**IN THE COURT OF PRL.SENIOR CIVIL JUDGE AND CJM, GADAG**

**PRESENT**
**SRI. G.R. SHETTAR., B.com. LL.B (Spl)**
**PRL. SENIOR CIVIL JUDGE AND CJM, GADAG**

**DATED THIS 25th DAY OF FEBRUARY, 2026**

**Cri.Misc.No.28/2026**

**PETITIONER:-**

IIFL HOME FINANCE LIMITED,
(Formerly known as India Infoline
Housing Finance Limited)
Having its Registered Office at
IIFL House, Sun Infotech Park,
Road No.16V, Plot No.B-23, MIDC
Thane Industrial Area, Wagle Estate,
Thane-400604, No.09. Ground Floor,
Soma Merit, Venkataswamy Naidu Street,
Taskar Town, Shivajinagar Bangalore-560051,
Represented by its State Legal Manager and
Authorized Officer, Mr. Madhu Kumar S.M.

**(R/by Sri. Satish V. Advocate)**

**Versus**

**RESPONDENTS**:

1. Subhadramma Chidanandappa Kenchrli
W/o Chidanandappa, Age : 59 years,
R/o. Subhadramma Kenchrili, ward No.5,
Colony, Narasapur, Betageri, Gadag-582102.

Also at :
E-swathu No.151400101300324655,
Plot No.8, Narasapur village,
Hattalagere, Gadag-582112.

2. Amaresh Kencharli S/o Chidanandappa,
Age : 41 years, R/o. Subhadramma Kenchrili,
ward No.5, Colony, Narasapur, Betageri,
Gadag-582102.

Also at :
E-swathu No.151400101300324655,
Plot No.8, Narasapur village,
Hattalagere, Gadag-582112.

3. Sheela Kencharli W/o Amaresh Kencharli,
Age : 34 years, R/o. Subhadramma Kenchrili,
ward No.5, Colony, Narasapur, Betageri,
Gadag-582102.

Also at :
E-swathu No.151400101300324655,
Plot No.8, Narasapur village,
Hattalagere, Gadag-582112.

**ORDER**

That, the Secured Creditor submitted the present petition to direct the Advocate commissioner of Court to take the possession of the secured property from respondents, their tenant/s, their henchmen or anybody claiming through them and forward the same to it and direct the concerned jurisdictional Police to assist it in taking the possession of the schedule property from the respondents, their tenant/s, henchmen or anybody claiming through them and order to break open the locks of the schedule property if the same is found locked at the time of taking possession of the property.

**The schedule property is as under:-**

All piece and parcel of E-Swathu No.151400101300324655, plot No.8, land area measuring 750 Sq. Ft. built up area 702 Sq. Ft. Carpet area 500 Sq. Ft., situated at Narasapura village, Hattalagere, Gadag-582112 and bounded as follows :

| | | |
|---|---|---|
| To East | : | Plot No.9, |
| To West | : | Plot No.7, |
| To North | : | Park, |
| To South | : | Road. |

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

The Secured Creditor is a company registered under the Companies Act, 2013 as a Banking company with the Banking Regulation Act, 1949 and having its registered office at Sun Infotech park road No.16V, plot No.B-23, MIDC, Thane Industrial Area, Wagle Estate, Thane-400604. Corporate office at No.98, Udyog vihar Phase-IV, Gurgaon-122015(Haryana) and a Branch Office at No.09, Ground Floor, Soma Merit, Venkataswamy Naidu Street, Tasker Town, Shivajinagar, Bangalore-560051.

3. Mr. Madhu Kumar S.M. is the State Legal Manager and Authorized Officer appointed by the Secured Creditor under the provisions of SARFAESI Act and rules framed thereunder and he is duly authorized to institute, sign and verify the present complaint.

