compliance.

14. It is expected that after attending the Orientation Course, the District Magistrates/Deputy Commissioners shall discharge their statutory duty

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of passing orders under Section 14 of the SARFAESI Act, within a maximum period of 60 days and ensure execution of the same by themselves or through subordinate Revenue Authorities without unnecessary delay but not later than 30 days of the passing of order u/s 14 of SARFAESI Act.

15. This Court further observes that any failure on the part of District Magistrate/Deputy Commissioner in performing statutory duty of passing or executing an order under Section 14 of SARFAESI Act would amount to contempt of the orders passed by this Court.

16. Let compliance report be filed by State of Punjab and Haryana latest by the 7th of November 2025, failing which case be taken up as IOIN before appropriate Bench.

17. Accordingly, the petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(RAMESH KUMARI)
JUDGE

20.08.2025

Kamal Gandhi

Whether speaking/reasoned Yes/No
Whether reportable Yes/No