

GUIDELINES TO BE FOLLOWED IN MATTERS PERTAINING TO SARFAESI ACT

By Hon'ble High Court

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The Hon'ble High Court of Madhya Pradesh in ***Equitas Small Finance Bank Limited through its Authorized Signatory v. The State of Madhya Pradesh, Principal Secretary, Law and Legislature Affairs Vallabh Bhawan Bhopal (Madhya Pradesh)*** 23rd of November, 2023 writ petition no. 26176 of 2023 issued guidelines/directions to be followed by the DM/ADM/CJM while passing orders for deciding applications u/s 14 of the SARFAESI Act. The same are reproduced below:

- i. DM/ADM/CJM have to determine whether secured assets fall within their territorial jurisdiction.
- ii. Whether notice u/s 13(2) of the SARFAESI Act has been furnished by the secured creditor and also whether the case of secured creditor falls under any of the exceptions provided u/s 31 of the SARFAESI Act?
- iii. DM/ADM/CJM is not at all required to hear the application u/s 14 of the SARFAESI Act for the purpose of registration of the case.
- iv. DM/ADM/CJM acting u/s 14 of the SARFAESI Act is not required to give notice either to the borrower or to the 3rd
- v. The DM/ADM/CJM shall ensure that the secured creditor should file an affidavit declaring that the terms and conditions prescribed u/s 14(1) of the SARFAESI Act are satisfied.
- vi. DM/ADM/CJM should ensure that application filed u/s 14 of the SARFAESI Act shall be decided as expeditiously as possible, preferably within 45 days from the date of filing of such an application.

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