4. The Obligor No.1 to 3 are the borrower and Co-Borrower have approached and requested the Secured Creditor had sanctioned financial facility of Rs.4,50,500/- dated 31.05.2023 for the purpose of Home loan. The obligors entered into Loan account Prospect ID IL10493536, 84 Equated Monthly Installments with 24% rate of interest and provided security for repayment of the same by creating Memorandum of Deposit of Title Deeds of the Secured asset.

5. The terms of the agreement dated 31.05.2023, the obligors were required to repay the amount in accordance with the repayment schedule. The respondents agreeing with the terms and conditions. The respondents executed document mortgaging of the schedule property by way of Deed of Simple Mortgage in favour of the Applicant

Bank Dale deed dated 29.03.2023 and Mortgage deed dated 09.06.2023 as per sec.58(f) of the transfer of property Act.

6. The petitioner Bank classified the respondents account as NPA on 06.05.2025 by virtue of default in payment commitments. Ultimately the petitioner exercise of power conferred under the Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (SARFAESI Act).

7. The Secured Creditor Company was compelled to invoke the provisions of the SARFAESI Act and accordingly had issued statutory demand notice dated 12.06.2025 under section 13(2) of the SARFAESI Act, 2002 thereby calling upon the Obligors to liquidate their liability and pay amount of Rs.4,58,153/- with future interest of 24% per annum as on 12.06.2025 till the date of payment within 60 days from the receipt of the said notice. After lapse of statutory period of 60 days, notice U/sec. 13(2) of the Act.

8. The Secured Creditor Company, with a view to recover its legitimate dues, intends to take the physical possession of the Secured Asset to sell the mortgaged

property as per the provisions of the SARFAESI Act, 2002 'Symbolic Possession' notice with caution to public not to deal with schedule property on 15.09.2025 and was published in the daily newspaper namely 'Kannada Prabha' and 'The New Indian Express' dated 18.09.2025.

9. As on 12.06.2025, the respondents were due to a sum of Rs.4,58,153/- to the petitioner. The respondents are liable to pay the Bank together @ 24% p.a. The obligors are jointly and severally liable to pay the amount.

10. The Hon'ble High Court of Karnataka in W.P.No.35696/2015 has held that "It appears that the Court below is unable to discern the scheme, scope and spirit of Section 14 of the SARFAESI Act, which is why the matter is kept alive for more than six months. It is the submission at the Bar that similar applications under SARFAESI Act are pending before various Courts of the State and are being unnecessarily adjourned. If that were to be so, the pending petitions before the Lower Courts or the District Magistrates under Section 14 of the SARFAESI Act, shall be attended and required assistance shall be

given to the Secured Creditor for taking possession of the secured asset, without further delay, if the requirement under first proviso to Section 14 is compiled to the satisfaction of the concerned Magistrate. The Secured Creditor further submits that the Hon'ble High Court of Karnataka in Writ Appeal No.6330-6337/2017, clearly reiterated that "no notice is necessary to the Borrowers/Obligors under Section 14 of The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002".

11. In Union Bank of India Vs State of Maharashtra, AIR 2010 BOM 150, Hon'ble Bombay High Court has taken the view that section 14 is only procedural in nature and does not clothe the authorities with the power to adjudicate. "Section 14 of SARFAESI Act, 2002 is procedural in nature and that the procedure stipulated therein enables the Secured Creditor to take the assistance of Chief Metropolitan Magistrate or District Magistrate in taking possession of the Secured Creditor in taking of the secured assets as per the procedure contemplated under Section 14,

but does not clothe the District Magistrate with the power to adjudicate in respect of any dispute pertaining to any secured asset”. Therefore, there is no necessity to issue notice to the obligors for passing order in the present petition.

12. Neither the respondents approached nor responded to the Bank. Now the petitioner Bank initiated the proceedings under Sec.14 of the SARFAESI Act. The schedule property is situated within the jurisdiction of this Court and therefore Court has jurisdiction to try this petition, and to take physical possession of the mortgaged property under Section 14 of the SARFAESI Act 2002, and to deliver the same to the petitioner for disposal to recover the dues from the respondents under the Act. Hence, this petition.

