2026:AHC:179130-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 27589 of 2026

Sachchidanand Yadav and another

…..Petitioner(s)

Versus

State of U.P. and 3 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Umesh Chandra Prajapati
Counsel for Respondent(s)	:	C.S.C., Ramesh Kumar Shukla

A.F.R.

Reserved on 28.07.2026
Delivered on-25.08.2026

Court No. - 5

HON'BLE PRAKASH PADIA, J.
HON'BLE VIVEK SARAN, J.

1. Heard Shri Umesh Chandra Prajapati, learned counsel for the petitioners, learned Standing Counsel appearing on behalf of Respondent Nos.1 & 2 and Shri R.K. Shukla, learned Counsel appearing on behalf of Respondent Nos.3 & 4.

2. The instant petition has been filed with the following prayer:

> *"A. Issue a writ of certiorari to quash the impugned judgment and order dated 28.02.2026 passed by respondent no.2 in Case No.336 of 2026, Computerised Case No.D202615060000336 (Adhar Housing Finance Limited versus Sachchidanand Yadav and others) under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002."*

3. Learned counsel for the petitioners submits that the order dated 28.02.2026 passed by the Additional District Magistrate/Respondent

no.2 suffers from manifest error as no opportunity of hearing was afforded to the petitioner prior to passing of the same. He placed reliance of judgement of the Hon'ble Supreme Court passed in **Re: Harshad Goverdhan Sondagar Vs. International Assets Reconstruction Co. Ltd. reported in 2014(6)SCC 1.**

4. Sri R.P. Shukla, learned counsel for the respondent nos.3 and 4 submits that the passing of the order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act') do not require any such hearing to the petitioner and therefore the order impugned do not suffer from any infirmity. He placed reliance on the judgment passed by the Coordinate Bench of this Court in **Re: Bank of Baroda Earlier Vijaya Bank Vs. State of U.P. and others, reported in 2024 SCC OnLine All 8172**.

5. Heard learned counsel for the parties and perused the record.

6. In order to settle the question, provisions of Section 14 of the SARFAESI Act are required to be seen, which reads as under:-

> ***"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.]

[(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 [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."

7. Perusal of the aforesaid provisions of Section 14 of the SARFAESI Act are clear that there is no requirement to issue any notice to the borrower prior to proceeding against the mortgaged property. The said view is fortified from the law laid down by Hon'ble Supreme Court in **Re: Balkrishna Rama Tarle Dead Vs. Phoenix ARC Private Limited** reported in **(2023)1SCC662** and the judgment of the Hon'ble Supreme Court in **Re: R.D. Jain & Co. Vs. Capital First Ltd. reported in (2023) 1 SCC 675** wherein it was held that the provisions of Section 14 neither provide for any adjudication and has only to decide the correctness of information. The relevant extract of para-25 is reproduced below:-

"........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."*

8. Learned counsel for the petitioners has placed reliance upon the judgement rendered in **Harshad Goverdhan Sondagar (supra)**. While going through the said judgement, we are of the considered opinion that the same is not applicable in case of the petitioner since the facts are different. The said case was that of a tenant and not of a borrower. Admittedly, the petitioner is a borrower and not a tenant.

9. The Hon'ble Supreme Court in **Balkrishna Rama Tarle Dead (supra)** in para-20 has also considered the effect of judgement passed in **Harshad Goverdhan Sondagar (supra)**. The said paragraph reads as under:-

"Now so far as the reliance placed upon the decision of this Court in Harshad Goverdhan Sondagar by the learned counsel appearing on behalf of the petitioner is concerned, the same shall not be applicable to the

> *facts of the case on hand, what is observed by this Court in the aforesaid case is the DM/CMM has to give a notice and opportunity of hearing to the person in possession of the secured assets* ***claiming to be a "Class (1) or (2)" lessee of mortgagor/borrower****, as well as to secure creditor, consistent with the principles of natural justice, and then take a decision. In the said decision, it is not observed that the DM/CMM has to adjudicate the rights between the parties."*

10. In such view of the matter, we are of the considered opinion that the petitioners being borrower himself was not required to be heard while disposing of the application under Section 14 of the SARFAESI Act by the concerned Magistrate since it is not required to adjudicate issues raised by the borrower *qua* the secured creditors.

11. The petition *sans* merit and is **dismissed**.

11. No order as to costs.

(Vivek Saran,J.) (Prakash Padia,J.)

August 25, 2026
Deepika