

KARN020016532025



Presented on :18-10-2025
Registered on : 18-10-2025
Decided on : 13-03-2026
Duration : -- years, 04 months, 25 days

**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE &
CJM., AT RAMANAGARA.**

**Presided Over by Sri. Lokesha B.A., L.L.B.,
Prl. Senior Civil Judge & CJM.,
Ramanagara.**

CRIMINAL MISCELLANEOUS No.188/2025

DATED : THIS THE 13th DAY OF MARCH 2026

Petitioner : Kotak Mahindra Bank Ltd.,
Having its Head Office at:
27BKC, C 27 G Block,
Bandra Kurla Complex,
Bandra(E),
Mumbai-400051.

Having its Branch Office at:
No.60, Gandhi Bazaar Main Road,
Basavanagudi,
Bengaluru-560004,

Represented by its
Authorized Signatory
Sri. Vinod Barimani

(Rep. by Sri. S.R.M. Advocate)

- V/s -

Respondents : 1. Mr. Krishnappa H.
S/o Mr. Hanumantharayappa,
Khata No.02/02,



Srigiripura Village,
Srigiripura Grama Panchayath,
Magadi Taluk,
Ramanagara District,
Karnataka-561101.

2. Mrs. Sujatha G.N.
W/o Mr. Krishnappa H.
Khata No.02/02,
Srigiripura Village,
Srigiripura Grama Panchayath,
Magadi Taluk,
Ramanagara District,
Karnataka-561101.

(Exparte)

ORDER

The Petitioner Bank has filed the present petition under Sec.14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, through it's authorized officer, seeking an order to enable it to take physical possession of the property as described in the schedule to the petition.



2. The authorized officer of the Petitioner Bank has also sworn to an affidavit and the same has been filed along with the main petition.

3. Before filing the present petition, apart from issuing a demand notice as well as possession notice to the Respondents through RPAD, the Petitioner Bank has also issued possession notice by way of Paper Publication in two leading daily news papers i.e., “Kannada Prabha” and “The New Indian Express” dated:19.08.2025. Therefore, in order to avoid the delay in the disposal of the present petition within the statutory period, issuance of notice of this petition to the Respondents is dispensed with.

4. Heard the learned counsel for the Petitioner. Perused the averments made in the main petition as well as in the accompanying affidavit and the contents of the



original documents and other materials available on record.

5. The following points would arise for my consideration:-

1. Whether the Petitioner Bank is entitled for the physical possession of the schedule property as prayed?

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:-

REASONS

7. **Point No.1:-** From a plain reading of Section 14 of SARFAESI Act, it appears that, only a Chief Metropolitan Magistrate or a District Magistrate can entertain a petition filed under the said Section. But, in **Civil Appeal**



No.6295/2005, in the case of “The Authorized Officer, Indian Bank Vs., D.Visalaxi”, it was held by the Hon'ble Apex Court that, the Chief Judicial Magistrate is equally competent to deal with an application moved by the secured creditor under Sec.14 of the SARFAESI Act 2002. Therefore, the present petition is very much maintainable before this Court.

8. As could be seen from the documents placed before the Court, the schedule property/secured asset of immovable property, bearing No.02/02, E-Khata No.152900303002200002, measuring East to West:20.4216 Mtrs., North to South:5.486 Mtrs., situated at Sreegripura Village, Kuduru Hobli, Magadi Taluk, Ramanagara District i.e., in a place situated within the Jurisdiction of this Court. Therefore, this Court can entertain the present petition.



9. As per the petition averments and also the averments made in the affidavit accompanying the petition, the Respondents had availed a total term loans of Rs.5,00,000/- from the Petitioner Bank. The said loan was obtained against the security of the schedule property. As per the terms of the loan papers, the Respondents have to repay the said loan amount. After availing the said loan, the Respondents failed to keep up his promise of prompt repayment, in spite of repeated requests and demands made by the officials of the Petitioner Bank and at present, there is an outstanding balance of Rs.5,02,328.63/- in the loan account in question. Hence, the said loan account is classified as a Non-Performing Asset (NPA). Therefore, the Petitioner Bank, being a secured creditor, is, in law, entitled to obtain the physical possession of the schedule property/secured asset, in respect of which, the



Respondents, while borrowing the loan in question, has created a security interest in it's favour.