13. Heard Arguments of learned counsel for petitioner/Secured Creditor on main petition. Perused the material available on record.

14. Points that arise for consideration and determination are as under:

**POINTS**

1. Whether petitioner/Secured Creditor has made out grounds for allowing the petition as prayed for?
2. What Order?

15. This Court answers above said points as under:

**POINT No.1 :** In Affirmative
**POINT No.2 :** As per final order
for following :-

**REASONS**

16. **Point No.I:-**That, the petitioner/Secured Creditor to substantiate its aforesaid contentions has relied upon below mentioned documents:-

1. Copy of Certificate of Incorporation in pursuant to change of Name.
2. Copy of Letter of Authorization.
3. Copy of the Loan Application form.
4. Copy of Home loan agreement.
5. Copy of Sanction letter.
6. Copy of Statement of accounts.
7. Copy of Title deed (Sale deed) dated 29.03.2023.
8. Copy of Mortgage deed dated 09.06.2023.
9. Copy of CERSAI Certificate.
10. Copy of NPA certificate.

11. Copies of the Notice U/s.13(2) along with postal receipts and postal tracking.
12. The copies of possession notice U/sec.13(4) along with Symbolic Possession postal receipts and tracking.
13. Copy of copies of the extracts of the paper publication of the possession notice U/sec.13(4).
14. Memo to appoint Court Commissioner.

17. It is pertinent to note here that, the SARFAESI Act was passed on 17/12/2002 and the intention of this Act is to enable the Bank and Financial institutions to quickly recover the money advanced. That, the Act empowers the Banks and Financial Institutions to auction the property mortgaged with them to recover such outstanding dues which is not paid for years despite repeated follow up's and such unpaid money also is to be treated to NPA.

18. It is pertinent to note here that, Section 13 of the Act provides for the enforcement of security interest and this is a self executory mechanism for the Banks and once the process of realizing the secured interest takes place, the secured creditor acts as trustee having de jure/symbolic

possession of the property and is required by law to realize it strictly in accordance with the provisions of Section 13, 14 and 15 of the Act. In the aforesaid notice, the secured creditor is required to disclose information on the amount payable by the borrower and the secured debt. Section 14 of the Act provides for the procedural mechanism for taking possession of property.

19. In present case, from perusal of the documents produced by the secured creditor it clearly appears that the respondents have obtained the loan from petitioner/Secured Creditor and thereafter, have failed to repay the same and for which the secured creditor had complied with the provisions of SARFAESI Act. That, the secured creditor has made out the grounds to allow its application as prayed for. Hence, this Court answers point No.I in affirmative.

20. **Point No.II:-** In view of discussions made above and findings given on Point No.I, this Court proceed to pass following:

**ORDER**

Petition filed by secured creditor U/Sec.14 of SARFAESI Act is hereby allowed.

Sri. M. Y. Goudar, Advocate is appointed as Commissioner to take the possession of the Secured Property from the respondents, their tenant's, their henchmen or anybody claiming through them and forward the same to the petitioner within 45 days from the date of this order.

The PSI of jurisdictional police station is hereby directed to assist the petitioner for peaceful enforcement of the order while taking the possession of the schedule property from the respondents, their tenant/s, henchmen or anybody who is in possession of the schedule property.

The said Commissioner is empowered to break open the locks of the schedule property if they are locked at the time of taking peaceful possession of the same.

(Directly typed to my dictation by the Stenographer, corrected and signed by me, then pronounced by me in the open Court on this **25th day of February 2026)**

GIRIMALLAPPA R SHETTAR
Digitally signed by GIRIMALLAPPA R SHETTAR
Date: 2026.02.25 17:43:09 +0530

**(G.R. SHETTAR)**
**Prl. Senior Civil Judge & CJM.,**
**GADAG**