



2026:KER:37390

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

MONDAY, THE 1ST DAY OF JUNE 2026 / 11TH JYAISHTA, 1948

WP(C) NO. 10326 OF 2026

AGAINST THE ORDER DATED 04.03.2025 IN MC NO.637 OF
2025 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

PETITIONERS:

THE AUTHORIZED OFFICER, AXIS BANK LTD.,
A COMPANY INCORPORATED UNDER THE COMPANIES ACT-
1956, HAVING ITS REGISTERED OFFICE AT 'TRISHUL',
3RD FLOOR, OPPOSITE SAMARTHESHWAR TEMPLE, ELLIS
BRIDGE, AHMEDABAD AND HAVING ITS BRANCH OFFICE AT
AGRI BUSINESS CENTRE, AXIS BANK LTD, 1ST FLOOR,
PUKALAKKAT CITY CENTRE, PALARIVATTOM, KOCHI AND
REPRESENTED BY ITS AUTHORIZED OFFICER, THE AXIS
BANK LTD., RETAIL ASSET CENTRE, 5TH FLOOR CHICAGO
PLAZA, RAJAJI ROAD, ERNAKULAM, PIN - 682035

BY ADVS.
SHRI.P.PAULOCHAN ANTONY
SHRI.SREEJITH K.
SHRI. G.VISWANATHAN

RESPONDENTS:

- 1 REJI PAULOSE,
MANIYIRICKAL HOUSE, VALAKAM, ERNAKULAM,
PIN - 682316
- 2 SARA KUTTY PAULOSE,
MANIYIRICKAL HOUSE, VALAKAM, ERNAKULAM,
PIN - 682316



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**3 LIJI K JOSEPH,
MANIYIRICKAL HOUSE, VALAKAM, ERNAKULAM,
PIN - 682316**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01.06.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



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"CR"

JUDGMENT

Dated this the 1st day of June, 2026

The petitioner - a secured creditor, approached the Special Additional Chief Judicial Magistrate (for the trial of criminal cases against sitting and former MPs/MLAs of Kerala), Ernakulam by filing an application under Section 14 of the SARFAESI Act, seeking assistance for taking physical possession of the secured asset, when a default was committed by the borrowers.

2. The learned ACJM, after verifying the affidavit filed by the petitioner and after being satisfied that all the statutory requirements have been complied with, as per Ext.P1 order, ordered taking possession of the secured asset with the aid of an Advocate Commissioner. Thereafter, the matter was posted to 04.03.2026 and on that day, the



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learned ACJM passed Ext.P2 order referring the case for mediation. It is challenging Ext.P2 order, the secured creditor has approached this Court by filing this writ petition.

3. Heard the learned counsel for the petitioner. Even though the respondents were served, there is no representation for them.

4. The learned counsel for the petitioner, by relying on the decision of the Apex Court in **R.D.Jain and Co. (M/s) v. Capital First Ltd. and Others [(2023) 1 SCC 675]** and the decision of this Court in **C.R.Sindhu v. State of Kerala and Others [2007 (4) KHC 944]**, contended that the ACJM has no power to refer the matter for mediation, in an application filed by the secured creditor under Section 14 of the SARFAESI Act. He submitted that the role of the ACJM is only ministerial and when an application is filed under Section 14, his only



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duty is to verify whether the application is filed properly as per the statute and thereafter, ensure that the possession of the secured asset is handed over to the secured creditor.

5. On an anxious consideration of the submissions and the materials on record, I find considerable force in the submissions made by the learned counsel for the petitioner. It cannot be disputed that the power exercised by the CJM/ACJM under Section 14 of the SARFAESI Act is a ministerial act. The CJM does not perform any quasi judicial function and there is no element of application of mind in the process, since it does not involve any adjudicatory process. That apart, it is to be taken note that as mandated under Section 14, the CJM has to act within the stipulated time limit and pass appropriate orders for the purpose of taking possession of the secured



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asset, within a period of 30 days from the date of application, which can be extended for such further period, not exceeding 60 days and that the time is the essence and spirit of the enactment. Further, the Magistrate has no discretion in the matter and he is not expected to pass any order in Section 14 application except to take possession of the same and hand it over to the creditor [see **R.D.Jain** (*supra*) **and C.R.Sindhu** (*supra*)]

6. If so, in the light of the afore principles, I have no hesitation to find that Ext.P2 order passed by the learned Magistrate referring the parties to mediation cannot be sustained and the same is only to be set aside.

Ergo, this writ petition is allowed and Ext.P2 order dated 04.03.2026 passed by the Special Additional Chief Judicial Magistrate (for the trial of criminal cases against sitting and former



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MPs/MLAs of Kerala), Ernakulam in M.C.No.637 of 2025 is set aside and the learned Magistrate is directed to proceed with the application filed by the petitioner under Section 14 of the SARFAESI Act and pass appropriate orders as per law.

Sd/-
P. V. BALAKRISHNAN
JUDGE

scl



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APPENDIX OF WP(C) NO. 10326 OF 2026

PETITIONER EXHIBITS

Exhibit P1 **TRUE COPY OF ORDER IN MC NO. 637/2025
DATED 04.12.2025**

Exhibit P2 **TRUE COPY OF THE PROCEEDINGS DATED
04.03.2026**