KAUK020016782026

Cri. Misc.58/2026

IN THE COURT OF
PRL. SNR. CIVIL JUDGE AND CJM COURT, KARWAR AT KARWAR,UTTARA KANNADA

Present: Smt. Kavita S. Undodi,
B.A.LL.B.(Spl)
Prl. Senior Civil Judge and
CJM, Karwar.

DATED: THIS THE 12th DAY OF AUGUST-2026.

Cri. Misc. No.58/2026

Petitioner:

State Bank of India,
Hulekal Road Branch (00917)
Sirsi, Dis: U.K
Represented by Chief Manager/ authorized officer,
Shri. Lakshmi Kanth K S/o SeetharamaRao K.
Age: 52 Years .

V/S

RESPONDENTS:

1) Mr. Shivamurthi Ramayya Hombale S/o
Ramayya Hombale,
Age: 66 Years, Occ: Ritred Employee,
At: Agasebagilu, Po: Nileekani, Sirsi
Dis: U.K
Also At: Ambagiri, Po: Nileekani, Sirsi
Dis: U.K

ORDERS ON PETITION FILED UNDER SECTION 14 OF SARFAESI ACT-2002

This petition filed under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. <u>The brief facts of the case of petitioner:</u>

The petitioner is a Banking Company incorporated under Banking Companies (Acquisition & Transfer of Undertakings) Act, 1980 and a Secured Creditor within the definition of Section 2(1)(c) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. Further averred in the petition that, the petitioner is having its STATE BANK OF INDIA, HULEKAL ROAD BRANCH (00917), SIRSI. It is submitted that the Respondent No.1 approached the Petitioner Bank at STATE BANK OF INDIA, HULEKAL ROAD BRANCH (00917), SIRSI and sought for credit facilities aggregating to Rs. 42,00,000/-. The Petitioner Bank has sanctioned the Home Loan of Rs. 42,00,000/- under Home Loan A/c No. 38762023611. The schedule properties were offered as security for the said loan. For that purpose, the respondents have executed all the necessary documents in favour of the petitioner bank to secure the loan and created Registered Simple Mortgage of the immovable property and Hypothecation of movable properties, which are more fully described in the schedule (hereunder and henceforth referred to as the Schedule Properties) with the, petitioner bank at its STATE BANK OF INDIA, HULEKAL ROAD BRANCH (00917), SIRSI, with an intention to create Registered Simple Mortgage and Hypothecation of the said properties. Copies of the said loan documents are enclosed herewith.

4. Further averred in the petition that, the respondents have utilized the loan amount taken from the petitioner bank, but failed to repay the loan amount in terms of the agreement executed by them in favor of the Petitioner. Thus, the loan accounts have become **'Non-Performing Assets' (NPA) on 16.04.2026** as per the directions and guidelines from the Reserve Bank of India.

5. Further averred in the petition that, the Petitioner got issued under section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 on 16.04.2026 demanding for Rs. 33,59,985/- (Rupees Thirty Three Lakhs Fifty Nine Thousand Nine Hundred Eighty Five) as on 16.04.2026 plus interest, other cost, expenses and charges etc., to repay the entire due amount to the petitioner bank within 60 days from the date of receipt of the said notice and further informed that if they failed to pay the amount due by them to the petitioner within the notice period of 60 days, the petitioner would be taking action under Section 13(4) of the SARFAESI Act. Despite the said notice, the Respondents have failed to repay the amount due even after the expiry of the period of notice.

6. The petitioner has taken Symbolic Possession of immovable property on 24.06.2026 and demanding for Rs. 33,80,776/- (Rupees Thirty Three Lakhs Eighty Thousand Seven Hundred Seventy Six) as on 19.06.2026 the possession notice was published in Deccan Herald English and Karavali Munjavu Kannada newspapers on 27.06.2026. In spite of the said possession notice under Section 13(4) of the SARFAESI Act, the respondents have not paid the amount due to the petitioner. As such, the petitioner is constrained to file this petition U/sec. 14 of the SARFAESI Act 2002.

7. Heard the arguments of the learned counsel for the petitioner. Perused the material on record.

8. The following points arises for my consideration

<u>POINTS</u>

1. **Whether the petitioner bank is entitled for the reliefs sought for ?**
2. **What Order?**

9. My answer to the above points arise as under

Point No.1: In the Affirmative
Point No.2: As for the final
For the following;

<u>:REASONS:</u>

10. **<u>Point No.1:-</u>** The material on record reveals that the respondent No.1 and 2 being the principal borrowers have obtained the home loan of Rs.42,00,000/- and agreed to pay the said loan amount by executing the documents including the mortgage deed. The respondents have failed to keep up the repayment schedule. Accordingly the loan amount was classified as NPA on 16-04-2026 and as on 16-04-2026 they were due for a sum of Rs.33,59,985/-. The petitioner has taken Symbolic Possession of immovable property on 24.06.2026 and demanding for Rs. 33,80,776/- (Rupees Thirty Three Lakhs Eighty Thousand Seven Hundred Seventy Six) as on 19.06.2026.

Though the demand and possession notice were issued personally and also issued through publication dated 27-06-2026, but respondents neither complied nor replied with the notice. The averments of the affidavit corroborates the claim of the petitioner. Hence there is nothing to disbelieve the version of the petitioner.

11. It is observed in the case ***Narayanaswami vs. Corporation Bank, Bengaluru and another reported in 2018 SC (KAR) 6: 2018 (1) KCCR 614*** that when the basic requirement under section 13(2) has been complied, the Magistrate has no other go except issuing the Order under section 14. No other procedure is contemplated under the said section.

12. In addition, the ***Hon'ble High Court of Karnataka in ILR 2006 Page 4663 Vijaya Bank, S.D. Road Branch vs. Shameen Transport*** has held that no notice is required to be given to the obligor by the Magistrate before passing the order for possession.

13. In addition, the ***Hon'ble Supreme Court in Authorized Officer Indian Bank vs. D. Visalakshi and another reported***, it has been held that the Chief Judicial Magistrate is competent to process the request of the secured creditor to take possession of the secured asset under Section 14 of the SARFAESI Act, 2002.

14. On perusal of the materials placed on record, the petitioner has complied with the provisions of the SARFAESI Act and Rules made therein and hence, sufficient grounds are made out to allow the petition and to pass an order for possession of the schedule property, hence **Point No.1 answered in Affirmative.**

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

<u>ORDER</u>

The petition filed by the petitioner bank under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is hereby allowed.

The respondents are directed to deliver the possession of the schedule property to the petitioner.

The petitioner is permitted to take the assistance of the jurisdictional police to get the possession of the schedule property.

In view of the memo filed by the counsel for the petitioner, Mr. Darshan Gouda Advocate, is hereby appointed as Court Commissioner to carry out the Commissioner's work and to submit compliance report. The Court Commissioner is directed to assist the petitioner for execution of the Order and to submit the compliance report.

The Court Commissioner fee is tentatively fixed at Rs.10,000/-.

Office to return the original documents to the petitioner/counsel for the petitioner after retaining the copy of the documents on proper identification.

(Directly dictated to stenographer on Laptop print out taken, corrected and then pronounced by me in Open-Court this the **12th day of August 2026**).

Digitally signed by KAVITA S UNDODI
Location: PRL. SENIOR CIVIL JUDGE AND CJM COURT, KARWAR