HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Civil Writ Petition No. 4778/2022
CNR: RJHC010199002022 | URN: CW / 9906U / 2022

Punjab National Bank, Having Its Head Office At Plot No.4, Sector-10, Dwarka New Delhi. Jodhpur Office At Circle Recovery Center, Plot No.802, Angira Darpan, Chopasani Road, Jodhpur Through its Authorized Representative.

----Petitioner

Versus

1. Learned District Magistrate, Pali, Pali.
2. The Superintendent Of Police, Pali.
3. Sub-Registrar, Stamp And Registration, Pali.
4. Kana Ram S/o Achla Ram Gehlot, R/o Village Hemawas, Tehsil & District Pali. Proprietor Of M/s Laxmi Polyfab Industries, F-281, RIICO Industrial Area, 3rd Phase, Mandiya Road, Pali.

----Respondents

For Petitioner(s)	:	Mr. Jagdish Chandra Vyas
For Respondent(s)	:	Mr. Manish Sisodia, Senior Advocate assisted by Mr. Naman Mohnot and Mr. Himanshu Pareek

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HON'BLE MR. JUSTICE SAMEER JAIN
Judgment

REPORTABLE

1	Arguments concluded on	22/07/2026
2	Judgment Reserved on	22/07/2026
3	Full Judgment or Operative Part Pronounced	Full Judgment
4	Pronounced on	12/08/2026

1. The present writ petition has been filed by the petitioner-Bank (secured creditor) in consonance with the application dated 10.03.2022 (Annexure-15) filed by the petitioner-Bank under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act') with the following prayers:-

> *"a.The respondent no.1 Ld. District Magistrate, Pali may kindly be directed to decide the application u/s 14 of the Act of 2002, dated 10.03.2022 (Annex.15), filed by the petitioner bank, uninfluenced by the so called interim order dated 09.03.2019 (Annex.6) passed in civil misc. case no. 178/2018, passed by the Civil Court.*
> *b. A direction may be issued to the effect that the so called interim order dated 09.03.2019 (Annex.6) passed in civil misc. case no. 178/2018, by the Civil Court is not operating against the petitioner bank and the respondents no.1 to 3.*
> *c. The respondent no.1 may kindly be directed to take actual physical possession of industrial plot no. F-281 RIICO Industrial Area, 111 Phase, Mandiya Road, Pali, measuring 2000 sq. mtrs from the respondent no.4 Kanaram and to handover the same to the petitioner bank.*
> *d. The respondent no.3 Sub-Registrar, Pali may kindly be directed to register the Sale Certificate duly issued by the authorized officer of the petitioner bank in respect of the industrial plot no. F-281 RIICO Industrial Area, 111 Phase, Mandiya Road, Pali, measuring 2000 sq. mtrs.*
> *e. The respondent no.2 S.P., Pali may kindly be directed to make appropriate arrangement for taking actual physical possession of industrial plot no. F-281 RIICO Industrial Area, 111 Phase, Mandiya Road, Pali, measuring 2000 sq. mtrs, under the provisions of the Section 14 of the Act of 2002.*
> *f. Any other order or direction that the Hon'ble Court may deem fit in the interest of justice may kindly be passed in the favour of the petitioner bank.*
> *g. The cost may also be awarded in favour of the petitioner bank."*

2. In furtherance of the application dated 10.03.2022, which is pending before respondent No.1-learned District Magistrate, whereby allegedly it was orally observed by that unless the interim order dated 09.03.2019 passed in the civil suit stands vacated, no

orders for handing over the possession can be passed in favor of the petitioner-Bank.

FACTUAL MATRIX OF THE LIS AT HAND:

3. Before adverting to the rival submissions and entering upon the realm of arguments advanced by the learned counsel for the respective parties, it is considered apposite to delineate the factual background and the circumstances, in a nutshell, which have culminated in the present adjudication.

