

Housing Development Finance Corporation Limited

Vs.

State of Haryana and others

Present : Mr. Neeraj Kumar – applicant/respondent No.5 in person.

Mr. Deepak Balyna, Addl. Advocate General, Haryana.

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1. This review application has been filed by respondent No.5 (borrower) seeking review of final order dated 24.04.2025 passed by this Court, vide which CWP-13929-2020 preferred by a financial institution was disposed of, directing the District Magistrate, Yamuna Nagar to hand over physical possession of the secured asset to the petitioner within a period of 30 days and if required after applying reasonable force by seeking assistance of the police.

2. This application has been filed by the borrower primarily on the ground that order dated 27.06.2018 passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'SARFAESI Act') was passed by an incompetent authority.

2.1 It is submitted that until and unless an authority is empowered under Section 20 (1) of Cr.P.C. to act as District Magistrate, no power under Section 14 of SARFAESI Act can be exercised, and since at the relevant time there was no notification under Section 20 (1) of Cr.P.C. in favour of the authority passing the order dated 27.06.2018 under Section 14 of the SARFAESI Act, the impugned order is bereft of jurisdiction.

3. The aforesaid ground of incompetency of the authority issuing order under Section 14 of the SARFAESI Act can very well be raised by the

borrower by filing an appropriate application under Section 17 before the Debts Recovery Tribunal. Section 17 of the SARFAESI Act provides remedy to a person who is aggrieved by any of the measures referred to in sub-section (4) of Section 13 (which includes the coercive steps of taking over possession of secured asset). The said ground of incompetency of District Magistrate can very well be raised before DRT in support of prayer for quashing the order passed under Section 14 of the SARFAESI Act.

4. It is needless to emphasize that the SARFAESI Act is a complete Code dealing with all aspects of the subject-matter contained therein and provides for remedies and Forums.

5. The Apex Court has time and again criticized the High Courts, exercising power of judicial review under Article 226 of the Constitution of India to interfere in matters pertaining to the SARFAESI Act.

6. More so, another remedy of appeal before the Debts Recovery Appellate Tribunal is available under Section 18 of the SARFAESI Act.

7. It is seen that the review applicant/borrower has not availed any remedy, either under Section 17 or Section 18 of the SARFAESI Act, and is trying to delay the matter of repaying outstanding loan amount of more than Rs. 48 lakhs.

8. We do not see any palpable error in the order under review. Therefore, the present review application stands dismissed with cost of Rs. 10,000/- imposed upon the applicant for wasting precious time of this Court, which could have been utilized in more pressing matters.

9. However, dismissal of this review application shall not come in way of the borrower to avail the remedy under Section 17 and thereafter under Section 18 of the SARFAESI Act, subject to satisfying the requirement of law.

10. The cost be deposited in favour of Poor Patient Welfare Fund at PGIMER, Chandigarh, within 30 days, failing which this case be put up as PUD before appropriate Bench.

( SHEEL NAGU )  
CHIEF JUSTICE

May 12, 2025  
narotam

( SUMEET GOEL )  
JUDGE