



CWP-22292-2025

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

112

CWP-22292-2025

Date of decision: 04.08.2025

A U SMALL FINANCE BANK LTD.

..PETITIONER

Versus

**DEPUTY COMMISSIONER-CUM-DISTRICT MAGISTRATE
KAITHAL AND ORS.**

..RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. S. C. Thatai, Advocate with
Mr. Nitin Thatai, Advocate
for the petitioner.

Mr. Deepak Balyan, Add. AG, Haryana.

* * * *

SHEEL NAGU, C.J. (Oral)

1. The present petition has been filed by the petitioner-Bank, aggrieved by non-execution of the order dated 09.04.2025 (Annexure P-5) passed by Deputy Commissioner-cum-District Magistrate, Kaithal (respondent No.1) under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*for short, 'SARFAESI Act'*).

2. The Apex Court in **R.D. Jain & Co. Vs. Capital First Limited and others, (2023) 1 SCC 675**, while explaining the width of jurisdiction under Section 14 of SARFAESI Act, held thus:



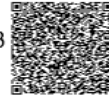
CWP-22292-2025

-2-

"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 : (2023) 1 SCC (Cri)**



CWP-22292-2025

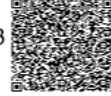
-3-

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."

3. It is surprising that respondents No.1 to 3 have failed to discharge their statutory duty of assisting and handing over physical possession of the secured asset to the petitioner Bank, provided there is no legal impediment of any judicial forum under SARFAESI Act.

3.1 Non Performing Assets (NPA) are a huge burden on the public exchequer and banking and financial system, and, thus, prompt enforcement under the SARFAESI Act is paramount for liquidity in the system.

4. In view of above, this Court directs respondents No. 1 to 3 to execute the order dated 09.04.2025 (Annexure P-5) passed under Section 14

**CWP-22292-2025****-4-**

of the 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. Compliance report be filed by respondents No. 1 to 3 within 15 days from the date of execution of the order dated 09.04.2025 failing which Registry is directed to list this case before appropriate Bench for ensuring compliance.

6. The petition stands disposed of in the terms aforesaid.

**(SHEEL NAGU)
CHIEF JUSTICE**

**(YASHVIR SINGH RATHOR)
JUDGE**

AUGUST 04th, 2025*R. Joshi**Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*