4. The overarching factual matrix enveloping the *lis* reveals that respondent No.4-Kana Ram, proprietor of M/s Laxmi Polyfab Industries, purchased an industrial plot, bearing Plot No. F-281, RIICO Industrial Area, 3rd Phase, Mandiya Road, Pali, Rajasthan, ad-measuring 2000 sq. mtrs. from M/s Silver Textile through a registered sale deed dated 09.06.2016 for a consideration of Rs. 29,71,000/-, which was subsequently mutated solely under the name of respondent No.4 in the RIICO records.

5. It is noted that respondent No.4 stood as a personal guarantor for a cash credit facility of approximately Rs. 7 crores and a car loan of Rs. 11.87 lacs extended to M/s Mataji Dyeing Mills Pvt. Ltd., and to secure the same, respondent No.4 created an equitable mortgage of the aforementioned plot by depositing the original title deeds with the petitioner-Bank.

6. Upon the borrower's account being declared a Non-Performing Asset (NPA) on 10.01.2019, and following the demand notice dated 11.02.2019 issued under Section 13(2) of the SARFAESI Act for an outstanding amount of Rs. 6,67,53,023/- as on 31.12.2018, the petitioner-Bank took symbolic possession. Subsequently, the petitioner-Bank moved an application under Section 14 of the SARFAESI Act before the learned District

Magistrate, Pali, seeking actual physical possession of the said property.

7. During the pendency of the said application/proceedings, a consent interim order dated 09.03.2019, passed by the learned Civil Court through Lok Adalat in a collateral partition suit bearing Civil Misc. Case No. 178/2018 amongst the siblings of respondent No.4, was brought on record by the respondents therein.

8. The said civil suit was filed amongst the siblings of respondent No.4, alleging that the aforementioned property was purchased using funds belonging to their father, Shri Achla Ram. The learned Civil Court vide interim order dated 09.03.2019 directed the maintenance of *status quo* regarding the said property. Albeit the petitioner-Bank sought impleadment in the said suit by filing an application under Order I Rule 10 of the CPC, however, the same came to be dismissed on the ground that the Bank was not a necessary party.

9. Thence, relying upon the said interim order of maintaining the *status quo*, the learned District Magistrate orally refused to pass any order in furtherance of the application moved by the petitioner-Bank under Section 14 of the SARFAESI Act.

SUBMISSIONS ON BEHALF OF THE PARTIES:

10. At the outset, learned counsel for the petitioner unequivocally argued that the jurisdiction of the District Magistrate as enshrined under Section 14 of the SARFAESI Act is strictly administrative and non-adjudicatory in nature. It was submitted that the role of the learned Magistrate is limited to assisting the secured creditor in taking possession and the learned Magistrate does not possess the jurisdiction to adjudicate the matter on merits or stall proceedings based on a collateral civil dispute.

11. It was argued that the interim order dated 09.03.2019 passed in the civil suit is not binding on the petitioner-Bank, as the Bank was not a party to those proceedings, and its subsequent impleadment application came to be dismissed by the learned Civil Court.

12. Learned counsel contended that the registered sale deed dated 09.06.2016 stands exclusively in the name of respondent No.4 and that the partition suit filed among the siblings is collusive and an afterthought designed solely to frustrate the recovery proceedings.

13. Relying upon Section 34 of the SARFAESI Act, which bars the jurisdiction of Civil Courts in the recovery proceedings, and the ratios encapsulated by the Hon'ble Supreme Court in **The Authorised Officer, Indian Bank v. D. Visalakshi & Anr., (2019) 20 SCC 47** and **Central Bank of India & Anr. v. Prabha Jain & Ors., (2025) 4 SCC 38**, the learned counsel contended that the Authorized Officer/Competent Authority, as prescribed under Section 14 of the SARFAESI Act, is merely required to verify statutory compliance and not adjudicate contentious issues on merits.

