15.07.2026
Court No. 12
Item No.03
Cp/GB

FMA 53 of 2026
With
CAN 1 of 2025

Union Bank of India
Vs.
The State of West Bengal & Ors.

Mr. Pratik Dhar, Sr. Adv.,
Mr. Sailesh Mishra,
Mr. Snehal Sinha,
Mr. Prasenjit Das

…for the Appellant.

Ms. Susmita Saha Dutta, Ld. AGP.,
Ms. Tanusree Ghosh

….for the State.

Mr. Shashwat Nayak,
Mr. Debasish Chakraborty

… for the Respondent Nos.3 to 5.

1. The appeal arises out of an order dated November 6, 2025, passed in WPA 22020 of 2025. By the order impugned, the learned Judge directed the bank to proceed before the appellate authority on the issue involved. The bank filed the writ petition challenging a decision of the District Magistrate dated December 11, 2024. The District Magistrate did not pass necessary directions in exercise of power under Section 14 of the the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the

SARFAESI Act'), by relying upon documents and land records, inter alia, holding that the land in question was an agricultural land.

2. Mr. Dhar, learned senior advocate for the appellants submits that the remedy of the bank was before the writ court, inasmuch as, the bank was aggrieved by irregular and illegal exercise of jurisdiction by the District Magistrate. According to him, while disposing of an application under Section 14 of the SARFAESI Act, the District Magistrate was performing a ministerial function. He did not have an adjudicatory role. Thus, apart from verifying the correctness of the statements made in the affidavit as provided under Clauses i to ix of the first proviso to Section 14, any further adjudication or decision with regard to the nature and classification of the land in respect of which the security interest was created, was not legally permissible.

3. Reliance has been placed on the decision of this Court in the matter of ***Binay Chaudhary and Others versus AU Small Finance Bank Ltd. and Others*** reported in ***2026 SCC OnLine Cal*** 2238, in support of the contention that the District Magistrate performed or magisterial function and not an adjudicatory one. It is further submitted that, in the decision of ***Indian***

Bank and Another versus K. Pappireddiyar and Another, reported in ***(2018) 18 SCC 252***, the Hon'ble Apex Court held that classification of the land in the revenue records as an agricultural land, was not conclusive material for a decision on the question as to whether the actions under the SARFAESI Act could be taken or not. The mode of user of the land on the date the security interest was created, should be relevant. Further reliance was placed on the decision of ***K. Sreedhar versus Raus Constructions Private Limited and Others*** reported in ***(2023) 11 Supreme Court Cases 169***, on the issue that, the burden was on the borrower to prove that the security interest was created exclusively in respect of an agricultural land and, as such, the SARFAESI proceedings were prohibited under the law. Similarly, the following decisions, namely, ***ITC Limited versus Blue coast Hotels Limited*** reported in ***(2018) 15 Supreme Court Cases 99; Balkrishna Rama Tarle Dead Through Legal Representative and Another versus Phoenix ARC Private Limited and Others,*** reported in ***(2023) 1 Supreme Court Cases 662*** and ***R.D. Jain and Company versus Capital First Limited and Others*** reported in ***(2023) 1 Supreme Court Cases 675***, were also relied upon to support the contention that, when the parties understood the land to be not agricultural and conducted themselves in such a way, in that event, the jurisdiction of the District Magistrate did not extend to adjudicating on the classification of the said land.

4. Mr. Nayak, learned advocate for the respondent nos.3 to 5 submits that, in the decision of ***Standard Chartered Bank versus V. Nobel Kumar and Others*** reported in ***(2013) 9 Supreme Court Cases 620***, the Hon'ble Apex Court held that the satisfaction of the District Magistrate as contemplated under Section 14(1) necessarily required the District Magistrate to examine the factual correctness of assertions made in the affidavit. Only upon recording such satisfaction, necessary direction could be passed for taking over possession of the secured asset. Reliance was also placed on a Single Bench decision in ***UCO Bank versus District Magistrate and Collector and Another*** reported in ***2025 SCC OnLine Cal 4993,*** to support that the District Magistrate had a right to reject an application under Section 14 of the SARFAESI Act if all the materials were not provided in the affidavit.

5. Learned AGP submits that the District Magistrate could not have sat tight over the

matter, when it was evident that the land was agricultural land.

6. We have considered the rival contentions of the parties. First and foremost, the writ petition was filed challenging the jurisdictional error committed by the District Magistrate. Thus, the writ petition is maintainable. Secondly, the function of the District Magistrate is ministerial and not adjudicatory. The further probe into the classification of the land by a detailed inspection of the land record was not warranted in a situation like this. The District Magistrate had to satisfy himself whether the security interest was created in respect of the cold storage and other amenities which were situated on the said land. The other issue raised by Mr. Nayak that SARFAESI proceedings were not maintainable in respect of an agricultural land and was prohibited under Section 31 of the SARFAESI Act, will have to be decided by the appropriate forum. A decision on this issue involves adjudication and weighing of evidence. The District Magistrate, as we have already held, performs a ministerial function and only ascertains the correctness of the statements made in the affidavit, to a limited extent i.e., whether those nine points had been satisfied. They are as follows:-

*“**(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.”*

7. Under such circumstances, the order impugned is set aside. The order of the District Magistrate is also set aside. The District Magistrate will act and proceed in accordance with law and dispose of the application within a period of 30 days from the date of communication of this order. The points raised by Mr. Nayak with regard to the land being an agricultural land and erroneous exercise of power by the secured creditor under the SARFAESI Act, are kept open and to be decided by the learned Debts Recovery Tribunal in the pending SA or in the subsequent application.
8. Accordingly, the appeal and the connected application are disposed of. Our observations are restricted to the order passed by the District Magistrate and the learned Writ Court.
9. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)