(2026) 02 P&H CK 1809

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1951 Of 2024 (O&M)

Indian Bank Chd Through Its Assistant General Manager And Constituted Attorney Sh. Nishant Shukla — APPELLANT

Vs

District Magistrate, Kaithal — RESPONDENT

Date of Decision : 12-02-2026

Acts Referred:
Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 14, 14(1)

Citation : (2026) 02 P&H CK 1809

Hon'ble Judges : Sheel Nagu, CJ;Sanjiv Berry, J

Bench : Division Bench

Advocate : Jasleen Kaur, Rakshit Gupta, Neeraj Gupta

Final Decision : Allowed

Judgement

Sheel Nagu, CJ

CM-2152-CWP-2026

This application for placing on record the affidavit filed before the District Magistrate, Kaithal, and other relevant orders (Annexures P-9 to P-14) is considered and allowed.

Main Case

1. The present petition has been filed by the petitioner/Bank challenging the order dated 04.01.2024 (Annexure P-2) passed by the District Magistrate, Kaithal u/s 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'). One of the grounds taken by the petitioner/Bank is that the District Magistrate, Kaithal, while exercising powers u/s 14 of the SARFAESI Act, has gone into the merits of the dispute between the petitioner and the borrower, which is against the law laid down by the Apex Court in R.D. Jain & Co. v. Capital First Limited and Others, 2023 (1) SCC 675.

2. It is now well settled that the jurisdiction exercised by the District Magistrate u/s 14 of the SARFAESI Act is ministerial in nature, with no trappings of adjudication. Thus, merits of the dispute between the parties cannot be gone into.

3. A bare perusal of the impugned order passed u/s 14 of the SARFAESI Act by the District Magistrate, Kaithal, reveals that the District Magistrate has gone beyond the scope of jurisdiction by entering into merits of the dispute, as is evident from the various observations and findings recorded therein. The District Magistrate, Kaithal has gone to the extent of calling for and considering objections from a third party, a course of action which is not contemplated within the limited powers conferred upon District Magistrate u/s 14 of the SARFAESI Act. The relevant observations and findings recorded in the impugned order, demonstrating such jurisdictional overreach, are reproduced herein below:-

(i) When the loan was given by Allahabad Bank to M/s Ankit Sales Corporation against house No. MCK No./ID No. 30C179U162 area 500 square yards situated in the area of Tegbahadur Colony, Kaithal, then Mrs. Rajkumari was not the owner of the said house in the revenue records.

(ii) The mortgage of the said house was not even entered in the revenue records by Allahabad Bank. Because Late Mrs. Rajkumari was not the owner of the said house at that time in revenue record. Therefore, the revenue officers/employees were unable to enter the mortgage report in the revenue records as per the rules.

(iii) Presently, on 14.12.2022, Indian Bank again filed an application under Section 14 of the SARFAEISI Act and requested to get possession of the said house and on 16.11.2022, Shri Vikram, son of Late Shri Lakhwinder Singh, resident of house no. 365/5 (Old and 460/12 (New) Guru Teg Bahadur Colony Karnal Road, Kaithal filed an application in this Court requesting that he lives on the ground floor of the said house on rent. Regarding which he and Vinod Malik From the year 2021, a claim No. 78/2021 and CI.S.No. 444/2021 is pending in the Honorable Civil Court Mr. Parmod Kumar Civil (Junior Division), Kaithal, in which the Honorable Court has issued a restraining order regarding forceful eviction of him from the said house.

(iv) In paragraph no. 17 of the affidavit attached with the application filed under Section 14 of the SARFAESI Act, it has been written by the bank that there is no tenant on the said house. Whereas Vikram Singh son of Shri Lakhwinder Singh is living as a tenant on the ground floor of the house and the dispute between him and Vinod Malik son of late Mrs. Rajkumari is pending in the civil court.

(v) It has been written by the bank in its application that Late Mrs. Rajkumari, wife of Shri. Indraj Malik is owner as per Gift Deed No. 1760/1 dated 05.10.1970 and decree sheet no. 2497. As per date 26.02.1986, she is the owner of the said house. But from perusal of the documents it was found that as per Gift Deed No. 1760/1 dated 05.10.1970, the owner of the said house Subhash Chand son of Indraj son of Ganesh Dass is and a Civil Decree dated 26.02.1986 was passed by the court in the name of Smt. Rajkumari wife Indraj and this decree has also been implemented in the Revenue record on 04.03.2021. While Smt. Rajkumari had died on 23.10.2016.

(vi) Earlier also in this case, orders were given to Allahabad Bank on 14.12.2021 to take possession of disputed House. This order was challenged in DRT by Vinod Malik s/o Shri Rajkumari. These orders were set aside by Mr. M.M. Dhauchak, Presiding Officer, DRT-2, Chandigarh and setting aside all the proceedings of the bank, orders have been given to the bank officials to take fresh action in the matter.

(vii) Late Smt. Rajkumari registered an MOU dated 28.04.2014 in favor of Allahabad Bank for house no. 460/12 (old) and 225/15 (new) and property ID no. 30C179U162 for the guarantee of loan of M/s Akshit Sales Corporation, but before that, a WILL of the said house No. 293/3 dated 30.10.2013 was registered by Mrs. Rajkumari wife of Mr. Indraj Malik in the name of her grandson Rehmat Malik, son of Vinod Malik. Now, by the spirit of this WILL, Rehmat Malik has become the owner of the said house as per the revenue records.

(viii) In the DRT, when the state of inheritance of late Rajkumari wife of Indraj Malik was sought, only four of her legal heirs were named by Shri Vinod Malik, son of late Rajkumari. Vinod Malik did not even give information about the said will in the DRT. Whereas Rahmat Malik, son of Vinod Malik has become the owner of the said house on 13.01.2023 by death certificate no. 35261 and currently he is occupying the said house. The disputed house was not inspected on the spot by the officers/employees of Indian Bank.

Therefore, in view of all the above irregularities, the undersigned is not satisfied with the documents presented by the bank in passing the order for possession of the said house and the above irregularities are not a summary trial. Therefore this court is not capable of resolving them. Because the rights/powers of this court are limited under the SARFAESI Act. In such a situation, the applicant's application is rejected and the parties are directed to pursue their remedies in the civil court.

Sd/-

District Magistrate, Kaithal.

04.01.2024

4. For ready reference and convenience, the relevant extracts of the decision of Apex Court in the case of R.D. Jain & Co. (Supra) delineating the scope and ambit of powers u/s 14 of the SARFAESI Act are reproduced herein below:-

"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."

5. Before parting, this Court deems it appropriate to note that the owner of the secured asset, who was permitted to be impleaded as respondent No. 2, has also been heard through his counsel, Sh. Rakshit Gupta, Advocate.

6. However, having regard to the limited and restricted jurisdiction available to the District Magistrate u/s 14 of the SARFAESI Act, the role of the borrower or any other third party does not arise at this stage. Consequently, the legal heirs of the mortgagor/respondent No. 2 are not necessary parties in the present case.

7. Accordingly, present petition is allowed with the following directions by issuance of a writ of certiorari:-

(i) The impugned order dated 04.01.2024 (Annexure P-2), passed by the District Magistrate, Kaithal under Section 14 of the SARFAESI Act, is set aside.

(ii) Liberty is granted to the District Magistrate, Kaithal to exercise his jurisdiction afresh u/s 14 of the SARFAESI Act by processing the application filed by the petitioner/Bank, in accordance with law, within a maximum period of sixty (60) days, as prescribed under the second proviso to Section 14 of the SARFAESI Act.

8. All pending civil miscellaneous application(s), if any, also stand disposed of.