14. *Per contra*, learned Senior Counsel, Mr. Manish Sisodia, appearing on behalf of the respondents vehemently opposed the present petition, contending that the learned District Magistrate rightly considered the interim protection granted by the learned Civil Court, as verdicts of competent courts must be obeyed under the rule of law.

15. Learned counsel stoutly denied the allegations of collusion, pointing out that the said civil suit was instituted prior to the declaration of the loan account as an NPA in the year 2019.

16. Learned Senior Counsel argued that if the petitioner-Bank was aggrieved by the rejection/dismissal of its impleadment application filed under Order I Rule 10 of the CPC, the proper recourse was to agitate the same before the appropriate appellate forum, rather than challenging the same before this Court by way of the present writ petition.

17. Relying upon the ratio enumerated by the Hon'ble Supreme Court in **Prabha Jain & Ors. (supra)**, it was contended that the jurisdiction of the Civil Court to entertain a partition suit is not ousted by the SARFAESI Act and it was argued that such suits cannot be transferred to the DRAT, and the statutory bar on civil jurisdiction should be strictly construed and not readily inferred.

DISCUSSION AND FINDINGS:

18. Having heard and considered the contentions made by learned counsel representing the respective parties, upon perusal of the material available on record and taking note of the judgments cited at Bar, this Court proceeds to adjudicate the *lis* in question.

19. The nitty-gritty of the instant dispute revolves around the interplay between the statutory rights of a secured creditor as enshrined under Section 14 of the SARFAESI Act and an interim *status quo* order passed in a collateral civil partition suit to which the secured creditor is not a party.

20. From a perusal of the record, it is evident that the registered sale deed as executed in the year 2016 stands exclusively in favor of respondent No.4 and the said property was mutated solely under his name in the RIICO records, sans any reflection that the purchase funds were derived from his father, namely Shri Achla Ram. Moreover, it is observed that neither the RIICO records nor

the act of mortgaging the original title deeds was ever challenged by any of the siblings of respondent No.4.

21. The chronological sequence of the events reveals that the loan account *qua* which respondent No.4 stood as personal guarantor became irregular and was declared an NPA on 10.01.2019 and the interim order maintaining the *status quo inter se* the parties in the partition suit, based on consent between the siblings, came to be passed by the learned Civil Court shortly thereafter on 09.03.2019.

22. It has further been observed that the application of impleadment as filed under Order I Rule 10 of CPC by the petitioner-Bank in the civil suit was also rejected by the learned Civil Court considering the Bank as a non-necessary party, and therefore, having been excluded from the civil proceedings, the Bank cannot paradoxically be bound by an interim order passed therein, especially in light of the provisions as enshrined under Section 34 of the SARFAESI Act.

23. This Court finds that the role of the Competent Authority under Section 14 is limited to facilitating the taking of possession upon verifying the statutory affidavit. Such statutory facilitation is *sine qua non* for the effective enforcement of security interests, and the authority cannot be permitted to derail the process by relying on an inferential process of reasoning tied to contentious issues pending in a collateral civil suit.

24. Applying the law laid down by the Hon'ble Supreme Court in **D. Visalakshi & Anr. (supra)**, this Court is of the considered view that the role of the competent authority as enshrined under Section 14 of the SARFAESI Act is administrative and non-adjudicatory in nature and the Competent Authority, as prescribed

therein, is bound to facilitate the taking of possession upon verifying the statutory affidavit and cannot derail the process based on contentious issues pending in a civil suit. The relevant extracts of the said ratio is reproduced as under:-

