



SARFAESI

# Non-Production of Authorization Letter as a Curable Defect: Examining Judicial Interference in Secured Asset Recovery

The relation between strict procedural compliance and substantive justice under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) continues to generate significant judicial discourse. In a recent pronouncement, the High Court of Chhattisgarh, speaking through Hon'ble Justice Amitendra Kishore Prasad in *Central Bank of India v. State* [...]

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The relation between strict procedural compliance and substantive justice under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) continues to generate significant judicial discourse. In a recent pronouncement, the High Court of Chhattisgarh, speaking through Hon'ble Justice Amitendra Kishore Prasad in *Central Bank of India v. State of Chhattisgarh and Ors.*, WPC No. 2314 of 2026, decided on 11 May 2026, addressed the critical question of whether the non-production of an authorization letter by an Authorized Officer under Section 14 of the SARFAESI Act constitutes a fatal defect warranting outright dismissal, or merely a curable procedural irregularity amenable to rectification. The judgment assumes particular significance for secured creditors navigating the enforcement mechanism under the SARFAESI Act, while simultaneously reaffirming the sanctity of principles of natural justice even in summary recovery proceedings.

The factual matrix leading to the writ petition traces back to a loan transaction between the petitioner, Central Bank of India, and the respondent borrower, Ankit Kashyap. The borrower had availed of a loan facility amounting to Rs. 28,63,000/- pursuant to a sanction letter dated 18 September 2023, creating security interest over various secured assets in favour of the Bank. Following utilisation of the loan amount, the borrower failed to adhere to the terms of the loan agreement and defaulted in repayment of outstanding dues. Consequently, the loan account was classified as a Non-Performing Asset (NPA) on 26 February 2025, with the outstanding liability standing at Rs. 28,84,636/- as on 27 February 2025.

In order to enforce the security interest, the petitioner Bank issued a statutory demand notice under Section 13(2) of the SARFAESI Act on 27 February 2025, calling upon the borrower and guarantors to discharge their liability within the mandated period of sixty days. Despite due service of the notice, the borrower failed to liquidate the outstanding dues within the prescribed statutory window. Upon expiry of this period, the Bank proceeded to take measures under Section 13(4) of the SARFAESI Act on 26 May 2025. In strict compliance with the statutory requirements, the petitioner also caused publication of possession notices in the English daily *The Hitavada* and the Hindi daily *Haribhoomi* on 27 May 2025. Notwithstanding these measures, the borrower and guarantors failed to hand over peaceful possession of the secured assets, compelling the Bank to file an application under Section 14 of the SARFAESI Act before the Chief Judicial Magistrate, Raipur on 13 June 2025, seeking assistance for taking physical possession of the secured assets for the purpose of sale and recovery.

The learned Chief Judicial Magistrate, Raipur, however, dismissed the petitioner's application vide the impugned order dated 26 November 2025. The sole ground for dismissal was that no document demonstrating the authorization of the Authorized Officer had been filed along with the Section 14 application. Aggrieved by this order, the petitioner Bank approached the High Court by way of the present writ petition, assailing the order as arbitrary, contrary to law, and violative of the principles of natural justice.

Before the High Court, the petitioner advanced substantial submissions through its learned counsel. It was contended that the dismissal rested merely upon a curable procedural defect, namely the non-production of the formal authorization letter of the Authorized Officer. The petitioner emphasised that the defect was neither substantive nor fatal to the maintainability of the proceedings, and that the learned Chief Judicial Magistrate ought to have afforded a reasonable opportunity to the Bank to cure the said deficiency. It was further argued that the application was rejected in a mechanical manner without considering the settled principles governing curable defects, rendering the impugned action wholly contrary to law and natural justice. Additionally, the petitioner placed reliance upon the well-settled legal position that while exercising powers under Section 14 of the SARFAESI Act, the District Magistrate or Chief Metropolitan Magistrate performs only a ministerial function of rendering assistance to the secured creditor in taking possession of the secured assets, and is not vested with adjudicatory powers to examine the legality or propriety of the actions taken by the secured creditor under the provisions of the Act.

On the other hand, the learned counsel appearing for the State, Mr. Soumitra Kesharwani, Panel Lawyer, opposed the petitioner's submissions and contended that the impugned order had been passed strictly in accordance with law. It was argued that the order did not warrant any interference by the High Court in exercise of its extraordinary writ jurisdiction.

The High Court, after hearing the rival contentions and perusing the material available on record, framed the central issues around the nature of the defect and the scope of the Magistrate's jurisdiction under Section 14. The Court noted that while an affidavit had indeed been filed along with the Section 14 application by the concerned officer of the petitioner Bank describing himself to be the authorized officer, the formal authorization letter in support thereof was not placed on record at the relevant time. The Court unequivocally held that this omission was merely a curable procedural defect, and not a substantive or fatal infirmity going to the root of the application or the jurisdiction of the Magistrate.

The Court observed that the learned Chief Judicial Magistrate, Raipur had declined to consider the application on merits solely on this procedural ground, without granting the petitioner Bank any opportunity to rectify the deficiency. Such mechanical rejection, the Court held, was impermissible in law, particularly when the defect was readily curable and did not prejudice the substantive rights of the parties. The Court applied the doctrine of curable defects and the principles of natural justice, noting that the outright dismissal without affording an opportunity to cure the procedural lapse was contrary to settled jurisprudence. The Court also implicitly recognised the ministerial nature of the function discharged by the Magistrate under Section 14, cautioning against the assumption of adjudicatory powers where the statute contemplates only assistance to the secured creditor.

In the final analysis, the Court chose not to enter into the merits of the underlying controversy between the Bank and the borrower, and instead proceeded to mould relief in the interest of justice. The impugned order dated 26 November 2025 was set aside. The petitioner Bank was granted liberty and opportunity to place the requisite authorization letter before the concerned Court. Upon such authorization letter being filed, the learned Chief Judicial Magistrate, Raipur was directed to reconsider the application afresh and pass appropriate orders strictly in accordance with law, without being influenced by the earlier order passed in the matter. With these observations and directions, the writ petition was disposed of.

The judgment in *Central Bank of India v. State of Chhattisgarh* serves as a salutary reminder that procedural formalities, while important, cannot be elevated to a level where they eclipse the substantive objectives of special enactments such as the SARFAESI Act. By holding that the non-production of an authorization letter is a curable defect and that natural justice mandates an opportunity to rectify such lapses, the Chhattisgarh High Court has reinforced the delicate balance between efficient debt recovery mechanisms and procedural fairness. The decision further clarifies that Magistrates acting under Section 14 of the SARFAESI Act must remain confined to their statutory role of rendering ministerial assistance, and ought not to reject applications on technical grounds when the substantive prerequisites for enforcement have been duly satisfied. For secured creditors and legal practitioners alike, this pronouncement highlights the necessity of meticulous documentation while simultaneously affirming that procedural imperfections, when curable, should not become insurmountable barriers to justice.

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