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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-29600-2025
Date of decision: 01.10.2025

AXIS BANK LTD.

....Petitioner

Versus

M/S DEE GEE WEIGHING EQUIPMENTS AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY

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Present: Mr. D.K. Singal, Advocate
for the petitioner.

Mr. Salil Sabhlok, Sr. DAG, Punjab.

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SHEEL NAGU, C.J. (Oral)

1. The petitioner-bank is before this Court invoking writ as well as supervisory jurisdiction under Article 226/227 Constitution of India, being aggrieved by inaction on the part of Deputy Commissioner, Gurdaspur to decide the application submitted by petitioner u/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short the SARFAESI Act) which is pending since 23.01.2024.

2. It is stated in the application that the respondents-borrowers availed a loan facility of Rs. 1,70,00,000/- from the applicant bank, and upon default in repayment, the account was classified as Non-Performing Asset (NPA) whereafter demand notice dated 31.12.2020 u/s 13(2) of the SARFAESI Act was duly served upon the borrowers. The borrowers failed to comply with the said demand notice, and accordingly, the secured creditor proceeded to take recourse to measures u/s 13(4), of SARFAESI Act by issuing possession notice and whereafter the bank filed application under Section 14 of the SARFAESI Act, on

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23.01.2024.

3. 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.*
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> ***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.*
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> ***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*

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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."

3.1 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.

4. Learned State counsel has put in appearance on behalf of respondent No.7 and has stated that application u/s 14 in question shall be considered and disposed of expeditiously.

5. This Court, in view of Deputy Commissioner, Gurdaspur having failed to discharge statutory obligation u/s 14(1) proviso within maximum stipulated time of sixty days, is compelled to issue writ of mandamus.

6. Accordingly, the present petition is hereby disposed of with a direction to the respondent No.7 to consider and dispose of the application under Section 14 of the Act moved by the petitioner Annexure (P-2) dated 23.01.2024 expeditiously, preferably within a period of four (4) weeks from the date of receipt of the copy of this order.

7. 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.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

01.10.2025
mohit goyal

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

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