



skn

1

WP-15285.2022--.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ORDINARY ORIGINAL CIVIL JURISDICTION

A.S.WRIT PETITION NO. 15285 OF 2022

L & T Finance Limited, a non banking finance company incorporated under the provisions of the Companies Act, 1956 and registered with RBI as non-banking financial institution having its registered office at 15th floor, PS Srijan Tech Park, Plot No.52, Block DN Sector-V, Salk Lake City, Kolkata 700 091 and corporate office at Brindavan, Plot No.177, CST Road, Kalina, Santacruz (East), Mumbai 400 098 through its Authorized Signatory.

... Petitioner.

V/s.

1. The State of Maharashtra through Assistant Government Pleader, High Court, Bombay.
2. The Chief Metropolitan Magistrate, Mumbai / The Additional Chief Metropolitan Magistrate, Mumbai Office of the Chief Metropolitan Magistrate's Court at Mumbai.
3. Registrar General, Administration of High Court of Judicature at Bombay.

... Respondents.

WITH



skn

2

WP-15285.2022--.doc

**A.S.WRIT PETITION NO. 278 OF 2023
WITH
A.S.WRIT PETITION NO. 279 OF 2023**

TJSB Sahakari Bank Ltd.,
A Co-operative Bank registered under
Multi-state Co-operative Societies Act, 2022
having its registered office at T.J.S.B. House,
Plot No. B-5, Road No.2, Behind Aplab Lab,
Wagle Industrial Estate, Thane (W), 400 604
and having its Pune Recovery Department at
692/693 Chapalkar Centre, Chapalkar Colony,
Market Yard Road Gymkhana, Pune- 411 037
Through its authorized officer -
Mr. Priyadarshan Dilip Dabir.

... Petitioner.

Vs.

1. District Collector & Dist. Magistrate,
District: Pune
2. Executive Magistrate & Nayab Tehsildar
Tal. Haveli, Pune City

... Respondents.

**WITH
O.S. WRIT PETITION (L) NO. 3731 OF 2021**

The National Co-operative Bank Ltd.
12-B, Vastav House, 2nd floor,
Janmabhoomi Marg,
Fort, Mumbai 400 001

... Petitioner.

Vs.

1. State of Maharashtra
2. The Tehsildar,
Panvel, Dist, Raigad



skn

3

WP-15285.2022--.doc

3. Mr. Dattatray Govind Jadhav

Aged about ____ years, Having address
Flat no.502, 5th floor,
Maruti Villa Building,
Plot no. 22, Gut no. 35,
Near Pratik Gems Complex,
Kamothe, Navi Mumbai

4. Mr. Girish Bhimrao Chavan,
age- 43 years, Residing at 12/1,
Sachin Society, Near Bank of
Maharashtra, Mithagar Road,
Mulund E, Mumbai 400 081.

... Respondents.

Mr.S.S.Panchpor with Mr.S.S.Agave for the Petitioner in
WP Nos.278 and 279/23.

Ms.Asha Bhuta i/b. Bhuta & Associates for the
Petitioner in OSWPL No.3731/22.

Dr.Birendra Saraf, Advocate General with
Mr.P.P.Kakade, Government Pleader with Ms.Shruti D.
Vyas, B-Panel Counsel for the Respondent- State in WP
Nos.15285/22 and 278 and 279/23.

Mr.S.R.Nargolkar for Respondent Nos.2 and 3 in WP
No.15285/2022.

Mr.Himanshu Takke, AGP for Respondent Nos.1 and 2
in OSWPL No.3731/22.

Mr.Graham Francis i/b. Samarth Moray for Respondent
No.4 in OSWPL No.3731/22.



skn

4

WP-15285.2022--.doc

CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.

DATE : 17 April 2023.

JUDGMENT : (Per Nitin Jamdar, J)

Rule. Rule made returnable forthwith. Respondents waive service. Taken up for disposal by consent of parties.

2. These petitions are filed by the secured creditors who had applied under section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). Since the applications have not been disposed of, the Petitioners have filed these petitions for directions for early disposal of these Petitions.

