HC-KAR

NC: 2026:KHC:22997
WP No. 429 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 429 OF 2026 (GM-POLICE)

BETWEEN:

TRUEHOME FINANCE LTD
SHIVA ARCADE, 2ND FLOOR,
OPP: CIKADA HOTEL,
SHAMANUR ROAD,
DAVANAGERE - 577 004.
AUTHORISED OFFICER.
MR.PRASHANTH BB

...PETITIONER

(BY SRI. K V LOKESH, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY BILICHODU POLICE STATION
BILICHODU, JAGALURU TALUK
DAVANAGERE - 577 553.

2. MR.DEVENDRAPPA S
S/O SIDDAPPA,
BILICHODU, NEAR KATALAMMA TEMPLE,
DAVANAGERE - 577 553.
ALSO AT:
GANESH HOTEL, BILICHODU,
NEAR FRUIT MARKET,
DAVANGERE - 577 553.

3. MRS. RATHNAMMA
W/O DEVENDRAPPA S

BILICHODU, NEAR KATALAMMA TEMPLE,
DAVANAGERE - 577 553.

...RESPONDENTS

(BY SRI. VIKAS ROJIPURA, AGA FOR R1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUING DIRECTION TO THE RESPONDENT NO.1 REGISTER FIRST INFORMATION REPORT (FIR) U/S 154 OF CRIMINAL PROCEDURE CODE 1973 AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Petitioner, a secured creditor is compelled to knock the doors of the writ Court alleging that despite having secured possession under Section 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act") preceded by an order passed by the Principal Senior Civil and CJM., Davanagere, in Cri.Misc. No. 45/2023, the judgment debtor as highhandedly trespassed into property and therefore the captioned petition is filed seeking direction against respondent No. 1 to register a FIR.

2. Before this Court proceeds further, this Court deems it fit to advert to the operative portion of the order passed by the Court under Section 14 of the SARFAESI Act, which is extracted as under:

> *"1) Petition filed by the secured creditor U/s.14 of SARFAESI Act is allowed.*
> *2) Advocate is appointed as Commissioner to take the possession of the Secured Property from the respondents, their tenant's, their henchmen or anybody claiming through them and forward the same to the petitioner within 30 days from the date of this order.*
> *3) The PSI of 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.*
> *4) The said Commissioner is empowered to break open the locks of the schedule property if they are locked at the time of taking peaceful possession of the same."*

3. The material on record unequivocally discloses that pursuant to the order passed by the jurisdictional Court in Crl.Misc.No.45/2023 under Section 14 of the SARFAESI Act, possession of the secured asset was lawfully taken on 28.08.2023 through the Court-appointed Commissioner with due police assistance. The order itself empowered the Commissioner to take forcible possession, if necessary, even by breaking open the locks and to secure the property from the borrower, his agents or any person claiming under him. Once such possession is taken in accordance with the statutory mechanism contemplated under Section 14, the character of possession assumes legal sanctity and vests exclusively with the secured creditor. The borrower, having suffered measures under the SARFAESI Act on account of default, stands divested of any right to re-enter or interfere with the secured asset, except in a manner known to law.

4. In that view of the matter, the secured creditor acquires an unfettered and enforceable right to protect,

preserve and deal with the secured asset for the purpose of recovery of its dues. Any attempt by the borrower or third parties to re-enter the property after possession is taken under Section 14 is not merely an act of civil trespass but prima facie constitutes commission of cognizable offences, including criminal trespass and obstruction to lawful possession. Therefore, when a complaint is lodged by the secured creditor alleging such illegal re-entry and interference, the jurisdictional police are duty-bound to act in accordance with law and register an FIR if the complaint discloses commission of cognizable offences. The statutory mandate under criminal law does not admit of any discretion in such circumstances.

5. However, in the present case, this Court finds that despite a specific complaint dated 29.05.2025 (Annexure-"C") narrating illegal trespass into a property, possession of which was already secured through Court process under Section 14 of the SARFAESI Act, respondent No.1 has remained supine and has failed to discharge the

statutory obligation. Such indifference and laxity on the part of the police officials, particularly when the complaint is supported by a judicial order evidencing delivery of possession, amounts to clear dereliction of duty. The police authorities cannot turn a blind eye to violations of law nor can they compel a secured creditor to repeatedly seek enforcement of rights which already stand crystallized through a judicial order. Failure to register an FIR in the face of a cognizable offence not only undermines the rule of law but also renders the statutory remedies under the SARFAESI Act illusory.

6. This Court is of the considered view that once possession is taken under Section 14 of the SARFAESI Act, the secured creditor is entitled to full police protection to safeguard the secured asset. The role of the police does not end with rendering assistance at the time of taking possession; rather, it extends to ensuring that such possession is not disturbed unlawfully thereafter. Any inaction in this regard would defeat the very object of the

SARFAESI Act, which is enacted to enable expeditious recovery of secured debts without intervention of protracted civil proceedings.

7. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The writ petition is allowed.

(ii) Respondent No.1 is hereby directed to forthwith consider and act upon the written complaint dated 29.05.2025 produced at Annexure-"C", and if the allegations disclose commission of cognizable offences, shall register an FIR in accordance with law, without any further delay.

(iii) While doing so, respondent No.1 shall advert to the order passed by the Principal Senior Civil Judge in Crl.Misc.No.45/2023 under Section 14 of the SARFAESI Act and the factum of possession having been delivered to the petitioner-secured creditor on 28.08.2023 through Court process.

(iv) The jurisdictional Station House Officer shall ensure that adequate police protection is extended to the petitioner-secured creditor to safeguard the secured asset from any unlawful interference by the borrower, his agents or any person claiming under him.

(v) The aforesaid exercise shall be completed within a period of four (4) weeks from the date of receipt of a certified copy of this order.

(vi) It is made clear that any continued inaction or non-compliance on the part of the jurisdictional police shall be viewed seriously and may entail appropriate proceedings in accordance with law.

SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE

ALB, List No.: 1 Sl No.: 49