

11.08.2023

This case is called and orders pronounced in the Open Court as
under

ORDERS

This petition is filed under Section 14 of the Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 by the petitioner against the respondent seeking for an order to take possession of the property House bearing New Municipal No.9, PID No.55-436-9, situated at 2nd Cross, 5th Block, 3rd Phase, BSK 3rd Stage, Bengaluru – 560 070 measuring East to West $(7.75+6.15)/2$ Meters and North to South $(10.56+9.68)/2$ Meters, total measuring 70.334 Square Meters along with 8.5 Square RCC roofed house having Ground Floor 3.0 Square, First Floor 4.5 Square and Second Floor 1.0 Square built with bricks and cement wall, Mosaic flooring, windows and doors made by jungle wood with all civic amenities and bounded on East by Site No.10, West by 2nd Cross Road, North by Remaining portion of the same property belonging to Smt.B.Suma and South by 1st 'A' Main Road (herein afterwards referred to as petition schedule property) by exercising the powers conferred under Section 14 of the Act; to give suitable direction or orders to the Police Authority/Station House Officer

to assist the petitioner/Court Commissioner/Court Sheristedar in evicting the occupant/s of the petition schedule property; the petitioner/Court Commissioner/Court Sheristedar may also be empowered to break open the locks of the petition schedule property if situation warrants so and to deliver the vacant physical possession of the petition schedule property to the petitioner.

2. According to the petitioner Bank, the respondent has borrowed Mortgage Loan Facilities of Rs.70.00 lakhs from the petitioner by offering mortgage of the petition schedule property by creating mortgage by way of Deposit of Title Deeds of the petition schedule property. But, the respondent has failed to repay the said loans as per terms and conditions of the loan documents. Her loan account become NPA on 23.02.2021. Therefore, on 18.04.2022, the petitioner issued Demand Notice under Section 13(2) of the Act calling upon the respondent to pay outstanding amount of Rs.85,75,800/- as on 18.04.2022. In spite of the service of the said notice, the respondent has not repaid the outstanding loan amount. On 07.07.2023, the petitioner took symbolic possession of the petition schedule property under Section 13(4) of the Act and issued Possession Notice. The Possession Notice was also published in The New Indian Express and Kannada Prabha news papers dated 11.07.2023. The petition schedule property is a secured asset as per the Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002. The petitioner is required to take possession of the petition schedule property under the provisions of the Act. The petitioner sensed law and

order problem while taking physical possession of the petition schedule property. Hence, this petition is filed.

3. The petition is supporting with the affidavit of the Authorized Officer of the petitioner Bank. The learned Counsel for the petitioner filed Original documents relied by the petitioner.

4. I have carefully read the petition averments, its annexed affidavit and the documents placed before this Court in support of the case of the petitioner Bank.

5. On careful perusal of the available materials, this Court is satisfied that the petitioner is a secured creditor, the respondent is the secured obligor and that the petition schedule property is a secured asset for the debt borrowed within the meaning of the provisions of the Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002. I am also satisfied that the petitioner Bank has issued 60 days Demand Notice as per Section 13(2) of the Act and that the respondent has not paid the said due loan amount to the petitioner bank in spite of due service of the said Demand Notice. Therefore, the petitioner Bank being the secured creditor is entitled to enforce security interest against the respondent for recovery of the loan dues. Under these circumstances, the petitioner bank is entitled for the relief under Section 14 of the Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002. Accordingly, a Court Commissioner is to be

appointed to execute the order of the Court. Hence, I proceed to pass the following:-

ORDERS

The petition filed by the petitioner under Section 14 of Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 is hereby allowed as prayed.

The petitioner Bank is entitled to take possession of the petition schedule property towards satisfaction of its due from the respondent as prayed in the petition.

Since, the appointment of Sheristedar or any officers of this Court as Court Commissioner is leading to hampering of public duty of this Court, it is just and necessary to appoint Sri.Siddaraju G., Advocate, Enrollment No.KAR/269/2022 as an Court Commissioner to take possession of the petition schedule property.

The Court Commissioner is hereby directed to take possession of the petition schedule property towards the satisfaction of the due of the petitioner Bank from the respondent with the assistance of jurisdictional police by conducting inventory and

Panchanama and to report the same as early as possible as per the memo of instruction.

Further, petitioner bank is directed to forthwith furnish memo of instructions to the Court Commissioner.

It is hereby further ordered that direct the jurisdictional Station House Officer to give necessary assistance to the petitioner bank while taking possession of the petitioner schedule property from the respondent.

The petitioner bank shall bear the legal expenses if any incurred in this regard.

Commissioner fee is fixed at Rs.5,000/-, which will be forthwith deposited by the bank.

Office is directed to issue Commissioner Warrant and to return the original documents to the authorized person of petitioner bank or to its counsel on due verification.

(Typed by the Stenographer in the Court computer on my direct dictation, printout taken, corrected, signed and then pronounced by me in the open court on 11.08.2023)

(VEDAMOORTHY B.S.)
II Addl. Chief Metropolitan Magistrate,
Bengaluru.