-: **<u>O R D E R</u>** :-

The petitioner bank i.e., ALTUM CREDO HOME FINANCE PRIVATE LIMITED, filed present petition u/sec.14 of secularization and reconstruction of financial assets and enforcement of security interest act. In the petition it is stated that respondents approached the petitioner branch for financial facility under loan against property and the petitioner had sanctioned the loan of Rs.4,25,504/- on 28-01-2019 and under loan account No.1192020100034 agreeing to repay together with prevailing Floating interest at 16.25% subject to reset at end of the year together with other applicable charges on monthly installments of INR.7,195/- and has created a valid security for repayment of loan by executing registered mortgage deed by depositing the title deeds on 15-02-2019 with respect to petition schedule property and executed necessary loan documents. Further, the respondents utilized the loan amount taken from the petitioner, but failed to repay the loan amount as per the agreement. Thus, the loan account has become None performing Asset (NPA) as per guideline of Reserve Bank of India.

2. Further, on 07-02-2024 the petitioner got issued statutory notice calling upon the respondents to discharge their liabilities to the extent of Rs.4,24,168/- on 31-01-2024 within 60 days from the date of service of said notice and the said notice was duly served upon them and the same was published in two leading daily newspapers “Samyuktha Karnataka” and “The New Indian Express on 18-02-2024. That, in spite of having the knowledge of said notice, the respondents have failed to comply with the terms of the same. Hence, this petition seeking the assistance of jurisdictional police and to take physical possession of the petition schedule property by breaking open the lock as provided U/Sec.14 of SARFAESI Act.

3. Further, the petitioner/Secured Creditor to substantiate its aforesaid contentions has relied upon below mentioned documents:-

1. Copy of Sanction Letter.
2. Copy of Loan Agreement.
3. Copy of Equitable Deposit of Title Deeds.
4. Copy of Absolute sale deed.
5. Copy of CERSAI registration confirmation for security interest.
6. Copy of Classification of NPA 31-01-2024, Notice U/Sec: 13(2) dated: 07-02-2024 with postal Receipts.
7. Copy of Paper publication of Demand Notice in Samyuktha Karnataka dated: 19-04-2024.
8. Copy of Paper publication of Demand Notice in The New India Express dated: 19-04-2024.
9. Copy of Possession Notice U/Sec: 13(4) date 18-04-2021.
10. Copy of Statements of Account.
11. Copy of RBI Certificate of Registration of Altum Credo Home Finance Private Limited.
12. Copy of Board Resolution copy of Authorization.

4. The SARFAESI Act was passed on 17.12.2002 and the intention of this Act is to enable the Bank and Financial institutions to recover quickly the money advanced. The Act empowers the Banks and Financial Institutions to auction the property mortgaged with them to recover such outstanding dues which is not paid for years despite repeated follow up's and such unpaid money also is to be treated to NPA.

5. By considering the materials placed on record it is clear that the petitioner bank sanctioned financial assistance of Rs.4,25,504/- in favour of respondents and the respondents being the borrowers created security over the petition schedule property for the loan transaction. Further, the documents on record shows that the respondents became defaulter in repayment of the loan amount and failed to replied to the demand notice issued by the petitioner bank. In the said circumstances, petitioner bank made out sufficient grounds for seeking an order as prayed in the present petition. Accordingly I proceed to pass the following:-

-: <u>O R D E R</u> :-

The Petition filed U/s.14 of SARFAESI Act is hereby allowed.

Respondent No.1 & 2 are hereby directed to surrender physical possession of petition schedule property in favour of the petitioner bank.

The jurisdictional police station is hereby directed to assist the petitioner for peaceful enforcement of the order while taking the possession of the schedule property from the respondents, their tenant/s, henchmen or anybody who is in possession of the schedule property.

Sri. Vinayaka H. advocate enrollment No.KAR/714/2021, Davanagere is hereby appointed as Court Commissioner to execute the order and empowered to break open the locks of the schedule property if they are locked at the time of taking peaceful possession of the same.

Further, the Court Commissioner is hereby directed to drawn inventory of the property and materials which would be available in the petition schedule property at the time of securing physical possession and shall procedure further only in accordance with law and shall submit the inventory copies to respondents and once the “out standing” due stated in the petition is recovered, then the rest of the belonging which are likely to be taken to the possession shall be returned in time without giving scope for delay.

This Court declines to take possession over the schedule property to the hands of the court.

Court commissioner fee is fixed at Rs.10,000/-.

Office shall return the original documents to the petitioner bank by following due procedure in view of the disposal of the petition.

(Directly typed to my dictation by the Stenographer, corrected and signed by me, then pronounced by me in the open Court on this 27th day of April – 2026)

(Reshma H.K.)
Prl. Senior Civil Judge & CJM
Davanagere.

SCHEDULE OF MORTGAGING PROPERTY

All that piece and parcel of property Site No.11, Current Door No.1883/11, measuring 20X20 feet i.e., 400 Sq. feets, situated at behind APMC New Chikkanahalli badavane, Davanagere district, Karnataka and the subject matter of this legal report which is bounded as follows:-

East by	:	House of Manjamma & Shruthi.
West by	:	House of Sadashivappa.
North by	:	Property of Kallesh.
South by	:	Road.

(Reshma H.K.)
Prl. Senior Civil Judge & CJM
Davanagere.