3. The Petitioner in Writ Petition No.15285/2022- L & T Finance Limited is a non-banking finance company that has made an application to the Chief Metropolitan Magistrate, Mumbai, on 22 December 2021. Writ Petition Nos.278 and 279/2023 are filed by the Petitioner- TJSB Sahakari Bank Ltd., and Writ Petition (L) No.3731/2021 is filed by the Petitioner- The National Co-operative Bank Ltd., the secured creditors since their applications filed under section 14 of the SARFAESI Act are still pending. In Writ Petition (L) No.3731/2021, the application under the SARFAESI Act is stated to be pending since the year 2016.



skn

5

WP-15285.2022--.doc

4. The principal grievance of the Petitioners is common that, despite the power under section 14 of the SARFAESI Act of 2002 being ministerial and to be used to aid the secured creditors in taking steps to realize their dues expeditiously, the applications are kept pending for an unduly long period.

5. With the similar grievance, several secured creditors kept filing writ petitions in this Court alleging authorities' lethargy and reluctance to proceed under Section 14 of the SARFAESI Act. Some petitioners accused borrowers of causing the delay. Consequently, we directed that such petitions be grouped together to direct the State Government and High Court administration to find a solution. Taking cognizance of this grievance, on the earlier dates, we had also called upon the State Government to place data of the pending applications filed under section 14 of the SARFAESI Act of 2002 before various District Magistrates. In Writ Petition No.15285 of 2022, the High Court Administration was made party Respondent since the grievance was that the application under section 14 of the SARFAESI Act of 2002 is not being considered expeditiously by the Chief Metropolitan Magistrates.

6. In this scenario, it has become necessary to emphasis on the object of statutory enactment and the law laid down by the Hon'ble Supreme Court. The Statement of Objects and Reasons for which the SARFAESI Act has been enacted reads as under:



“Statement of Objects and Reasons:-----

The financial sector has been one of the key drivers in India's efforts to achieve success in rapidly developing its economy. While the banking industry in India is progressively complying with the international prudential norms and accounting practices there are certain areas in which the banking and financial sector do not have a level playing field as compared to other participants in the financial markets in the world. There is no legal provision for facilitating securitisation of financial assets of banks and financial institutions. Further, unlike international banks, the banks and financial institutions in India do not have power to take possession of securities and sell them. Our existing legal framework relating to commercial transactions has not kept pace with the changing commercial practices and financial sector reforms. This has resulted in slow pace of recovery of defaulting loans and mounting levels of non-performing assets of banks and financial institutions. Narasimham Committee I and II and Andhyarujina Committee constituted by the Central Government for the purpose of examining banking sector reforms have considered the need for changes in the legal system in respect of these areas. These Committees, inter alia, have suggested enactment of a new legislation for securitisation and empowering banks and financial institutions to take possession of the securities and to sell them without the intervention of the court. Acting on these suggestions, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance, 2002 was promulgated on 21-6-2002 to regulate securitisation and reconstruction of financial assets and enforcement of security interest and for matters connected therewith or incidental thereto. The provisions of the Ordinance would enable banks and financial institutions to realise long-term assets, manage problem of liquidity, asset liability mismatches and improve recovery by exercising powers to take possession of securities, sell them and reduce non-performing assets by adopting measures for recovery or reconstruction.”

(emphasis supplied)



With the above object in mind, Section 14 was enacted which was amended thereafter. Section 14 reads thus.

“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 assets 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 assets, 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 asset and documents to the secured creditor:*

Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—

- (i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;*
- (ii) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;*
- (iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above;*
- (iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;*



- (v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset;
- (vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower;
- (vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;
- (viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;
- (ix) that the provisions of this Act and the rules made thereunder had been complied with:

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.

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.]



skn

9

WP-15285.2022--.doc

(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,—
(i) to take possession of such assets and documents relating thereto; and
(ii) to forward such assets and documents to the secured creditor.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate 1[any officer authorised by the Chief Metropolitan Magistrate or District Magistrate] done in pursuance of this section shall be called in question in any court or before any authority.

Section 14 of the SARFAESI Act, thus, places an obligation upon the Chief Metropolitan Magistrate or District Magistrate to assist secured creditors in taking possession of the secured asset. Section 14 of the SARFAESI Act enables the secured creditor to approach the District Magistrate/Chief Metropolitan Magistrate with a written application requesting for taking possession of the secured assets and forwarding it to the secured creditor for further action.

7. Section 14 of the SARFAESI Act is interpreted in various decisions of the Supreme Court. In the case of *NKGSB Coop. Bank Ltd. v. Subir Chakravarty*¹, the Supreme Court has stressed on its object and purpose and observed as under:

¹ (2022) 10 SCC 286



“36. 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 2002 Act from the secured creditor for that purpose. As soon as such 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 2002 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. The latter is a ministerial act. It cannot brook delay. Time is of the essence. This is the spirit of the special enactment. However, it is common knowledge that the CMM/DM are provided with limited resources. That inevitably makes it difficult, if not impossible, for the CMM/DM to fulfil his/her obligations with utmost dispatch to uphold the spirit of the special legislation.

