KADW050009992026

Presented on : 17-04-2026
Registered on : 17-04-2026
Decided on : 31-07-2026
Duration : 0 years, 3 months, 14 days

IN THE COURT OF THE III ADDL. SENIOR CIVIL JUDGE & C.J.M., DHARWAD

PRESENT: Smt.Hemashree D.
B.A.(LAW) LL.B.

III Addl. Senior Civil Judge & C.J.M., Dharwad

Dated this the 31st day of July, 2026

CRL.MISC.No.183/2026

Petitioner : JANA Small Finance Bank Ltd., having its registered office at The Fairway, Ground & First Floor, Off Domlur, Koramangala Inner Ring Road, Next to EGL Business Park, Challaghatta, Bangalore and branch office at Lingareddy building, Kalaghatagi Road, Saraswathpur, Dharwad 580 002. Represented by its authorized officer Mr.Ranjan Hanumant Naik S/o Hanumant Naik, Aged 34 years,

(**By Sri. Raju M.-Adv.,)**

V/s

Respondents 1. Mrs. Lakshmi Siddappa Avarad, since dead, Rep.by her Legal heirs.

1A) Mrs.Anand Siddappa Awarad (Co-Borrower & Legal Heir of Borrower deceased Mrs. Lakshmi Siddappa Avarad) S/o Venkat Swami, Age: 59 years, # 30, Basaveshwar Circle, Nekar Nagar, Hubli, Karnataka-580024.

ORDERS

1. This petition is filed by the petitioner under Sec.14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. **Brief facts of the case are as follows:-**

The respondents as borrower and co-borrower obtained loan of Rs.5,00,000/- and Rs.10,00,000/-on 20-01-2024 from the petitioner/secured creditor by executing loan agreement and other necessary documents. They have mortgaged the schedule property by way of simple mortgage deed in favour of the petitioner as security to the loan. As the respondents failed to repay the loan amount as per the terms of loan agreement, the loan account was classified as non performing asset on 01-01-2026. Hence, the petitioner issued demand notice to the respondents on 24-01-2026 under Sec.13(2) of SARFAESI Act calling upon the respondents to pay the total outstanding dues of Rs.5,43,066.39. Inspite of service of notice and paper publications, the respondents have not discharged their liability. Therefore, the petitioner issued possession notice on 08-04-2026 and also published the said possession notice in two daily newspapers on 10-04-2026. Inspite of the same the respondents have neither repaid the outstanding dues nor handed over physical possession of the schedule property. Hence, to recover the secured debt due from the respondents it is necessary to take actual possession and sell the schedule property. The petitioner has apprehension that the respondents may prevent its officials from entering into the property and cause breach of peace. Therefore, the petitioner has sought for the assistance of the court in taking possession of the schedule property.

3. In view of the judgment of Hon'ble High Court of Karnataka reported in **ILR 2007 KAR 16** between ***Mrs. Sunanda Kumari and another v/s Standard Chartered Bank***, it is not necessary to issue notice to respondent/ borrower before passing order under Section 14 of the SARFAESI Act.

4. Heard the arguments of counsel for petitioner and perused the materials on record.

5. The following points arise for my consideration-

1. *Whether the petitioner has made out grounds to allow the petition?*
2. *What order?*

6. My answers to the above points are as under:

Point No.1 : In the Affirmative

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

R E A S O N S

7. **Point No.1:** The present petition is filed by the petitioner through its authorized officer by name Mr.Ranjan Hanumant Naik. He has produced the authorization letter. Thus, the petition is filed by the authorized person.

8. The petitioner has stated that the respondents have failed to discharge their loan liability and as such the loan account has been classified as non-performing asset on 01-01-2026 and inspite of issuance of statutory notice u/Sec.13(2) of SARFAESI Act and service thereof the respondents have failed to pay the outstanding loan amount. It is stated by the petitioner that to realize the outstanding

loan amount by taking possession of the secured asset, the assistance of the court is necessary. The petitioner has produced the loan agreement, sanction letter, simple mortgage deed, statement of account, copy of notice u/Sec.13(2) of SARFAESI Act, possession notice and copies of postal receipts, track consignment and paper publication regarding service of notice.

9. From the materials on record it is revealed that respondents have obtained loan of Rs.5,00,000/- and Rs.10,00,000/- and executed loan agreement. That the respondents have mortgaged the schedule property by executing of simple mortgage deed and created security interest. It is also revealed that the respondents are the owners in possession of the schedule property. The petitioner has produced the notice issued under Section 13(2) SARFAESI Act, calling upon the respondents to pay outstanding loan amount. It is further revealed from the documents that the loan account of the respondents has become NPA. The petitioner has produced postal receipts and track consignment and the paper publications in Kannada Prabha and The New Indian Express newspapers which disclose that notices were issued through RPAD as well as through paper publications. Despite the same the

respondents have not paid the outstanding loan amount. Hence, possession notice was also issued and published in Kannada Prabha and The New Indian Express newspapers. Thereafter, also the respondents have not paid the amount.

10. The authorized official of the petitioner has filed affidavit in compliance of Sec.14(1) of SARFAESI Act stating about the grant of financial assistance by the secured creditor to the obligators by creating the security interest on the schedule property, default committed by the obligators in repayment of outstanding dues with interest and non compliance of demand notice.

11. On careful perusal of the documents produced by petitioner it is clear that the petitioner has followed the prescribed procedure under law to take possession of the schedule property. Hence, the petitioner being secured creditor is entitled to get the possession of the property as per Section 14 of the SARFAESI Act, through Court. Accordingly, it is necessary to order for possession of the schedule property in favour of authorized officer of the petitioner. Hence, **point No.1 is answered in the Affirmative.**

12. **<u>Point No.2:</u>** In view of the above reasons, I proceed to pass the following:

ORDER

Petition is hereby allowed.

Sri. Prashanth B Simpiger, advocate, Roll No. KAR 5067/2023 is appointed as Court commissioner to execute the possession warrant order. Court commissioner's fee is fixed at Rs.5,000/-.

Issue possession warrant through Court commissioner. The Court commissioner is directed to make inventories, take possession of the schedule property as per law and hand over the same to the authorized officer of the petitioner Bank.

Further if any objections or impediment arise at the time of taking possession of the schedule properties the Court commissioner is permitted to break open the locks if any with the help of jurisdictional police. Further, the jurisdictional police is hereby directed to give assistance to the Court commissioner for executing order.

Once the process of taking over possession of the schedule properties is over the same has to be handed over to *the authorized officer of the petitioner and intimate the same to the court.*

Petitioner is permitted to deposit commissioner's fee and they have to take steps within one month from the date of this order and Court commissioner has to execute the commission work within one month from the date of issuance of Court commissioner's warrant.

Accordingly, the petition is closed.

(Dictated to the stenographer directly on the computer, computerized by him; corrected by me and order is pronounced in the open court on the 31st day of July, 2026).

(Smt.Hemashree.D)
III Addl. Senior Civil Judge & C.J.M.,
Dharwad