> "*44. Be it noted that Section 14 of the 2002 Act is not a provision dealing with the jurisdiction of the Court as such. It is a remedial measure available to the secured creditor, who intends to take assistance of the authorised officer for taking possession of the secured asset in furtherance of enforcement of security furnished by the borrower. <u>The authorised officer essentially exercises administrative or executive functions, to provide assistance to the secured creditor in terms of States coercive power to effectuate the underlying legislative intent of speeding the recovery of the outstanding dues receivable by the secured creditor.</u> At best, the exercise of power by the authorised officer may partake the colour of quasi-judicial function, which can be discharged even by the Executive Magistrate. <u>The authorised officer is not expected to adjudicate the contentious issues raised by the concerned parties but only verify the compliances referred to in the first proviso of Section 14; and being satisfied in that behalf, proceed to pass an order to facilitate taking over possession of the secured assets.</u>*
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> *45. <u>It is well established that no Civil Court can interdict the action initiated in respect of any matter, which a Debt Recovery Tribunal or Debt Recovery Appellate Tribunal is empowered by or under the 2002 Act, to determine and in particular, in respect of any action taken or to be taken in pursuance of any power conferred by or under the 2002 Act</u> or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. <u>That has been ordained by Section 34 of the 2002 Act.</u>*"
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> (<u>emphasis supplied</u>)

25. As held by the Hon'ble Supreme Court in case of **Prabha Jain & Ors. (supra)**, the petitioner-Bank has successfully discharged its burden to demonstrate that the Civil Court's interim order is inapplicable to its statutory recovery proceedings, especially in light of the statutory bar encapsulated under Section

34 of the SARFAESI Act. The relevant extracts of the said judgment is reproduced as under:-

> *"31. This Court in State Bank of Patiala v. Mukesh Jain & Anr. reported in (2017) 1 SCC 53 relied on Section 34 and declared that no civil court can entertain any suit wherein the proceedings initiated under Section 13 are challenged. Thus, this judgment highlighted that when the measures under Section 13 are challenged before the civil court, its jurisdiction to look into the challenge is ousted under Section 34. The relevant paragraphs are:*
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> > *"16. Upon perusal of Section 34 of the Act, it is very clear that no civil court is having jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under the Act to determine the dispute. Further, the civil court has no right to issue any injunction in pursuance of any action taken under the Act or under the provisions of the DRT Act.*
> >
> > *17. In view of a specific bar, no civil court can entertain any suit wherein the proceedings initiated under Section 13 of the Act are challenged. The Act had been enacted in 2002, whereas the DRT Act had been enacted in 1993. The legislature is presumed to be aware of the fact that the Tribunal constituted under the DRT Act would not have any jurisdiction to entertain any matter, wherein the subject-matter of the suit is less than Rs 10 lakhs."*
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> *32. In Robust Hotels Private Limited & Ors. v. EIH Limited & Ors. reported in (2017) 1 SCC 622, this Court held that Section 34 bars the jurisdiction of civil court for (i) suits or proceedings relating to matters that the Debts Recovery Tribunal or Appellate Tribunal can decide under this Act, and (ii) no injunction may be granted by any court or authorities regarding actions under this Act or the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. Therefore, the bar of jurisdiction of civil court has to correlate to the abovementioned conditions. This finding is central to the matter: the bar of jurisdiction correlates with the conditions mentioned in Section 34."*
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> *(emphasis supplied)*

CONCLUSION:

26. In the totality of the facts and the legal position discussed above, this Court finds that the application moved by the petitioner-Bank under Section 14, which has been kept pending by the learned District Magistrate suffers from a fundamental error of jurisdiction.

27. Consequently, the petitioner-Bank is granted liberty to file a fresh application or revive its application under Section 14(2) of the SARFAESI Act.

28. In view of above, the present writ petition stands allowed and the respondent No.1-learned District Magistrate, Pali/Competent Authority, as prescribed under the said provision, is directed to adjudicate the application dated 10.03.2022 (Annexure-15) or any such fresh application filed by the petitioner-Bank under Section 14 of the SARFAESI Act, strictly in accordance with the law, by way of a speaking order, and in light of the ratio encapsulated by the Hon'ble Supreme Court in **D. Visalakshi & Anr. (supra)**, uninfluenced by the interim order passed in the collateral civil proceedings.

29. Pending applications, if any, shall also stand disposed of. No order as to costs.

(SAMEER JAIN),J

Akansha Solanki