IN THE DEBTS RECOVERY TRIBUNAL-II, BANGALORE

Dated of **30th day of April, 2026**

PRESENT: SHRI T. RAJESH
Hon'ble Presiding Officer

S.A.No.205 of 2024

Veena.N.,
W/o.Mr.Shivananda H.V.,
No:1536, II Stage,
Near Ring Road, J.P.Nagar,
Mysuru – 570 008. **. . . Applicant.**

Versus

Karnataka Bank Ltd.,
Asset Recovery Management Branch,
Represented by its Authorised Officer,
Chief Manager,
P.B.No.15, #561,
Karnataka Bank Building,
New Kantharaje Urs Road,
Kuvempunagar,
Mysuru. **. . . Respondent.**

Ld. Counsels on record/appeared :-

Counsel for Applicant :- Sri N.Surendra.
Counsel for Respondent :- Sri K.V.Shyamaprasada.

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: - O R D E R - :

1. The Securitization Application, SA is filed under section 17 of the Securitization And Reconstruction Of Financial Assets And Enforcement

Of Security Interest Act; herein after been referred to as SARFAESI Act or the Act, as the case be challenging the measures leading to the procurement of Section 14 orders by the respondent in Crl.Misc. No. 73/2024 dt.10.09.2024 passed by Ld. Senior Civil Judge, Mysuru.

2. The applicant is one of the partners of alleged borrower who availed loan from the respondent. It is the case of the applicant that the applicant had repaid more than 80% of the dues to the respondent bank and the same was not considered while passing orders. The applicant contended that the applicant explained the reasons for defaults to the respondent bank which is beyond their control. The applicant contended that the request of the applicant for repayment of dues within six months was accepted by respondent bank and presently the loan account is standard account. The applicant also contended that the respondent bank has failed to affix the possession notice on the schedule property and also failed to follow Rule 3(1), 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002. In the grounds to the SA the applicant is reiterating the contentions as stated above. Apart from the above, the applicant has also raised the grounds of non-service of demand notice and authority of the person who filed section 14 application before Ld. II Addl. Senior Civil Judge, Mysuru

in Crl.Misc.No.73/2024 and prayed to set aside the impugned Section 14 order procured by the respondent.

3. Along with SA, the Applicant had produced the following documents:

    i) Copy of the order in Crl.Mis.No.73/2024.
    ii) Copy of the petition of Crl.Mis.No.73/2024.
    iii) Copy of Account Statement/Amount Paid Challans.

4. The respondent filed their statement of objection admitting the availment of Loan by applicant but denied the contention of the applicant that they paid more than 80% of dues and the same is not considered while passing the order by the Court. It is further contended that the payments made by the applicant are duly adjusted towards the loan account. The respondent further denied the contention of the applicant that the loan account is standard account. The respondent also denied the contentions of the applicant that the respondent failed to follow the Rules 3(1), 8(1) and 8(2) of Security Interest (Enforcement) Rules, 2002. The respondent further contended that the Chief Manager and authorized officer Mr.Harish Dabade has signed the petition filed before the Principal Senior Civil Judge and CJM @ Mysore in Crl.Misc.73/2024 and he is duly authorized to represent the respondent bank. The respondent also contended that the respondent initiated the recovery proceedings as per law with an intention to recover its dues and also

followed all the procedures as required under the SARFAESI Act before seeking an order u/s.14 of the SARFAESI Act. The respondent also contended that they acted within the scope of law and prayed for dismissing the SA.

5. Along with SA, the respondent had produced the following documents:

   i) Demand Notice dt.13.01.2022.
   ii) Postal Receipts and unserved postal Envelope.
   iii) Post Acknowledgements.
   iv) Possession Notice dt.25.03.2022.
   v) Postal Receipts.
   vi) Post Acknowledgements.
   vii) Paper publication in Kannada Daily News Paper 'Vijayakarnataka' – Possession Notice.
   viii) Paper publication in English Daily News Paper 'Times of India' – Possession Notice.
   ix) Photographs regarding affixture of Possession Notice.
   x) CERSAI Report.

6. Heard the Ld. counsel for both sides.

7. The only issue that arises for consideration is as to the legality of measures initiated and continued leading to the procurement of section 14 orders.

8. The first and foremost contention taken by the applicant is that there is non-compliance of Rule 3 of Security Interest (Enforcement) Rules, 2002 as the demand notice is not published and affixed as required under the

Rules. This contention is having no legal backing as it is evident from the documents produced by the respondent that the demand notice is duly served. The respondent had produced the acknowledgement card evidencing the receipt of demand notice by the applicant. Hence, this Tribunal is of the view that there is due compliance of Rule 3 of Security Interest (Enforcement) Rules, 2002.

9. The next contention taken by the applicant is that 80% of the demand amount is paid by the applicant and the same was not considered while passing the orders. In this regard, the applicant had produced the statement of account reflecting the payments made by applicant and also the challan which proves that the applicant had made substantial amount to the loan account. The due amount shown in section 14 order is same as the amount shown in the demand notice dt.13.01.2022 produced by the respondent along with their objections whereas the applicant had paid substantial amounts subsequently. It is to be noted that by virtue of Section 14 of the Act it is obligatory on the part of the secured creditor to file an affidavit stating the due amount as on date of filing of the application. Section 14 of the Act reads as follows :

> ***"14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset***

(1) Where the possession of any secured asset is required to be taken by the secured creditor or……

Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that –

(i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

xxxx"

In the case in hand, it is evident that the respondent had filed proceedings stating the due amount as mentioned in the demand notice and had not given credit to the admitted amounts remitted by the applicant as evidenced by the statement of accounts. The failure of the secured creditor to give credit to the amount and to mention the due amount is in gross violation of proviso to Section 14, Sub-Section 1, Clause (b)(i) of the Act. Be that the case, this Tribunal cannot find any justification for secured creditor in not taking care of the substantial remittances made by the applicant after the demand notice while initiating the proceedings u/s.14 and mentioning the exact due amount before the Ld. Magistrate.

10. Even though the applicant had taken a contention that there is non-compliance of Rules 8(1) and 8(2) of Security Interest (Enforcement) Rules, the respondent had produced proof of compliance of the same. Even otherwise, the issuance of possession notice is not ***sine qua non*** for initiation of section 14 measures.

11. In view of the discussions as held in forgoing paragraphs and findings entered therein it is evident that though the respondent had duly followed Rule 3 of the Security Interest (Enforcement) Rules, 2002, it failed in compliance of the mandate of proviso to Sub-Section 1 of Section 14 which leads this Tribunal to interfere with the measures as the measures leading to the procurement of section 14 orders is not in accordance with the statute.

12. In the result,

i) SA No.205 of 2024 stands allowed.

ii) The measures leading to procurement of the section 14 orders is set aside.

iii) The respondent is directed to reinstate the possession of the applicant if actual possession is taken in pursuant to the measures.

iv) Since the measures in issuance of demand notice is found to be in order it will be open to the respondent to reinitiate the section 14 measures, if they are otherwise entitled to and the account continues to be in NPA.

v) In the facts and circumstances, there is no orders as to cost.

13. Issue copies in accordance with rule 16 of the Debt Recovery Tribunal (procedure) rule.

(*Dictated to PS, transcribed by him, corrected, signed and pronounced by me in the Open Court, this 30th day of April, 2026*)

Sd./-
(T. RAJESH)
PRESIDING OFFICER