IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE THIRUVANANTHAPURAM

Present:

REKHA.R

CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM

Thursday, 13th of January, 2022

MC 764/2021

Petitioner		Union Bank of India, Varkala Branch, Thiruvananthapuram, represented by its Authorized Officer. *(By Adv.Sri. N.B.Padmakumar)*
Respondents	1	M/s Elite Fashion Jewellery, represented by its Proprietor, Aneesh.R, Lekshmivila Veedu, Muttappalam P.O, Panayara, Varkala, Thiruvananthapuram 695 145
	2	Abhi Raj.R, Lekshmivila Veedu, Muttappalam P.O, Panayara, Varkala, Thiruvananthapuram 695 145
	3	Aneesh.R, Lekshmivila Veedu, Muttappalam P.O, Panayara, Varkala, Thiruvananthapuram 695 145
	4	Akhila, Lekshmivila Veedu, Muttappalam P.O, Panayara, Varkala, Thiruvananthapuram 695 145
	5	Pramod G.S, Nandanam, Padiyarathuvila, Panayara, Chemmaruthy, Sreenivasapuram P.O, Thiruvananthapuram 695145
	6	Rajasree, Swargam, Edatharavila, Venkulam, Edava P.O, Thiruvananthapuram 695311
	7	Aswathy Asok.R, Swargam, Edatharavila, Venkulam, Edava P.O, Thiruvananthapuram 695311

ORDER

1. This petition has been filed U/s.14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "Act") for taking possession of the secured asset which is the scheduled property.

2. The petitioner is the Union Bank of India, who is the secured creditor and respondents are the borrowers who are the secured debtors. Respondents created a security interest in respect of the scheduled property which is the secured asset in favour of the petitioner in respect of cash credit

facility by way of a loan availed from the petitioner by the respondents as per a security agreement. Repayment was defaulted and the account was classified as Non Performing Asset. So, the petitioner has issued notice u/s 13(2) of the Act to the respondents. But even after receiving the statutory notice u/s 13(2) of the Act, they did not pay the loan amount within the statutory period. So, the petitioner has sought for taking possession of the secured asset for realization of the amount due to the petitioner's bank.

3. Authorized Officer of the Petitioner-Bank has filed affidavit in compliance of Sec.14 of the Act. The affidavit and documents produced would show that the respondents created security interest in respect of the secured asset in favour of the petitioner at the time of availing loan from the petitioner's bank and they failed in repaying the amount even after receipt of statutory notice u/s 13(2) of the Act. Hence I find that the petitioner is entitled for possession of the secured asset which is the scheduled property through the proceedings of this court. Hence a direction can be given to hand over the petition schedule property which is a secured asset as prayed for.

4. In the result, the petition is allowed as follows:-

   i. Respondents are directed to hand over the possession of secured asset described in the petition schedule, to the petitioner.
   ii. Advocate Asher George Mathew is appointed as commissioner to take possession of the scheduled property with due notice after one month from the date of order, considering present pandemic situation, and hand it over to the petitioner on proper acknowledgment. The petitioner shall pay batta of Rs.4000/- to the commissioner within 15 days from today and file memo and to pay Rs.1000/- as batta on filing commission report.

iii. The petitioner shall provide a copy of the petition including the schedule of secured asset to the advocate commissioner for executing the order.

iv. The Station House Officer of the Police Station in which the petition schedule property situates shall give necessary assistance to the commissioner if so required.

v. The Advocate commissioner is permitted to break open the premises if required so.

vi. The commissioner is directed to prepare an inventory in triplicate to be attested by two respectable witnesses as regards the execution of this order and in taking possession of the scheduled property and copies thereof shall be given to the petitioner as well as the respondents on proper acknowledgment. The remaining one copy shall be filed along with the commissioner's report before the court.

vii. The Advocate Commissioner shall file report before this court after taking and handing over possession to the petitioner-bank.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 13th of January, 2022)

CHIEF JUDICIAL MAGISTRATE
THIRUVANANTHAPURAM