

HIGH COURT OF SIKKIM

Record of proceedings

W.P. (C) No.78 of 2025

STATE BANK OF INDIA & ANR.

..... PETITIONERS

VERSUS

DISTRICT MAGISTRATE SORENG DISTRICT
AND ORS.

..... RESPONDENTS

Date: 05.03.2026

CORAM :

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Petitioner : Mr. Debanjan Chakraborty, Advocate.
Mr. Zigmee Dorjee Bhutia, Advocate.

For Respondent : Ms. Pema Bhutia, Assistant Government Advocate.
No.1.

For Respondent : Mr. Lahang Limboo, Advocate.
No.2. Mr. Binod Chakraborty, Advocate. (through V.C.)

For Respondent : Mr. Pradeep Tamang, Advocate.
Nos. 3 & 4.

For Respondent : None.
No. 5

For Respondent : Ms. Karden Chenchu Namgyal, Advocate.
No. 6.

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1. The present writ petition has been filed seeking a direction to the District Magistrate, Soreng District to dispose of the petitioner's application dated 29.08.2023 filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

2. The learned counsel for the petitioner draws the attention of this Court to the said application as well as to the notice dated 13.05.2025 issued to the respondent no.2. The said notice reads as under:-

"On perusal of the documents, it has been found that an affidavit duly affirmed by the Authorized Officer as stipulated vide Proviso to sub-section (1) of Section 14 of the Act has been submitted along with the application.

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Therefore, you are hereby informed that it has been decided to take over the secured assets from you on 3rd June, 2025.

You have the liberty to vacate the secured assets and hand over the vacant possessions to the Petitioner Bank before the above mentioned date of takeover, failing which the secured assets would be taken over from you, if necessary, by use of force on the appointed date.

You may note that in the event of any resistance from you, in taking over the secured assets, appropriate action shall be taken against you under the relevant law.”

3. Attention is also drawn to another notice dated 02.06.2025 issued to the petitioner by the District Magistrate, wherein it is stated that the respondent no.2 had moved an application seeking extension of the date for attachment, as he had been summoned by the Debts Recovery Tribunal (DBT) Siliguri on the same date i.e. 03.06.2025. Accordingly, the date for take over of secured assets was shifted to 17.06.2025.

4. On 13.06.2025 yet another notice was issued to the petitioner by the District Magistrate, Soreng stating that as per order dated 03.06.2025 passed by the DRT, Siliguri it has been directed to the petitioner to restrain from taking physical possession of the property belonging to respondent no.2. Therefore, in view of the said order, the action contemplated vide Notice bearing Memo No.150/DAC/Soreng, dated 13.05.2025 is postponed till further order.

5. From the facts placed before this Court by the learned counsel for the petitioner it is evidently clear that the District Magistrate had in fact acted upon the petitioner's application dated

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29.08.2023 filed under Section 14 of the SARFAESI Act and passed effective orders therein. However, it is also evident that the DRT on an application moved by one Arpana Pradhan decided to stay the order passed by the District Magistrate on 13.05.2025. The order of the DRT dated 03.06.2025 restraining the petitioner to take physical possession of the property till the next date is not under challenge in the present writ petition. It is also not the case of the petitioner that the DRT does not have the jurisdiction to pass the order dated 03.06.2025. The notice dated 13.05.2025 is clearly an order passed under Section 14 of the SARFAESI Act in favour of the petitioner. Thus this Court is of the firm view that the present writ petition does not have a cause and accordingly it is dismissed without calling for counter affidavits from the respondents. The petitioner is at liberty to approach the appropriate forum or take such appropriate steps as advised if they have a cause. The writ petition is accordingly disposed of.

Judge