ORDER

Heard, Perused the records.

2. By way of this petition applicant/petitioner has sought the assistance of the Court for taking possession of the schedule property U/s 14 of the Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred as the Act). Notices of this petition are given to the respondents.

3. One Sri.Rajha Aravamudhan, Authorized Officer of the applicant bank has filed affidavit in support of its contention.

4. On perusal of the available materials, I am satisfied that applicant/petitioner is a secured creditor and respondent is the secured debtor and schedule properties are secured assets within the meaning of the provisions of the Act. On perusal of petition and affidavit averments it discloses respondent has taken Home Loan of **Rs.36,64,174/-** on **27.12.2018**

and Rs.3,75,000/- on **19.02.2020,** and created equitable mortgage inrespect of schedule properties and deposited the title deeds in the Bank. Thereafter, respondent has failed to repay the dues to the Bank inrespect of credit facility loan and committed default in repayment of the amount and respondent is due a sum of **Rs.37,47,312/- + Rs.3,81,818/- Total of Rs.41,29,130/-** only as on **13.07.2021** with interest. Loan account of Respondent has been classified as non-performing asset (NPA) on **02.01.2022.**

5. Further, before filing this petition Petitioner as secured creditor has given Statutory 60 days notice on **13.07.2021** and complied provisions of Sec.13 (2) of the Act. Inspite of 60 days notice, Respondent has not paid the dues to the petitioner. Thereafter, the authorised officer of Petitioner Bank has taken symbolic possession of the property on **04.03.2022** by affixing a copy of the possession notice at a conspicuous place and the possession notice was also published in the

news paper i.e., in the "**The New Indian Express**" and **"Kannada Prabha"** dated **08.12.2021**. Inspite of it respondent has not delivered the physical possession of property to the petitioner bank.

6. By looking into these aspects coupled with the ratio of the decision of our own Hon'ble High Court in Punjab and Sindh Bank V/s M/s. Gemini Fashions Pvt. Ltd. and others in Crl.Petition No.1395/2005, U/s 13, 14 of the Act, Petitioner being the secured creditor is entitled to enforce security interest against the respondent for recovery of the dues. In the said decision his lordship has observed that while giving such assistance by the Court there is no need to issue the notice of main petition to the respondent i.e., secured debtor. For the reasons stated supra, petition is liable to be allowed accordingly following order is passed :

ORDER

Petition is allowed with following terms.

1. Petitioner/applicant is entitled to take possession of schedule property towards satisfaction of the creditors due.

2. Police Inspector of Jurisdictional Police Station is hereby directed to give necessary assistance to the Petitioner/applicant while taking possession of the schedule property. Petitioner/applicant shall bear the legal expenses if any of the said police.

Office is directed to return the original documents to the Petitioner.

Inview of memo filed by Ld.counsel for Petitioner Ms.Manjula.S, Advocate Roll No. KAR-2332/2012 is appointed as Court Commissioner and Court Commissioner fee of Rs.5,000/- is tentatively fixed as mentioned in the memo.

VII Addl.C.M.M., Bengaluru.