

14.03.2023

ORDER

It is a petition for assistance of the Court in getting possession of the property described in the schedule to the petitioner.

2. It is the contention of the petitioner that, it has got claim in respect of the schedule property and that respondents are obstructing to take possession of the same and that it has invoked the provisions of SARFAESI Act, in relating to the said property and that, if the assistance of the Court is not done, it may not be in a position to take the possession of the same and hence, the petition,

3. The Petitioner got issued Notice U/Sec. 13(2) of the said Act to the obliger. The said notice was sent through RPAD and same is received by the obliger. In addition to this, petitioner got published the demand notice in two leading news papers. As the respondents have sufficient notice regarding the steps being initiated, in view of the Division Bench Ruling of our own Hon'ble High Court reported in ILR 2007 KAR 16, in the absence of any provision in the Act

or rules framed thereunder requiring such notice, the Magistrate is not required to issue any notice to the borrower before passing an order U/Sec. 14 of the Act.

4. Perused the entire materials on record and the original documents. The original documents produced by the petitioner *prima-facie* proves the contention of the petitioner. They also proved that the petitioner has complied with the mandatory provisions of the Act. It is well-established principles of law that there is no necessity of notice to the respondent before passing any order under the provisions of the Act.

5. Hence, I proceed to pass the following:

ORDER

Petition is allowed with following terms:

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

2. Advocate Sri. Venkatesh (KAR/2832/2021) is hereby appointed as Court Commissioner to take possession of the schedule

property and to handover the same to the petitioner, within 2 months from date of this order. Commissioner fee is tentatively fixed at Rs.10,000/-.

3. The Police Inspector of jurisdictional police Station is hereby directed to give necessary assistance to the Court Commissioner as well as petitioner while taking possession of the schedule property.

4. petitioner shall bear the legal expenses, if any

5. Court Commissioner is directed to report the same after compliance of the order.

14.03.2023

V ACMM, Bengaluru.