(emphasis supplied)

This decision was followed in the case of *R.D. Jain & Co. v. Capital First Ltd.*², wherein the Supreme Court laid down as follows.

“20. After taking over possession of the secured assets, further steps to lease, assign or sell the same could also be taken by the secured creditor. However, Section 14 of the Sarfaesi Act predicates that if the secured creditor intends to take possession of the secured assets, it must approach the CMM/DM by way of an application in writing, and on receipt of such request, the CMM/DM must move into action in right earnest. After passing an order thereon, he/she (CMM/DM) must proceed to take possession of the secured assets and documents relating thereto for being forwarded to the secured creditor in terms of Section 14(1) read with Section 14(2) of the Sarfaesi Act. As noted earlier, Section 14(2) is an enabling provision and permits the CMM/DM to take such steps and use force, as may, in his opinion, be necessary.

² (2023) 1 SCC 675



21. *At this stage, it is required to be noted that along with insertion of sub-section (1-A), a proviso has also been inserted in sub-section (1) of Section 14 of the Sarfaesi Act whereby the secured creditor is now required to comply with certain conditions and to disclose that by way of an application accompanied by affidavit duly affirmed by its authorised officer in that regard. Sub-section (1-A) is in the nature of an explanatory provision and it merely restates the implicit power of the CMM/DM in taking services of any officer subordinate to him. 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 insertion of sub-section (1-A) is not to invest a new power for the first time in the CMM/DM as such.*

22. *Thus, considering the scheme of the Sarfaesi Act, it is explicit and crystal clear that possession of the secured assets can be taken by the secured creditor before confirmation of sale of the secured assets as well as post-confirmation of sale. For taking possession of the secured assets, it could be done by the “authorised officer” of the Bank as noted in Rule 8 of the Security Interest (Enforcement) Rules, 2002.*

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."

(emphasis supplied)

The Supreme Court has again emphasized this position in the case of *Balkrishna Rama Tarle v. Phoenix ARC (P) Ltd.*³

³ (2023) 1 SCC 662



8. Thus, the powers of the Chief Judicial Magistrate and the District Magistrate under Section 14 of the SARFESI Act are merely administrative and do not involve pronouncing any judgment on the borrower's objections to the secured creditor taking possession of the secured assets. Once the secured creditor has met all the requirements under Section 14 of the SARFESI Act, it is the duty of the CMM/DM to assist the secured creditor in obtaining possession of the assets and related documents, with the help of any subordinate officer or appointed advocate commissioner. At this stage, the CMM/DM does not need to adjudicate any dispute between the borrower, third parties, and the secured creditor concerning the secured assets. Any objections raised by the aggrieved parties should be dealt with under the SARFESI Act before the Debts Recovery Tribunal.

9. During the hearing on 9 February 2023, it was revealed that approximately 7563 applications were pending in Maharashtra under the SARFAESI Act, according to data presented to us. However, this figure did not include the data from all districts and it was informed that it could be higher. The learned Advocate General presented a chart that showed 5061 pending applications under section 14 of the SARFAESI Act before various District Magistrates. Of these, 1139 were pending for three months, 1100 for six months, and 2822 for more than one year. The learned counsel for the High Court Administration informed us that in Mumbai alone, 2502 applications were pending before Judicial Magistrates under section



skn

14

WP-15285.2022--.doc

14 of the SARFAESI Act. Of these, 446 were pending for three months, 690 for six months, and 1413 for more than one year. Therefore, the total pendency in Maharashtra, including Mumbai, was shown to be not less than 7563.

10. Once all requirements under Section 14 of the SARFAESI Act are met, the District Magistrate/Chief Metropolitan Magistrate has a statutory obligation to promptly assist the secured creditor. Any delay would be unacceptable given the emphasis of this enactment on expediency. Therefore such enormous backlog of applications under Section 14 in Maharashtra is inconsistent with the objectives of the Act and defeats the legislative intent emphasized by the Supreme Court. Almost twelve years ago, in the case of *International Asset Reconstruction Company Private Limited v. Union of India*⁴, the Division Bench of this Court in a similar situation issued several directives, including the serial numbering and time-bound disposal of applications. It is regrettable that the situation remains unchanged.

