IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, KALPETTA, WAYANAD

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

Thursday, this the 30th day of April 2026
10th day of Vaisakha 1947(S.E)

MISCELLANEOUS CASE NO.52/2026

Petitioner/Complainant - The Kerala State Co. Op Bank Ltd, Kellur Branch, Wayanad, Represented by it's authorized Officer and Area Manager James Mathew, aged 55 years S/o M.V.Mathew Molekudiyil (H), Nalloornadu .PO Mananthavady,

(By Adv.C.P.Prakash Babu)

Respondents -

1. Mammotty, Aged 66 Years, S/o Moidu 2. Kombi (H), Karakkamala (PO), Anjukunnu, Mananthavady Taluk Wayanad-670645

2. Mymoona, Aged 59 years W/o Mammootty Kombi (H), Karakkamala (PO), Anjukunnu, Mananthavady Taluk Wayanad

O R D E R

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. **<u>The case of the petitioner in short is as follows</u>**: The petitioner is a "Secured Creditor". The first and second respondents approached the Petitioner Bank for a loan accommodation under the 'KB-SUVIDHA LOAN' scheme for house maintenance of the respondents from the petitioner Bank and the petitioner Bank has sanctioned a loan of Rs.10,00,000/- (Rupees Ten lakhs only) to the first respondent and the second respondent. The second respondent is the surety to the first respondent for the said loan of Rs.10,00,000/- (Rupees Ten lakhs only). Accordingly on 30.03.2023 the first and second respondents have executed an Agreement for the said term loan in favour of the petitioner bank and availed the loan of Rs.10,00,000/- (Rupees Ten lakhs only) under account No. 16946047 1200132. Further the second respondent deposited the title deed of her landed property to create equitable mortgage for the limit of Rs.10,00,000/- (Rupees Ten lakhs only) towards the said loan. The respondents thereafter failed to repay the loan with interest. The total balance amount of loan outstanding as due as per the Account No. 169460471200132 of the first respondent as on 20.12.2025 is Rs. 11,47,590.75 /- (Rupees eleven lakhs forty seven thousand five hundred ninety and paise seventy five only) which includes interest debited up to 20.12.2025. The respondents are liable to pay up to date interest and overdue interest. Therefore the said loan amount became a non performing asset as per the provisions of the Act. The petitioner through it's Recovery Officer issued demand notice dated 24.09.2024 under Section 13 (2) of the said Act to the respondents calling upon them to make payment of the outstanding liabilities (in

aggregate) due and owing to the petitioner Bank together with interest till the date of repayment within a period of 60 (sixty) days from the date of the said notice, failing which the petitioners could exercise all or any of it's rights available under Section 13(4) of the said Act in respect of the secured asset. The respondents received notice and even after receiving the said demand 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. Thereupon, the petitioner herein through it's Authorized officer has taken symbolic possession of the secured asset by pasting the possession notice dated 20.02.2025 on the outer door of the property of the second respondent and have also published the same in 2 Newspapers Desabhimani Daily & Madhyamam Daily, both dated 26.02.2025. 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.Misba Jahan 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 her for the purpose of taking possession;

c) The Advocate Commissioner shall execute the warrant without delay and submit his report before Court positively by 27/06/2026;

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

e) The Village Officer,Anjukunnu 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 30th day of April 2026)

CHIEF JUDICIAL MAGISTRATE
KALPETTA