

KAUK020000582026



Cri.Misc.14/2026

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 6th DAY OF MARCH -2026.

Cri. Misc. No.14/2026

Petitioner:

The Kanara District Central Co-Operative Bank Ltd.,
Haliyal Bazaar Branch, Haliyal Dist: Uttara Kannada,
R/by its Authorized Officer,
Mr.P.G.Dixit, Age: 59 years,
Phone No. 9483490490.

(By Sri.P.S.B – Advocate)

V/S

RESPONDENTS:

Shri Chatrapati Shivaji Education Trust,
Dharwad Road, Haliyal,
Represented by its President and the Trustees,

President:(1) Shri Rayanna Somaninga
Arashinageri,
Durga Nagar, Haliyal,
Dist: Uttar Kannada

Trustees:

2. Shri Yallappa Parashuram Bobati,
Medar Galli. Haliyal,
Dist Uttar Kannada,
3. Smt.Lalitha Kom Rayanna Arashinageri,
Durga Nagar Haliyal,
Dist Uttar Kannada.
4. Shri.Tanaji Ramachandra Nakadi,
Ganesh Nagar Haliyal,
Dist Uttar Kannada.
5. Shri. Sheshagin Yallappa Bobati,
Medar Galli Haliyal,
Dist Uttar Kannada.
6. Shri.Pramod Rayanna Arshingeri,
Durga Nagar Haliyal,
Dist Uttar Kannada.
7. Shri.Subash Hanumant Torlekar,
Near APMC Yard,
Dharwad Road, Haliyal.
8. Smt Lakshmi Subash Torlekar,
Near APMC Yard,
Dharwad Road Haliyal.
9. Smt.Shruthi Kom Rama Gardolkar,
Medar Galli Haliyal,
Dist Uttar Kannada.

**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. The brief facts of the case of petitioner:

The petitioner is a Banking Company incorporated and registered under Karnataka State Co-Operative Societies Act 1959 and licensed by Reserve Bank Of India under Banking Regulation Act 1949 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. The petitioner is having its the Kanara District Central Co-operative Bank Ltd, Haliyal Bazaar Branch. The respondent No.1 approached the petitioner bank at the Kanara District Central Co-operative Bank Ltd, Haliyal Bazaar Branch. The petitioner bank has sanctioned the Term Loans in total of Rs.2,20,00,000/- under MT NFS 8 Accounts 122002110838, 122003335385, 122003562908, 122003770214, 122003872647, 122004444338, 122005100779, 122005668696. The schedule properties were offered as security for the said loans. For that purpose the respondents have executed all the necessary documents in favor of the petitioner bank to secure the loans.

3. It is further averred in the petition that, the respondents have utilized the loan amounts taken from the petitioner but failed to repay the loan amounts in terms of the agreement executed by them in favor of petitioner. Thus, the loan accounts have become 'Non-Performing Assets' on 29-11-2021 as per the directions and guidelines from the Reserve Bank of India. The petitioner got issued notice under Section 13 (2) of the Securitization

and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 on 05-07-2024 demanding for Rs.2,10,67,080/- (Rupees Two Crore Ten Lakhs Sixty Seven Thousand and Eighty Only) (MT NFS 8 Accounts 122003335385, 122003562908, 122003770214, 122003872647, 122004444338, 122002110838, 122005100779, 122005668696, as on 03-07-2024 and future interest, other cost, expenses and charges etc., to repay the entire due amount to the petitioner 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.

4. It is further averred in the petition that, the Petitioner has taken Symbolic Possession of immovable property on 18-09-2024 claiming Rs.2,15,75,685/- (Rupees Two Crore Fifteen Lakhs Seventy Five Thousand Six Hundred Eighty Five only) (MT NFS 8 Accounts – 122002110838, 122003335385, 122003562908, 122003770214, 122003872647, 122004444338, 122005100779, 122005668696 as on 17-09-2024, plus, future interest, costs etc., thereon and the possession notice was published in Deccan Herald and Karavali Munjavu News papers on 22-09-2024. 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 under Section 14 of the SARFAESI Act 2002.

5. It is further averred in the petition that, this court in whose jurisdiction the schedule properties are situated is entitled to take physical possession of the mortgaged/hypothecated properties under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 and deliver the same to the petitioner for the recovery of dues from the respondents under the said Act.

6. In a judgment reported in **2016(1) of KCCR page 697 in between L.T. House Finance Ltd. V/s Vasu Krishna Murthy**, the issuance of notice to the respondents is dispensed with, hence issuance notice to the respondent is dispensed with.

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

8. The following points arises for my consideration

POINTS

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;

:REASONS:

10. Point No.1:- The material record reveals that the respondent No.1 being the principal borrower has obtained the loan of Rs.2,20,00,000/- (Rupees Two Crore Twenty Lakhs Only) under MT NFS 8 Accounts 122002110838, 122003335385, 122003562908, 122003770214, 122003872647, 122004444338, 122005100779, 122005668696 with interest and agreed to pay the said loan amount by executing the document including the mortgage deed. The respondents have failed to keep up the repayment schedule. Accordingly the loan amount was classified as NPA on 29-11-2021 and as on 03-07-2024 they were due for a sum of Rs.2,10,67,080/- (Rupees Two Crore Ten Lakhs Sixty Seven Thousand and Eighty Only). Though the demand and possession notice were issued personally and also issued through publication dated 22-09-2024, 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.

12. It is observed in the case ***Narayanaswami vs. Corporation Bank, Bengaluru and another reported in 2018 0 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.

13. 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.

14. 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.

15. 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.**

16. Point No.2:- In view of above discussion, I proceed to pass the following:

ORDER

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.Dharshan 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.

Issue commissioner warrant.

(Directly dictated to stenographer on Laptop print out taken, corrected and then pronounced by me in Open-Court this the **6th day of March 2026**).