

KAUK020013282025



Cri. Misc.17/2025

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 23rd DAY OF MARCH -2026.

Cri. Misc. No.17/2025

PETITIONER:

- 1) Kadamba Souharda Sahakari Sangha Niyamitha
Head Office Opposite Taluk Panchayath
Sirsi, Uttara Kannada District PIN 581402
Represented by authorized officer and
Chief Executive Officer Nagaraj Subray Bhat.

(By Sri. S.P.B. – Advocate)

V/S

RESPONDENTS:

- 1) Sri. Praveen Mahabaleshwar Hegde,
212, Vinayak Colony,
Yellapur Road, Market Yard Post,
Sirsi -581402.
- 2) Smt. Pushpa Praveen Hegde,
212, Vinayak Colony,
Yellapur Road, Market Yard Post,
Sirsi -581402.

- 3) Sri. Shridhar Huliya Gowda,
Kamblisara, Ambli Honda,
Urtota, Sirsi -581450.

**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 Souhardha Sahakari Sangha registered under the provisions of Karnataka State Souhardha Sahakari Act 1997, wherein the objectives of petitioner is to advance loan to its members for various purposes.

The respondent No.1 is the principal borrower with the guarantors i.e, respondent No.2 and 3 approached the petitioner for credit facility for the purpose of business. The petitioner sanctioned a sum of Rs.4,30,00,000/- (Rupees Four Crore Thirty Lakhs only) for the said purpose. The respondent have availed the credit facility on 19-08-2022 and have executed all the necessary documents in favour of the petitioner.

3. Further averred in the petition that the respondent No.1 has created registered mortgage by way of deposit of title deeds on 17th August 2022 in favour of the petitioner. The respondents though made some payments

initially, the account became irregular and outstanding amount due to the petitioner as on 26-08-2024 with applicable interest is Rs.1,44,00,000/- (Rupees One Crore Forty Four Lakhs only) The respondents are further liable to pay the future interest. The account became NPA on 26-08-2024. Thereafter, the petitioner issued demand notice on 26-10-2024 under 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 to the respondents calling upon them to pay the aforesaid amount along with interest to the petitioner within 60 days from the date of receipt of said notice. Further the petitioner informed that if they fail to repay the amount due and outstanding to the petitioner within the notice period of 60 days, the petitioner would be taking action under 13(4) of the Act as it is entitled despite, the said notice, the respondents have failed to repay the amount due and outstanding even after the expiry of the period of notice. The said notice has been served on the respondents on 28-10-2024. Therefore, the petitioner issued possession notice under section 13(4) of the Act R/w Rule 8 and 9 of the said Rules on 30-12-2024 confirming that the petitioner has taken possession on 30-12-2024 and the schedule property is subject to charge of the petitioner for a total amount of Rs.1,44,00,000/- (Rupees One Crore Forty Four Lakhs only) along with future interest. The said notice served on the respondents, the petitioner has also taken paper publication in "Udayakala" and "The new Indian Express" on 30-12-2024. The respondents have not paid the outstanding amount. Therefore

they are entitled to take possession of the secured assets under the provisions of section 14 of SARFACE Act.

4. The suit schedule properties situated within the jurisdiction of this court, hence this petition maintainable before this court.

5. 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.

6. On 19.02.2026 one Nagaraj S/o Subray Bhat CEO of Authorized Officer of the petitioner present and filed affidavit stating that respondents have not complied with the conditional stay granted by the Hon'ble High Court of Karnataka on 19.02.2025.

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 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.4,30,00,000/- (Rupees Four Crore Thirty Lakhs only) 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 26-08-2024 and as on 26-10-2024 they were due for a sum of Rs.1,44,00,000/-(Rupees One Crore Forty Four Lakhs only). Though the demand and possession notice were issued through publication on 30-12-2024, 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.

11. 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.

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

ORDER

The petition filed by the petitioner 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 V. 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 **23rd day of March 2026**).