KAHS020010062026

Presented on : 15-05-2026
Registered on : 15-05-2026
Decided on : 10-08-2026
Duration: 02 months, 26 days

**IN THE COURT OF PRL. SENIOR CIVIL JUDGE AND CJM AT HASSAN**

**DATED THIS THE 10th DAY OF AUGUST 2026**

**PRESENT:**

***Sri. Puttaswamy K.M.,*** ***B.Sc., LL.M.,***
***Prl. Senior Civil Judge & CJM***
***HASSAN***

**Crl.Misc.208/2026**

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| **Petitioner** | :: | M/s/EQUITAS SMALL FINANCE BANK LIMITED,<br>**Registered office at**<br>4th Floor, phase-2<br>Spencer plaza, 769, Annasalai<br>Chennai-600002.<br>**Area Office at**<br>No.1101, 1st Floor,<br>Aadya Gowda Arcade, Udayaravi Road,<br>Kuvempunagar, Mysore-570023<br>Represented by its Authorised office<br>Sri.Sachin B.P |

**(Rep.By Sri.Yogesha, Advocate)**

**Vs.**

**Respondents :** 1. Mr.Manjegowda
S/o Shivegowda
Aged about 43 years

2. Mrs.Santhamma
W/o Shivegowda
Aged about 68 years

Both are R/o Akanahalli village &
Juttanahalli, Hassan, Karnataka-573124.

## ORDER

The instant petition has been filed by the Petitioner under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "*the SARFAESI Act*", seeking to order for taking physical possession of the schedule property and to direct the Officer of this Court to take possession and to carry out inventory and panchanama and to issue suitable direction to the jurisdictional police to assist in evicting the occupants of the schedule property and to deliver the vacant and physical possession of the schedule property to the Petitioner and if so require to break open the lock of the schedule property.

2. Notice to the Respondents is dispensed with, in view of the ratio laid down in a ruling reported in **AIR 2019 SC 4619 (The Authorized Officer, India Bank V/s Dr. Vishalakshi and others)**, wherein the Hon'ble Apex Court has held that CJM is equally competent to deal with the application moved by the

secured creditor under Section 14 of the SARFAESI Act. In another ruling reported in **AIR 2007 (NOC) 310 (KAR) (Vijaya Bank V/s Shameem Transport)**, wherein the Hon'ble High Court has held that borrowers are not necessary parties for a proceedings under Section 14 of the SARFAESI Act or any other proceedings emanating there from and have no right to be heard. The said ratio is also discussed in a ruling reported in **W.P.No.35696/2015 (L & T Housing Finance Ltd., and Sri. Vasukrishnamurthy**).

3. Heard the learned Counsel for Petitioner and perused the materials on record.

4. After perusal of the records of the case, the following points would arise for my consideration.

**Point No.1: Whether the Petitioner has complied the mandatory requirements of provisions of SARFAESI Act?**

**Point No.2: Whether the Petitioner is entitled for the physical possession of the schedule property?**

5. My finding to the above points is in the **affirmative** for the following :-

**REASONS**

6. **Point No.1 :** The instant petition has been filed under Section. 14 of the *SARFAESI Act.* As per this provision, the petition lies before the Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset. However, in a ruling reported in AIR 2019 SC 4619 (The Authorized Officer, Indian Bank Vs D. Vishalakshi), wherein the Hon'ble Apex Court has held that the CJM is equally competent to deal with the application moved by the secured creditor under Section 14 of the SARFAESI Act. Therefore, the petition is maintainable before this Court.

7. Section 26-D of the SARFAESI Act contemplates that no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security interest created in its favour by the borrower has been registered with the Central Registry. The Petitioner has produced the document which goes to show that the security interest created in favour of the Petitioner by the borrower has been registered with the Central Registry.

8. As per the petition averments, the Petitioner Finance Limited had sanctioned loan of Rs.5,01,000-00 to the Respondent No.1. The Respondent No.2 is co-borrower to the above said loan transactions. The above loan was availed by mortgaging the schedule property and has deposited all the

original documents with the Petitioner Finance and created mortgage by way of deposit of title deeds. As the Respondents became chronic defaulters, their account was classified as a Non–performing asset (NPA) as on 08.10.2025 and accordingly issued a demand notice dated: 30.10.2025 under Section 13(2) of the SARFAESI Act calling upon the Respondents to repay the loans amount along with interest of a sum of Rs.4,75,412/- together with further interest. Despite the receipt of notice, the Respondent has failed to repay the borrowed amount and accordingly the Petitioner also took paper publication and published demand notice. As the borrowers failed to discharge their liability in full within 60 days as specified in Section 13(2) of the Act, the Petitioner took symbolic possession of schedule property and accordingly as per Section 13(4) of SARFAESI Act, the Petitioner issued Possession Notice dated: 18.02.2026 and the same was published in two leading News Papers i.e., The New Indian Express and Udayakala dated:23.02.2026.

9. As the Respondents failed to pay the borrowed amount and as the Respondents failed to deliver physical possession of the schedule property, the Petitioner was constrained to file the instant petition. The affidavit sworn by the Authorized Officer of the Petitioner bank is in consonance with the requirement of the first proviso appended to Section 14(1) of the SARFAESI Act.

10. Having regard to entire materials on records, I am of the considered opinion that the Petitioner has complied the provisions of SARFAESI Act and as such is entitled to take physical possession of secured as contemplated under Section 14 of the SARFAESI Act. It is a settled position of law that the Court can appoint Commissioner for the purpose of doing ministerial work. The appointment of Advocate as Court Commissioner is in tune with Section 14(1A) of the SARFAESI Act as held by the Hon'ble Madras High Court in a ruling reported in III (2015) BC 588 (DV) (MAD) WP No.29366/2014 (S. Chandramohan and Another V/s CMM, Chennai). Accordingly, without deliberating much on this aspect, I answer Point No.1 and 2 in the **Affirmative** and in the result, I proceed to pass the following:

**O R D E R**

✍. ***The Petition filed by the Petitioner under Section 14 of the SARFAESI Act is hereby allowed.***

✍. ***The Petitioner is entitled to take physical possession of the Schedule Property.***

✍. ***Sri.Kumaregowda R.S, Advocate is appointed as Court Commissioner to take***

***physical possession of the Schedule Property and to deliver the same to the Petitioner and while doing so, the Court Commissioner can break open the door lock of the schedule premises, if it is found closed. The Court Commissioner, while taking physical possession of the schedule property shall make inventory of any article found therein by conducting Panchanama/ Mahazar in the presence of any two independent witnesses.***

***✍. In the event the Petitioner seeks the assistance of Police, the Jurisdictional Police shall assist the Petitioner Bank and Court Commissioner in taking and handing over of vacant possession of the Schedule property in favour of the Petitioner.***

***✍. The Commissioner's fee is tentatively fixed at Rs.10,000/- and the Petitioner Bank is directed to pay the same to the Court Commissioner.***

***✍. On depositing or on payment of Commissioner's fee, the office is hereby directed to issue Commission Warrant to the Court Commissioner, who in turn shall submit compliance report to the Office of this Court.***

***✍. Office to return the original documents to the Petitioner on proper identification and under acknowledgment.***

*(Got typed by myself over laptop corrected and initiated by me and then pronounced by me in the Open Court on this* ***10th day of August 2026****)*

***(Puttaswamy K.M.)***
***Prl. Senior Civil Judge & CJM***
***Hassan***