**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 07th DAY OF JANUARY, 2026**

**Cri.Misc.No.162/2026**

**PETITIONER:**

IDFC First Bank Limited,
Formerly known as IDFC Bank Ltd.,
having its registered office at KRM Tower,
7th Floor, No.1 Harrington road, Chetpet,
Chennai-600031 and its branch office at
ground Floor, Bevin's plaza, Patel Rd,
Opposite Tilak Park, Gadag-Betageri,
Karnataka-582103, Represented by its
authorized Officer, Mr. Magesh U. S/o Udhayan,
Age : 31 years.

**(R/by Sri. M.S.Halakeri., Advocate)**

**Versus**

**RESPONDENTS:**

1. Mahantesh M. Madivalar S/o
Mallappa, Age : 29 years,
R/o. E-Property No.151400501800600434,
VPC No.345, near Ganesh temple,
at Ramageri village, Post : Ramageri,
Tq : Laxmeshwar, Dist : Gadag,
Karnataka-382116.

2. Malleshappa Madivalar S/o Shivappa,
Age : 55 years, R/o. E-Property
No.151400501800600434,
VPC No.345, near Ganesh temple,
at Ramageri village, Post : Ramageri,
Tq : Laxmeshwar, Dist : Gadag,
Karnataka-382116.

## O R D E R

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 that piece and parcel of property bearing VPC No.345, E-Swattu No.151400501800600434, measuring East-West : 9.144 Mtrs., North-South : 7.62 Mtrs., total area 69.68 Sq. Mtrs., situated at Ramageri village, Taluka : Laxmeshwar, District : Gadag, Karnataka-382116, and within the limits of Sub-Registration District of Laxmeshwar, Registration District of Gadag and property standing in the name of Mr. Malleshappa Madivalar, who is respondent No.2 of this petition and property bounded as under:

| | | |
|---|---|---|
| To East | : | House of Imamsab Manjalapur, |
| To West | : | House of Basappa Yaraguppi, |
| To North | : | House of Nirmala Malleshappa Madivalar, |
| To South | : | Govt. Road. |

2. **Brief facts of the present petition are as under:-**

The petitioner IDFC First Bank Limited, Formerly known as IDFC Bank Ltd., a company register under the companies Act, 2013 and a banking company within the meaning of the Banking Regulation Act, 1949 and having its register office at KRM Tower, 7th Floor, No.1 Harrington road, Chetpet, Chennai-600031 and branch office at ground floor, Bevin's Plaza, Patel Rd, Opposite Tilak Park, Gadag-Betageri, Karnataka 582103.

3. Mr. Magesh U. S/o Udhayan, is the 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 respondent No.1 is the Principal Borrower and respondent No.2 is the Co-applicant/guarantor. The respondents approached the petitioner for property loan for a

sum of 1) Rs.6,50,000/- and 2) Rs.3,50,000/-. Accordingly, the petitioner bank considering the application of the respondents has sanctioned the loan facility to the respondents to the tune of 1) Rs.6,50,000/- under the loan Account No.126403233 dated 13.07.2022 and 2) Rs.3,50,000/- under the loan Account No.81169536 dated 24.08.2023. The respondents agreeing with the terms and conditions had entered into a loan agreement dated 13.07.2022 and 25.08.2023. The respondents executed document mortgaging of the schedule property by way of Deposit of Title deeds in favour of the bank as contemplated under Section 58(f) of the Transfer of Property Act, the Deed of Simple Mortgage dated 12.07.2022.

5. The petitioner Bank classified the respondents account as NPA on 31.05.2025 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).

6. The petitioner Bank issued Demand notice on 09.07.2025 for requesting outstanding amount of 1) Rs.5,69,733.21/- and 2) Rs.3,20,596.46/- as on 09.07.2025. The respondents failed to repay the dues within a stipulated period mentioned in demand notice. The petitioner has published the notice under Sec 13(2) in two prominent daily newspapers, namely “The New Indian Express” and “Kannadaprabha” dated 25.07.2025.

7. The Secured creditor taken the Symbolic possession of the schedule property by issuing possession notice on 17.10.2025 and also published in two leading daily newspapers i.e. “The New Indian Express” and “Kannadaprabha” dated 25.10.2025.

8. As on 09.07.2025, the respondents were due to a sum of 1) Rs.5,69,733.21/- and 2) Rs.3,20,596.46/- to the petitioner. The respondents are liable to pay the Bank together @ 19% p.a. interest till the date of payment withing 60 days from the receipt of the said notice. Further the loan account was classified as NPA and thereafter 13(2) notice was issued and the respondent even after expiry of 60 days.

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 properties under Section 14 of the SARFAESI Act 2002, and to deliver the same to the petitioner for disposal to recover the dues from the respondent under the Act. Hence, this petition.

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

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

**P O I N T S**

I. Whether the Petitioner/Secured Creditor has made out sufficient grounds for allowing the petition as prayed for?

II. What Order?

11. This Court answers above said points as under:-

**Point No.I :** In the Affirmative.
**Point No.II :** As per final order
for following :

**R E A S O N S**

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

1. Attested copy of the letter of Authority/POA/Board.
2. Attested copy of the loan application.
3. Attested copy of the loan agreement and sanction letter.
4. Attested copy of Deed of Simple Mortgage.
5. Attested copy of the demand notice U/Sec.13(2) of SARFAESI Act, Postal particulars and paper publication.
6. Attested copy of the possession notice U/Sec.13(4) of SARFAESI Act, postal particulars and paper publication.
7. Attested copy of the Statement of account (FC) & CERSAI.

13. 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 ups and such unpaid money also is to be treated to NPA.

14. It is pertinent to note here that, Section 13 of the Act provides for the enforcement of security interest and this is a self executor 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. Section 14 of the Act provides for the procedural mechanism for taking possession of property.

15. In the 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.

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

**O R D E R**

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

Shri. I.S.Hampiholi 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.

(Dictated to Stenographer directly on computer, computerized by her, printed and then corrected and pronounced by me in the open Court on this **07th day of January, 2026)**

GIRIMALLAPPA R SHETTAR Digitally signed by GIRIMALLAPPA R SHETTAR Date: 2026.01.07 16:38:48 +0530

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