KATK020031712025

IN THE COURT OF THE I ADDL. SENIOR CIVIL JUDGE AND CJM, TUMAKURU.

Present: **G. DEEPA, B.A.L., LL.B.,**
I Addl. Senior Civil Judge and CJM,
Tumakuru.

Dated, this the 27th day of January 2026

Crl.Misc.349/2025

Petitioner : M/s. Muthoot Home fin (India)
Limited, 1st Floor RSR Building,
Beind Sangeetha Mobiles,
Gandhi Bazar, Basavanagudi,
Bengaluru-560004.

Represented by its authorized
Officer,
Mr. Sunil Shankarappa Naganur
S/o Shankarappa,
Aged about 26 years.

(By Sri.PS., Advocate)

V/s.

Respondents : 1. Mr. Hidayath Ulla Shariff,
S/o Mr. Sami Ulla Sheriff,
Aged about 26 years.

2. Mrs. Akthar Unnisa,
W/o Mr. Sami Ulla Shariff,
Aged about 59 years.

Both are R/at
Kuruvell, Urdigere Village,
Thumkur district-572140.

Aslo at
78/B, Kuruvell, Urdigere
village, Thumakuru District-
572140.

ORDERS ON PEPTION FILED U/SEC.14 OF SARFAESI ACT, 2002

The petitioner/secured creditor has filed the above petition, seeking reliefs of physical and vacant possession of schedule property and such other reliefs.

2. The brief facts of the petitioner's case are that the petitioner is a financial institution / Bank and a secured creditor. The respondents approached the petitioner Bank

for the loan facility of Rs.5,00,000/- each under two applications. Accordingly, the petitioner sanctioned and disbursed the loan to the tune of Rs.4,57,164/-and Rs.4,50,053/-. As such, the respondents have executed all the necessary documents in favour of the petitioner to secure the loan and created the charge over the petition schedule property by mortgaging the same in favour of the petitioner Bank. Whereas, after borrowing the loan, the respondents have failed to repay the out standing loan amount and become defaulters. Accordingly, the loan amount has been classified as non performing asset on 02.05.2025.

3. Consequently, the petitioner issued a statutory demand notice, calling upon the respondents to pay the total out standing loan amount of Rs.9,66,142/- within a period of 60 days together with interest and other incidental charges. But, inspite of service of notice, the respondents

did not comply with the notice. The property mortgaged against the loan amount is a secured asset within the meaning of the SARFAESI Act and secured creditor is entitled to take possession of the same under the provision of the said Act for realization of the loan outstanding amount. As such, the secured creditor issued possession notice personally and through paper publication. Despite its service, the respondents have failed to handover the peaceful physical possession of the said secured asset to the applicant. Hence, without any alternative, the petitioner has come up with this petition. Accordingly, sought for allowing the petition.

4. As per the provisions of the Sec.14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Chief Metropolitan Magistrate or District Magistrate are empowered to entertain the petition filed under this section.

But, as per the judgment reported in 2009 SC 1067 between the Authorized Officer, Indian Bank V/S D. Vishalakshi and another, the Hon'ble Court has held that the Chief Judicial Magistrate is also equally competent to deal with the application moved by the secured creditor U/Sec.14 of SARFAESI Act. Further the material on record reveals that the petition schedule property is situated within the jurisdiction of this court. Hence, the petition is maintainable before this court. Further, in a judgment reported in 2016 (1) KCCR 697 between L.T. House finance Ltd., V/S Vasu Krishnamurthy., the issuance of notice to the respondents is dispensed with. Hence issuance of notice to the respondents is dispensed with.

5. Heard the arguments of the petitioner. Perused the material on record.

6. The points that arise for my consideration are:

1. **Whether the petitioner is entitled for the reliefs claimed ?**
2. **What Order?**

7. My findings on the above Points are:

Point No.1: In the **Affirmative.**

Point No.2: As per final order for the following:

R E A S O N S

8. **<u>Point No.1 :</u>** The material on record reveals that the respondents have approached the petitioner bank for a loan of Rs.5,00,000/- each under two applications against property. Accordingly, the petitioner sanctioned and disbursed the loan to the tune of Rs.4,57,164/-and Rs.4,50,053/- on executing the documents including the mortgage deed. But, the respondents have failed to keep up the repayment schedule. Accordingly, the loan amount was classified as NPA and as on 02.05.2025 they were due for a

sum of Rs.9,66,142/-. Though the demand and possession notices were issued, personally and through paper publication, the respondents have neither complied nor replied with the notice. The averments of the affidavit corroborate the claim of the petitioner. Hence there is nothing to disbelieve the version of the petitioner. Accordingly, the petitioner is entitled for the reliefs sought in the petition. In the circumstances, the point No.1 is answered in the affirmative.

9. **Point No.2**: For the aforesaid findings, I proceed to pass the following:

O R D E R

The petition filed U/Sec. 14 of SARFAESI Act 2002 is hereby allowed.

Accordingly, the petitioner is permitted to have the physical and vacant possession of the petition schedule property.

Mrs.Sevapriya.J.S. Advocate, (Enrollment No. KAR / 611 / 2010) is appointed as a court commissioner to execute the order and file report with documents.

His fee is fixed at Rs.8,000/-. Jurisdictional police is directed to accord necessary help in due execution of the commissioner warrant if circumstances warrant.

Office to issue commissioner warrant if commissioner fee and PF are deposited and return the original documents to the petitioner on proper identification and acknowledgment.

(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in the open Court on this, the 27th day of January 2026)

(G. DEEPA)
I Addl. Senior Civil Judge,
& CJM, Tumakuru.