IN THE COURT OF THE
CHIEF JUDICIAL MAGISTRATE,
BENGALURU RURAL DISTRICT, BENGALURU.

Present:- SRI.SOMASHEKHAR C.BADAMI, B.Com.LL.B,
CJM, Bengaluru Rural District, Bengaluru.

Dated this the 28th day of November - 2019

Crl.Misc.No.709/2019

M/s.Kuruhindsetty Souharda Credit
Co-Operative Limited,
Chamarajpet Branch,
No.276, 1st Floor, 1st Main Road,
Chamarajpet, Bengaluru – 560 018.
Represented by its Authorised Officer/
Chief Executive officer,
Head office, Bengaluru.
(On behalf of Chamarajpet Branch)
Sri.Thiruvengadam, S/o.late.C.Gundappa,
73 years. **Petitioner**

(By Sri.Shivshankar.A, Advocate for petitioner)

-Vs-

1.Mrs.Janaki.S, W/o.Ramachandra,
No.128, Kithiganur Village,
K.R.Puram Post, Bengaluru – 560 049.

2.Mr.Ramachandra, S/o.Byrappa,

No.128, Kithiganur Village,
K.R.Puram Post, Bengaluru – 560 049. **Respondents**

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ORDER

The petitioner/M/s.Kuruhindsetty Souharda Credit Co-Operative Limited has filed present petition U/s 14 of Securitization and Reconstruction of Financial Asset and Security Act, 2002 along with affidavit of the Chief Manager seeking order for taking physical and vacant possession of the petition schedule property and for other redressal.

2. On receipt of the petition, it is registered and received all the original records from the petitioner / Bank.

3. Based upon the materials, the following points are arises for my consideration :-

1. Whether the petition is deserves to be allowed?

2. What order?

4. My finding on the above points are as under:-

Point No.1 : In the Affirmative

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

REASONS

5. **Point No.1** : As per the decision of our Hon'ble High Court which is reported in III (2013) BC 582 (Kar.) in a case between Kaveri Marketing, Bangalore -Vs- Saraswathi Co-operative Bank Ltd., which was decided on 21.01.2013. The Chief Judicial Magistrate is also empowered to deal with Section 14 of SARFAESI Act. Therefore, this court is having jurisdiction to entertain the petition. Accordingly, it is ordered that the petition is maintainable.

6. On close reading of the provisions of SURFAESI Act, there is no any adjudication of the facts, but this court is limited

administrative role of verifying the contents of the affidavit with the original documents filed by the secured creditor/Bank in the context of clauses (i) to (ix) stipulated under the first proviso to Section.14(1) of SURFAESI Act. Therefore, I am of the view that the notice to the respondent is not required. Muchless, the secured creditor is already issued 60 days notice to the borrower / respondent as required under the provisions of the Act and it appears from the documents that no amount of loan is possible to recover. In such circumstances, the contents of the affidavit along with petition filed by the Chief Manager of the petitioner/Bank i.e. secured creditor are well supported with the original documents placed before me. On verifying the same, I am satisfied that the contents of the affidavit are true. The petition schedule properties are appears to be situated within the jurisdiction of this court. In view of the same, this court is empowered to assist to the creditor to take possession of the schedule property. Therefore, the petition is deserves to be allowed and accordingly point no.1 is answered in the Affirmative,

7. **Point No.2** : in view of the discussion made supra, I proceed to pass the following :-

ORDER

The petition filed by the petitioner / Bank U/s 14 of SARFAESI Act is hereby allowed.

The petitioner/Bank is permitted to take possession in respect of the petition schedule property. For this purpose, the learned advocate Sri.Rajashankar.E, is appointed as court commissioner to do the ministerial work.

The commissioner fee of Rs.5,000/- is fixed and petitioner is directed to pay the same to the court commissioner.

It is also ordered that the jurisdictional police shall assist the Bank and court commissioner to take possession of the schedule property by drawing mahazar and also by taking photographs or video.

On depositing the commissioner fee, the office is directed to issue commission warrant in the name of court commissioner, who is hereby directed to submit the compliance report to the office.

Accordingly the matter is closed.

Return the original documents to the Banker.

(Dictated to the Stenographer, transcribed by her, corrected and initialed by me and then pronounced in the Open Court on this the 28th day of November- 2019)

(SOMASHEKHAR C. BADAMI),
Chief Judicial Magistrate,
Bengaluru Rural Dist, Bengaluru.