



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 12516/2023

Hdfc Bank Limited, Having Its Registered Office At Hdfc Bank House, S.b. Marg, Lower Parel (West), Mumbai 400013 And Branch Office At Sn 18, Ganganagar Road, Sindhi Colony, Hanumangarh 335512 Rajasthan, Through Its Authorized Signatory Sh. Kailash Sharma.

-----Petitioner

Versus

1. M/s Choudhary Brothers, Through Its Proprietor Mr. Amandeep Tarar, Having Its Office At 151, New Dhan Yard, Sri Ganganagar 335001, Rajasthan.
2. Mr. Amandeep Tarar S/o Mr. Om Prakash, R/o 151, New Dhan Yard, Sri Ganganagar 335001, Rajasthan.
3. Mr. Om Prakash S/o Mr. Gopi Ram, R/o Ward No. 5, Sadul Shahar, Sri Ganganagar 335001, Rajasthan.
4. Mrs. Sunita W/o Mr. Amandeep Tarar, R/o Ward No. 5, Sadul Shahar, Sri Ganganagar 335001, Rajasthan.
5. Mrs. Nirmala W/o Mr. Om Prakash, R/o Ward No. 5, Sadul Shahar, Sri Ganganagar 335001, Rajasthan.
6. Cgr Collateral Management Limited, Having Its Registered Office At 205-206, 2Nd Floor, Prakash Deep Complex Near Mayank Trade Centre, Station Road, Jaipur, Rajasthan Through Its Directors. Also At Cgr Collateral Management Limited Having Its Office At 28/3, 4, 5, First Floor, Gandhi Chowk, Gole Bazar, Sri Ganganagar 335001, Rajasthan Through Its Directors.
7. M/s Choudhary Agro Foods, Through Its Proprietor Mrs. Sunita Choudhary 3-H-16, Jawahar Nagar, Sri Ganganagar, Rajasthan 335001. Also At M/s Choudhary Agro Foods Through Its Proprietor Mrs. Sunita Choudhary R/o 151, New Dhan Mandi, Sri Ganganagar 335001, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Ramkishore Suthar for
Mr. Arpit Mehta.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

02/09/2023

1. Learned counsel for the petitioner submits that issue involved in this writ petition has been considered by a Coordinate



Bench in the matter of **ICICI Bank Ltd. Vs. M/s. National Steel Corporation & Ors – S.B. Civil Writ Petition No.4529/2019,**

wherein following order was passed on 26.03.2019:-

"1. Petitioner has preferred this writ petition under Article 226 of the Constitution of India claiming the following reliefs :-

"a) by an appropriate writ, order or direction, this petition for writ in the nature of mandamus filed by the petitioner Bank may kindly be allowed.

b) by an appropriate writ, order or direction, the respondent No.5 District Collector – cum – District Magistrate, Bikaner may kindly be directed to adhere to the provisions of Section 14 provided by the Amendment Act 2016 and pass an appropriate order under Section 14 of the SARFAESI Act, 2002 in relation to the misc. case (Section 14 of SARFAESI Act)No.139/2018 titled as "ICICI Bank Limited Vs.M/s. National Stell Corporation & Ors." with immediate effect."

2. Learned counsel for the petitioner makes a limited submission that the petitioner-Bank moved an application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI), 2002 before the respondent No.5 District Collector, Bikaner on 23.10.2018, and while giving out the details of immovable property mortgaged by the respondents-borrowers with the petitioner-Bank, the petitioner-Bank requested that possession of the said mortgaged property may be taken from the respondents borrowers and be handed over to the petitioner-Bank or its' duly authorized representative.

3. Learned counsel for the petitioner submits that in accordance with the mandate of Section 14 of SARFAESI Act, 2002, the Chief Metropolitan Magistrate or District Magistrate is required to assist secured creditor in taking the possession of the secured asset. However, as a specific mandate incorporated in Section 14 of the Act of 2002 by way of amendment, which came into force w.e.f. 01.09.2016, the authority is required to pass necessary orders within a period of 30 days, and if some reasonable cause of delay arises, then at most within 60 days.



4. Section 14 of the SARFAESI Act, 2002, as amended, and came into effect on 1st September, 2016 reads as follows :-

"12. In the principal Act, in section 14, in sub-section (1), —

(i) in the second proviso, after the words "secured assets", the words "within a period of thirty days from the date of application" shall be inserted;

(ii) after the second proviso, the following proviso shall be inserted, namely:—"Provided further 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."

5. In light of the aforesaid submission, the present writ petition is disposed of with a direction to the respondent No.5 to pass the necessary orders on the application of the petitioner under Section 14 of the SARFAESI Act, 2002 within a period of 30 days from today strictly in accordance with law. Stay petition No.4409/2019 also stands disposed of accordingly."

2. In that view of the matter, the present writ petition is disposed of with a direction to District Magistrate, Hanumangarh to pass necessary orders on the application of the petitioner under Section 14 of the SARFAESI Act, 2002, strictly in accordance with law, within a period of 30 days from the date of receipt of certified copy of this order.

3. Stay petition also stands disposed of.

(DR.PUSHPENDRA SINGH BHATI), J.

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