

The Magistrate cannot mechanically close the proceedings when faced with obstruction and must take necessary steps to execute the warrant, as the objective of the SARFAESI Act is to facilitate the recovery of dues without forcing the secured creditor to initiate fresh proceedings repeatedly

The **Supreme Court** in the case of **IIHFL vs Nageswara Rao Perikala [SLP (Civil) No. 26160 of 2025]** dated **March 16, 2026**, has clarified that the time limits specified in Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), are directory in nature. Thus, a Chief Judicial Magistrate (CJM) or District Magistrate has a statutory obligation to ensure the execution of a warrant of possession, including providing police protection, and is not rendered functus officio merely because the possession could not be taken within the initially prescribed period.

The Court cautioned that the Magistrate cannot mechanically close the proceedings when faced with obstruction and must take necessary steps to execute the warrant, as the objective of the SARFAESI Act is to facilitate the recovery of dues without forcing the secured creditor to initiate fresh proceedings repeatedly.

Accordingly, the Apex Court quashed the impugned orders passed by the CJM and the High Court respectively, and restored the proceedings under Section 14 of SARFAESI Act. The Court also directed the CJM to provide Police protection to the Advocate Commissioner and to ensure that the warrant of possession is executed expeditiously, preferably within a period of one month.

The Court observed that the CJM is under a statutory obligation under Section 14 of the Act to ensure that the warrant of possession is executed and the secured creditor is not made to 'run from pillar to post'. The Court also noted that the CJM is empowered to take all necessary steps and use such force as may be necessary to take possession of the secured asset.

Further, the Court held that the CJM's order which mechanically directed the return of the unexecuted warrant and closed the petition without considering the Advocate Commissioner's memo for a time extension, suffered from non-application of mind. This was deemed an 'abdication of the statutory duty' cast upon the CJM under Section 14 of the Act.

While concluding, the Court observed that the High Court also failed to appreciate this failure of duty by the CJM, and instead, granted liberty to the appellant to file a fresh petition, which defeats the purpose of the Act. The Court therefore reiterated that the time limits prescribed under Section 14 are directory and not mandatory, and the inability to take possession within the prescribed time does not render the Magistrate functus officio.