11. During the hearing, the Advocate General assured that the State Government would take efforts to clear all pending applications by 31 March 2023. The High Court Administration informed that they had initially planned to start a special drive in August 2023 but have now decided to initiate it from 1 March 2023, given the gravity of the matter. The Petitioners had certain suggestions, and the

⁴ AIR 2011 Bom 163; (2012) 3 BCR (Cri.) 167



skn

15

WP-15285.2022--.doc

Advocate General advised them to forward them to his office within a week and then the State Government would then consider and incorporate them into the general guidelines they were proposing to issue. The statements made by the Advocate General and the High Court Administration were accepted. The hearing was adjourned to 17 March 2023. As an interim measure we directed that in cases where petitioners have a grievance regarding inaction, the District Collector should give them an audience, address their grievances, and issue necessary directions as per law.

12. On 17 March 2023, the Counsel for the High Court Administration presented a chart showing that in a special drive conducted from 9 February 2023, 536 applications were disposed of, but the pendency as of 10 March 2023 was 4975, with Thane accounting for 1064. The Advocate General also placed a chart with revised figures stating that as of that day, 21564 applications were pending in Maharashtra, and 12590 had been disposed of. Several petitions from the group were disposed of as their cause was worked out, but we continued hearing of these petitions as it was necessary since the State was yet to submit guidelines for passing general directions.

13. Today, the learned Advocate General has placed before us the guidelines issued by the State Government by way of a Circular dated 10 April 2023. The Government Circular reads thus:



“Government Circular:

By D.O. Letter No.MUDRANK-2023/C.R.67/M-1/(Policy) dated 8 February, 2023 as regards disposal of pending cases under Section 14 of SARFAESI Act and implementation of orders passed under Section 14 of SARFAESI Act by all District Collectors, it was directed that all pending cases under Section 14 of SARFAESI Act should be disposed off by 31 March, 2023 and the decision so taken should be implemented within one month of the decision. In furtherance of the said directive, the following directives are issued:

(i) All the applications pending as on 31 March 2023, should be disposed off, not later than 30 April, 2023.

(ii) All the pending implementation of the orders passed prior to 31 March, 2023, should be completed by 30 April, 2023.

(iii) Any fresh application filed after 31 March 2023 under Section 14 of SARFAESI Act should be disposed off by the District Collector within 30 days of the application being filed.

(iv) Every order passed by the District Collector under Section 14 of SARFAESI Act should be implemented and executed within 4 weeks of the passing of the order. If the officers who are implementing orders are overburdened, in light of the judgment of Supreme Court in the case of NKGSB Co-operative Bank Ltd. Vs. Subir Chakravarty and others dated 25 February 2022, under Section 14 of SARFAESI Act order, an Advocate can be appointed to implement the order passed under Section 14 of SARFAESI Act. However, this appointment should be done in the order under Section 14 itself in accordance with the said judgment.

(v) In the first week of each month, a report should be submitted, giving the details of any application which has not been disposed off within 30 days or any order which has not been implemented within 30 days with reasons thereof, to the Divisional Commissioner.

(vi) Any party whose application is not disposed off within 60



days of its filing or an order in whose favour has not been implemented within 60 days of the order being passed, may make representation to the Divisional Commissioner who shall within 15 days of receipt of the representation consider the representation and pass appropriate directions to ensure that the application is disposed off or the order is implemented within 15 days of the direction.

(vii) Each District Collector should maintain proper details and records of the filing of the application under Section 14 of SARFAESI Act, the disposal thereof, the implementation of any order passed under Section 14 of SARFAESI Act and submit monthly statistics in that regard to the Divisional Commissioner on or before the 7th day of the following month. A format of submissions as of the report is annexed as Annexure-I.

(viii) Action is being taken to implement e-system wherein all information regarding date of filing of application, date of passing of order, date of implementation of the order, would be uploaded so that all statistics are available readily. As soon as the online platform is ready, the District Collectors shall be informed and all the statistics should be uploaded and updated regularly on the online platform.”

* * *

In summary, the guidelines state that all pending applications under Section 14 of the SARFAESI Act as of 31 March 2023, should be disposed of by 30 April 2023. Fresh applications filed after 31 March should be disposed of by the District Magistrates within thirty days. Orders passed under Section 14 must be implemented within four weeks, and if officers are overburdened, an advocate can be appointed to implement the order as per law. A report must be submitted on applications and orders not disposed of within thirty days, and parties can make representations if an application is not disposed of or an order is not implemented within sixty days. The



skn

18

WP-15285.2022--.doc

District Magistrates must maintain records and submit monthly statistics to the Divisional Commissioner. An online platform will be implemented to record all information and statistics.

