IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, KALPETTA, WAYANAD

Present: Sri.Ubaidulla C, Chief Judicial Magistrate, Kalpetta

Thursday, this the 5th day of March 2026
14th day of Phalguna 1947(S.E)

MISCELLANEOUS CASE NO.24/2026

Petitioner/Complainant - Kerala State Co. Op Bank Ltd, Pulpally Branch, Wayanad. Represented by it's authorized Officer and Area Manager Noushad.C. S, aged 52Years, S/o Saidalavi, Chenakkattu(H), Meenangadi (PO) Sulthan Bathery, Wayanad-67359 1

(By Adv.C.P.Prakash Babu)

Respondents -

1. Anish.T.V, Aged. 43 Years, S/o. Viswambharan(Wings on Wheels, Paints & Electricals, Pulpally) Thundiyil (H), Kalanadikolly (PO), Pulpally, Sulthan Bathery-673579

2. Binu Mathew, Aged. 49 Years , S/o Mathai Nellattu (H), Pulpally Sulthan Bathery Taluk Wayanad-

3. Sudha.A R, Aged. 67 Years, W/o Viswambharan Thundiyil (4), Kalanadikolly (PO), Pulpally, Sulthan Bathery-673579

ORDER

This is an application u/s 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as the SARFAESI Act).

2. **The case of the petitioner in short is as follows**: The petitioner is a secured creditor. The first respondent approached the petitioner bank for a loan accommodation under the MSME CC WORKING CAPITAL (KB MITHRA WORKING CAPITAL) from the petitioner bank and the petitioner Bank has sanctioned a loan of Rs.30,00,000/-(Rupees thirty lakhs only) to the first respondent. The second and third respondents are the sureties of this transaction. Accordingly, on 30/07/2021 the first respondent has executed an agreement for the said term loan in favour of the petitioner bank and availed the loan. Further the first and third respondent deposited their title deeds of their landed properties to create equitable mortgage for the limit of Rs. 30,00,000/- (Rupees thirty lakhs only). Thereafter the respondents failed to repay the loan amount with interest. The total balance of loan outstanding due as on 02/06/2025 is Rs.31,66,331.70/-(Rupees thirty one lakhs sixty six thousand three hundred and thirty one and seventy paise only). The respondents were failed and neglected to repay the loan amount due to the petitioner even after the repeated demands and request by the petitioner bank. Therefore the said loan amount became a Non

Performing Asset. Thereupon the petitioner through its Recovery Officer issued demand notice dated under Section 13(2) of the Act to the respondents calling upon them to make payment of the outstanding liabilities (aggregate) due and owing to the bank. The respondents received the notice 13.01.2025 & 17.01.2025 respectively and even after the receipt of notice the respondents were failed and neglected to repay the entire loan amount due and thereby to discharge their liabilities due to the petitioner bank. The petitioner therefore became entitled to take physical possession of the secured assets of the respondents. The petitioner herein through it's Authorized officer has taken symbolic possession of the secured assets by pasting the possession notice on the outer door of the properties of the first and third respondents and have also published the same in Desabhimani Daily & Madhyamam Daily dated 25/03/2025. Thus the petitioner has filed the present application seeking aid of this Court for taking physical possession of petition scheduled property.

3. Heard the learned counsel appearing for the petitioner and perused the affidavit and documents. The petitioner has filed separate affidavit in tune with the averments in the application. It can be seen from the application, affidavit and documents that the respondents have availed loan from the petitioner bank by creating equitable mortgage in respect of the petition scheduled property and defaulted in paying the installment amount. The petition scheduled property is a secured asset falling

within the provisions of the SARFAESI Act. Respondents had defaulted in making payment of the amount referred to in the notice u/s 13(2) of the SARFAESI Act. The petitioner is entitled to take possession of the petition scheduled property with the aid of this Court. Therefore, this Court is inclined to allow this application.

4. In the result, petition is allowed and the following orders are issued :-

a) Adv.George P.P is appointed as Advocate Commissioner for the purpose of taking possession of the petition scheduled property, scheduled to the application with the aid of the petitioner and hand over the same to the petitioner;

b) The petitioner shall co-operate with the Advocate Commissioner and point out the property to him for the purpose of taking possession;

c) The Advocate Commissioner shall execute the warrant without delay and submit his report before Court positively by 15/05/2026;

d) The Station House Officer, Pulpally is also directed to render necessary assistance, if required, for the due execution of the order by the Advocate Commissioner.

e) The Village Officer, Pulpally Village will render necessary assistance to the Advocate Commissioner to identify the property, if called for.

f) A separate commission warrant will be issued to the Advocate Commissioner along with copy of this order;

g) The Advocate Commissioner is also permitted to break open the locks if necessary and take possession of the secured assets;

h) The petitioner is directed to pay commissioner's batta of Rs.10,000/-directly to the Commissioner and produce voucher before Court within 3 days.

(Dated this the 5th day of March 2026)

CHIEF JUDICIAL MAGISTRATE
KALPETTA