**(2020) 11 GUJ CK 0018**

**In the Gujarat High Court**

**Case No :** R/Special Civil Application No. 13525 Of 2020

IDBI Bank Ltd APPELLANT

Vs

State Of Gujarat RESPONDENT

**Date of Decision :** 06-11-2020

**Acts Referred:**

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 14

**Citation :** (2020) 11 GUJ CK 0018

**Hon'ble Judges :** Bela M. Trivedi, J

**Bench :** Single Bench

**Advocate :** Dhruvik K Patel, Shivam Dixit

**Final Decision :** Disposed Of

# Judgement

Bela M. Trivedi, J

1. The petitioner Bank has filed the present petition seeking direction against the Respondent - District Magistrate to pass appropriate orders in the application filed by it under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act") with following main prayer :-

"8(a) Writ of Mandamus or order or direction of appropriate nature directing the respondent no. 2 to pass appropriate orders in application dated 09.03.2020 being Securitization Case No. 67/2020 against M/s. Remark Flour Mills Pvt. Ltd. And Others as contemplated under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and take possession of the Mortgaged scheduled property and hand over the same to the Petitioner with directions for police aid as sought in the said application expeditiously and without any further delay."

2. The main grievance raised by the learned Advocate Mr. Dhruvik Patel appearing for then petitioner is that though the application of the petitioner Bank

filed under Section 14 of the SARFAESI Act is pending for more than three months, the same is not being decided. According to him, in view of the proviso of Section 14 of the said Act, the respondent is required to decide their application and pass suitable orders for the purpose of taking possession of the secured assets maximum within 60 days from the date of application.

3. The relevant provision contained in the Section 14 of the said Act reads as under:

"14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset. (1) Where the possession of any secured assets 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 assets and documents to the secured creditor.

(Provided that***

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)(Provided also 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.)"

4. In view of the above, it is clear that the Chief Metropolitan Magistrate or the District Magistrate before whom the application under Section 14 is filed, after satisfying the contents of the affidavit filed by the secured creditors has to pass appropriate orders for the purpose of taking possession of the secured asset within a period of 30 days from the date of application, and not later than 60 days. Hence, the respondent is hereby directed to adhere to the time limit prescribed in the said provisos and take appropriate decision on the application filed by the petitioner as expeditiously as possible and not later than 30 days from the date of receipt of this order.

5. Subject to the said direction, the petition is disposed of. Direct Service is permitted.

 