10. The contents of the documents produced by the Petitioner Bank corroborate the contention of the Petitioner Bank as well as the contents of the sworn affidavit of it's authorized officer that, it is the secured creditor, as the Respondents have created a security interest, in respect of the schedule property/secured asset, while borrowing the loan in question, which has now been classified as a Non-Performing Asset due to the default committed by the Respondents in making regular repayment as agreed and it's claim against the Respondents is well within the period of limitation.

11. Further, the records also reveal that, the Petitioner Bank has issued a demand notice dated:- 01.04.2025 as contemplated under Sec.13(2) of the



SARFAESI Act and despite the receipt of the said notice, the Respondents had failed either to comply with the just and legal demands made therein within 60 days or to issue suitable reply by raising any tenable objections. Further, the Petitioner has taken Symbolic Possession of Property on 19.08.2025 and was published in “Kannada Prabha” and “The New Indian Express” dated 24.08.2025 and the same was furnished before the Court.

12. The copy of Addition of Security Interest Acknowledgment Report produced by the Petitioner Bank that the security interest created in it's favour by the Respondents, have been registered with the Central Registry of Securitization Asset Reconstruction and Security Interest of India, New Delhi. So, the Petitioner has complied with the mandatory requirement of the provision of Sec.26D of the SARFAESI Act, as amended by



Act 44 of 2016 and thereby entitled to exercise the rights of enforcement of Securities under Chapter – III of the said Act, which contains Sec.14 too.

13. I have perused the sworn affidavit of the authorized officer of the Petitioner Bank and satisfied that the contents of the said affidavit are in consonance with the requirements of the first proviso appended to Sec.14(1) of the SARFAESI Act. Further, as I have already observed, the declaration made in the said affidavit is in conformity with the documents produced before the Court. By considering all these aspects, I am satisfied about the fact that, there is a need to extend the assistance of this Court to obtain physical possession of the secured asset by the Petitioner Bank as prayed.

14. It is a well settled principle of law that for the sake of convenience, to do the ministerial work, courts are empowered to appoint advocate commissioner. Therefore, I



am of the considered opinion that, it is required to take possession of the secured asset by appointing an advocate as Court Commissioner.

15. For all the above reasons, I hold that, the Petitioner Bank being the secured creditor is entitled to take physical possession of the secured asset as contemplated under Sec. 14 of the SARFAESI Act, 2002. Hence, I answer this **Point No.1 in the “Affirmative”**.

16. Point No.2:- In view of my aforesaid reasons and the conclusions arrived at by me during the discussion of Point No.1, I proceed to pass the following:-

ORDER

The present petition filed under Sec.14 of the SARFAESI Act is hereby allowed.

The Petitioner Bank is held entitled to take the physical



possession of the secured asset/s as described in the petition schedule.

Advocate Smt. Pallavi R. named by the Petitioner Bank is appointed as the Court Commissioner to take physical possession of the secured asset and to deliver the same to the Petitioner Bank.

The Court Commissioner is hereby directed to take possession of the Petition schedule property towards the satisfaction of the due of the Petitioner from the Respondents with the assistance of the jurisdictional Police.

Further the Court Commissioner is permitted to break open the lock of the petition schedule property if the situation warrants, by conducting the inventory and Panchanama and to report the same, as early as possible as per the memo of instruction.



The Commissioner's fee is tentatively fixed at Rs.5,000/- and the Petitioner Bank is directed to pay the same to the Court Commissioner.

It is also ordered that the Jurisdictional Police shall assist the Court Commissioner and the Petitioner Bank to take physical possession of the secured asset by drawing mahazar and also by taking photographs or by making videography at the cost of Petitioner Bank.

On depositing or payment of Commissioners' fee, office is directed to issue commission warrant in the name of the Court Commissioner, who is hereby directed to submit the compliance report in the Court office without undue delay.

Office is directed to return the original documents to the authorized



person of Petitioner or to its counsel
on due verification.

*(Dictated to the Stenographer through on computer, typed by her and corrected by me
and then pronounced in the open Court on this the 13th day of March, 2026).*

(Lokesha)
Pri. Senior Civil Judge & CJM.,
Ramanagara.