14. We appreciate the initiative taken by the learned Advocate General, which has resulted in the State issuing the guidelines dated 10 April 2023. The guidelines will not only assist in expeditious disposal of applications but also in reducing the inflow of petitions by the secured creditors, as the guidelines now provide a time mandate and grievance redressal forum to the secured creditors whose applications have not been disposed of and they need not directly file writ petitions in this Court.

15. The Petitioners submitted that orders under Section 14 of the SARFAESI Act often go unimplemented due to the unavailability of police support. We cannot issue general directions in this regard as there could be various situations, but we do observe that the police authorities should assist in implementation speedily, as far as feasible. The implementation of an e-system, as stated in clause 8 of the Circular, will improve transparency and efficiency, and keep all parties informed about pending applications. This initiative be implemented within 16 weeks.

16. The learned counsel for the High Court Administration stated that currently there is no separate category assigned for applications under Section 14 of the SARFAESI Act in the Case



skn

19

WP-15285.2022--.doc

Information System (CIS) software. Steps can be taken to create a separate category for these cases so they can be identified for the special drive. The learned counsel also mentioned exploring options to issue necessary instructions to facilitate e-filing and the creation of a portal within the existing CIS. It was also submitted that a special day can be assigned by the CMM for taking up the pending applications. Initiatives be taken pursuant to this position

17. In view of the above Circular by the State Government and the statement of High Court administration, which we accept, we intend to issue certain directions. It is needless to stress the importance of expeditious disposal of the applications under section 14 of the SARFAESI Act, as the pendency of a large number of applications hinders the recovery of bad loans, which has a significant impact on the financial health of the country.

18. Thus, we dispose of this writ petitions directing as follows:

(a) The Application filed by a Secured creditor under section 14 of the SARFAESI Act with due compliance (the Application) should be disposed of by the District Magistrate/ Collector in the State of Maharashtra not later than 30 days of the Application is filed.

(b) Every order (Order) passed by the District Collector under section 14 of the SARFAESI Act should be



skn

20

WP-15285.2022--.doc

implemented and executed not later than four weeks of the passing of the Order.

(c) If the officers entrusted with implementation of the Order are engaged in other pressing public duties, the option of appointing an advocate to implement the Order be explored within the parameters of the law. The same option can also be considered by the Judicial Magistrate, if so permissible in law.

(d) The District Magistrates/ Collectors shall submit a report giving the details of the Applications which have not been disposed of within thirty days or any Order which has not been implemented within thirty days with reasons thereof to the Divisional Commissioner in the first week of each month.

(e) Any party whose Application is not disposed of within sixty days of its filing or the Order has not been implemented within sixty days of passing it, may make representation to the Divisional Commissioner who shall within 15 days of receipt of the representation consider the representation and after satisfying that there is a no justifiable reason, will pass appropriate directions to ensure that the Application is disposed off or the Order is implemented within fifteen days of the direction.



(f) Each District Magistrate/Collector shall maintain proper details and records of the filing of the Applications, the disposal thereof, the implementation of the Orders and submit monthly statistics in that regard to the Divisional Commissioner on or before the seventh day of the following month in the specified format of submissions.

(g) The State Government will take steps to implement an e-system placing information on an online platform regarding the Applications, such as the date of filing of the Application, the date of passing the Order on the Application, and the date of implementation of the Order, on an online platform. The same shall be done within a period of sixteen weeks from today.

(h) The High Court Administration would consider issuing necessary directions to the Chief Metropolitan Magistrate to take a special drive for the disposal of pending Applications under section 14 of the SARFAESI Act.

(i) The High Court Administration would consider creating a separate category in the Case Information System software for the Applications under Section 14 of the SARFAESI Act so that these cases can be identified for the special drive.



skn

22

WP-15285.2022--.doc

19. We make it clear that the above directions are to streamline the process of disposal of the applications filed under Section 14 of the SARFAESI Act and to effectuate the intent of the governing legislation. This order is not to be construed as in any manner modifying the *inter se* legal rights of the secured creditors, the borrowers, guarantors and other affected parties.

20. Rule is made absolute in the above terms of the order.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)