



2026:AHC:151595-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 28159 of 2026

Shivalik Small Finance Bank Limited

.....Petitioner(s)

Versus

State of Uttar Pradesh and 8 others

.....Respondent(s)

Counsel for Petitioner(s)	: Nishant Verma, Sagar Mehrotra
Counsel for Respondent(s)	: C.S.C.

Court No. - 5

AFR

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

(Per:Hon'ble Vivek Saran,J.)

1. Heard Sri Sagar Mehrotra, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

2. The instant petition has been filed with following relief:

"I. Issue an appropriate writ, order or direction to Respondent Nos.4 and 5 to provide physical possession of the secured asset to the Petitioner in compliance with the order passed by the Respondent No.3/Additional District Magistrate (Finance and Revenue), District Gautam Budh Nagar on 01.11.2025 under Section 14 of the SARFAESI Act, 2002, in time-bound manner."

3. Learned counsel for the petitioner submits that inspite of the order dated 11.01.2025 passed by the Additional District Magistrate, the physical possession of the secured assets had yet not been handed over. He submits that the respondent no.3 is duty bound to get his order complied with. He further submits that although the borrower has preferred S.A. No.516 of 2026 and in which although the next date fixed

by the Court is 24.09.2026 but as on date there is no interim order and as such there is no embargo on the Additional District Magistrate (Finance and Revenue) to proceed for dispossession. He further relied upon a judgment passed by the Co-ordinate Bench of this Court inre: **Dilip Kumar Singh and Another v. State of U.P. and Others**¹ to buttress his submission.

4. *Per contra*, learned Standing Counsel submits that although it is abundant duty of the respondent no.3/Additional District Magistrate (Finance and Revenue) to proceed for dispossession but in the instant case since the borrower has filed S.A. No.516 of 2026 and which is pending adjudication and 24.09.2026 is fixed, therefore proceeding with the matter would render the efforts of the borrower by taking legal recourse meaningless.

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

6. Admittedly, before this Court the effort of the petitioner/financial institution is to seek dispossession by force of the borrower from the mortgaged property that too during the pendency of the legal recourse taken by the borrower as admittedly S.A. No.516 of 2026 is pending adjudication before the Debt Recovery Tribunal and in which a date is fixed.

7. The judgment relied upon by learned counsel for the petitioner inre:**Dilip Kumar Singh and Another (Supra)** rendered by the coordinate Bench of this Court while determining issue no.3 it held that there would not be any automatic stay merely by filing the application under Section 17 of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act') and also that the Tribunal can impose a condition relating to deposit. The relevant paragraph of the said judgment reads as under:

"17. We accordingly hold that there will be no automatic stay on filing of an application under Section 17 of the Securitisation Act, and the Tribunal while granting stay of auction can impose a condition relating to deposit. Re. Question (iii)"

1 (2013) 1 ADJ 91(DB)

8. Thus the reliance of the learned counsel that this judgment empowers this Court to direct dispossession of borrower of secured asset is misplaced. There is no doubt that the Additional District Magistrate (Finance and Revenue) has to proceed for dis-possession once an application under Section 14 of the Act is made and the said Act is a ministerial act but it is always upon to the concerned authority to fix priority as per the number of cases pending before it.

9. A coordinate Bench of this Court inre: **Alishad Usmani and others vs. Ali Isteba and Ors.**² has held that it would be most inappropriate to Court to entertain the writ petition under Article 226 or under Article 227 of the Constitution of India simply for the purpose of expediting hearing of cases as it would create a class of litigants who moved the Court in a separate and preferential category, whereas other cases which may be of similar or greater antiquity and urgency are left to be decided in the normal channel. The relevant paragraph of the judgment reads as under:

1. “.....It would be most inappropriate to Court to entertain a writ petition under Article 226 and/or under Article 227 of the Constitution simply for the purpose of expediting the hearing of a suit. Such orders, if granted, place a class of litigants, who move the court in a separate and preferential category whereas other cases which may be of similar or greater antiquity and urgency are left to be decided in the normal channel.....”

10. The same view has also been expressed by the Constitutional Bench of the Hon'ble Supreme Court inre: **High Court Bar Association, Allahabad vs. State of U.P. and Others**³. The relevant paragraph reads as under:

“42. Therefore, constitutional Courts should not normally fix a time-bound schedule for disposal of cases pending in any Court. The pattern of pendency of various categories of cases pending in every Court, including High Courts, is different. The situation at the grassroots level is better known to the judges of the concerned Courts. Therefore, the issue of giving out-of- turn priority to certain cases should be best left to the concerned Courts. The orders fixing the outer limit for the disposal of cases should be passed only in exceptional circumstances to meet extraordinary situations.

43. There is another important reason for adopting the said approach. Not every litigant can easily afford to file proceedings in the constitutional Courts. Those litigants who can afford to approach the constitutional Courts cannot be allowed to take undue advantage by getting an order directing out-of-turn disposal of their cases while all other litigants

2 2015 (109) ALR 513

3 (2021) 6 SCC 267

patiently wait in the queue for their turn to come. The Courts, superior in the judicial hierarchy, cannot interfere with the day-to-day functioning of the other Courts by directing that only certain cases should be decided out of turn within a time frame. In a sense, no Court of law is inferior to the other. This Court is not superior to the High Courts in the judicial hierarchy. Therefore, the Judges of the High Courts should be allowed to set their priorities on a rational basis. Thus, as far as setting the outer limit is concerned, it should be best left to the concerned Courts unless there are very extraordinary circumstances.”

11. Nothing has been brought on record to demonstrate the number of matters which are pending before the concerned SDM to which such a direction is sought to be issued by the petitioner.

12. Thus it would be in the fitness of thing that as the S.A. No.516 of 2016 is pending before the Debt Recovery Tribunal with a specific date fixed as 24.09.2026 then the respondent no.3/Additional District Magistrate (Finance & Revenue) be left to determine the manner in which he decides to proceed, although it is expected from the authority that it would be adhering to the statutory provision and law laid down in that regard.

13. In this view of the matter, we do not find it as a fit case to exercise our discretion. The writ petition is accordingly, **dismissed**.

14. No order as to costs.

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

July 23, 2026

Deepika