IN THE DEBTS RECOVERY TRIBUNAL-II, BANGALORE

Dated this 30th Day of April 2026

PRESENT: SHRI T. RAJESH
Hon'ble Presiding Officer

S.A. No. 273 of 2025

1. Dr. Kusuma,
W/o. M. D. Devegowda,

2. Dr. K. Puttaswamy,
S/o. Karigowda,
Both residing at
No. 464/A, Vinaya Marga,
Siddarthanagara,
Mysore -570011.

. . . Applicants

Versus

The Authorized Officer,
Bank of Baroda,
Siddharthnagar Branch,
No. 564-A, Vinaya Marga,
Siddharthanagara,
Mysore -570011, Mysore District
Rep. by its Authorized Officer,
Chief Manager,
Smt. Marala Vidya Sagar

---Respondent

Ld. Counsels on record / appeared :-

Counsel for Applicants :- Rudrabhushan C Benakanalli
Counsel for Respondent :- VS Associates

: - O R D E R - :

1. The measures initiated and continued by the respondent as per the provisions of the "Securitization and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 herein after been referred to as the SARFAESI Act or in short, the Act in particular the section 14 proceedings leading to orders in Crl. Misc. No. 21 of 2024 is under challenge in this SA (Securitization Application).

2. The facts as set forth in the SA is as follows. The applicants who had financial transactions with the respondent had availed a loan for Rs.41,00,000/- (Rupees forty-one lakh only) for the purpose of construction of residential building. The failure of the applicant to pay the EMI is admitted. However, the applicant is disputing the NPA classification. The receipt of demand notice dated 01.01.2020 which was followed by possession notice is admitted pursuant to which SA.231 of 2021 was filed and during the pendency of said SA another demand notice dated 07.02.2023 was issued. However, the SA.231 of 2021 was disposed of recording the submission of the counsel for the respondent that the account had been upgraded.

3. It is further contented that without withdrawing earlier notices another demand notice dated 23.08.2023 was issued stating NPA date as on 29.07.2023. The applicant is putting forward the contention that SA .231 of 2021 when listed on 24.11.2023 a memo was available on record that the account is upgraded and the SA stood disposed of on that basis.

4. In respect of measures u/s 14 it is contented that said order is procured suppressing facts about earlier notices. The applicant further admits that impugning the order of the Ld. Magistrate the applicant had preferred a writ petition before the Hon'ble High Court and pursuant to interim order therein an amount of Rs. 6,00,000/- (Rupees six lakh only) is remitted. The Hon'ble High Court had passed an order on 21.01.2025 directing petitioner to file an affidavit showing the true frame within which entire amount can be repaid. However, the Writ petition came to be disposed of relating the parties to this Tribunal.

5. In the grounds to the SA, the applicant apart from reiterating the contentions as put forth in the statement of facts is also contending that the bank failed to follow the RBI guidelines in NPA classification. It is also contended that the bank had filed a false affidavit before the Ld. Magistrate for obtaining the order. The applicant is also contending that the demand notice is not affixed as required under the Act and had not published the possession notice with in time.

6. Along with the SA, the applicant had produced the following documents.

1. Copy of the order in Crl.Misc.21 of 2024
2. Copy of application Crl. Misc. 21 of 2024
3. Copy of affidavit filed in Crl. Misc. 21 of 2024

4. Copy of sanction
5. Copy of demand notice dated 01.01.2020
6. Possession notice dated 12.02.2021
7. Copy of order in IA.1511 of 2021 in SA.231 of 2021
8. Copy of order sheet in SA.231 of 2021
9. Copy of notice dated 07.02.2023
10. Copy of demand notice dated 23.08.2023
11. Copy of possession notice dated 02.11.2023.
12. Copy of order in WP.31986 of 2024.

Hence on the above contentions, the applicant seeks to set aside the measures.

7. The respondent had filed their statement of objection contenting that the application is filed after suppression of material facts and misrepresentation. The respondent had further detailed about the disbursement of loan creation of security interest and defaults occurred in the account. The respondent had further refuted the contention of the applicant that the security interest is not registered with the Central Registry. It is also stated that the loan account was classified on NPA on 31.12.2019 and had initiated the proceedings under the Act by issuing a demand notice on 01.01.2020. However, as the applicant approached the bank and regularized the account the bank had decided not to proceed with the said measures and a memo dated 28.11.2023 was filed

resulting dismissal of the SA.231 /2021. However, as the account again failure default in the mean while fresh measures are initiated by issuing fresh demand notice dated 23.08.2023 which was duly served, published and affixed. Since no repayment was forthcoming possession notice was issued, published and affixed as mandated under the Act. The respondent further contends that there are flaws in measures leading to impugned order.

8. Along with the objection the respondent had produced the following documents.

1. Memorandum of deposit of title deeds.
2. CERSAI report.
3. Demand notice dated 23.08.2023 as proof as to service.
4. Possession notice dated 02.011.2023 and proof as service.
5. Publication of possession notice.
6. Statement of account.

Hence as the above defense and documents respondent prays for dismissed of SA.

9. Heard the Ld. counsel for both sides. The only issue that arise for consideration is whether there is any procedural flaws in NPA classification, initiation of measures and procedure leading to section 14 order.

10. The applicant's contention as to the abandonment of earlier proceedings as the account was regularized is statistically explained by the respondent. Even though property required the respondent to point out the *de novo* measures are initiated when they file the memo in SA.231 of 2021, the failure in mentioning the same cannot be treated as a procedural irregularity.

11. The mear fact that the earlier demand notices are not withdrawn expressly is not fatal as by issuance of another demand notice the earlier notice stood impliedly withdrawn.

12. The applicant's contention as to the alleged non service of demand notice is successfully rebutted by the respondent as the respondent had produced the proof as to the strict compliance of rule 3 of the Security Interest (Enforcement) Rules. Hence this Tribunal is convinced as to the due compliance of rule 3 of the Rules is to be found in favour of the respondent.

13. Event though the issuance and service of possession notice is not a pre-condition as to the invoke the measures u/s 14 of the Act, the respondent had successfully rebutted the specific contention of the applicant in this regard as the proof as to compliance of rule 8(1) and 8(2) is produced along with the objection.

14. The applicant is putting forth a case that the section 14 orders had been procured by filing a false affidavit is also baseless on the respondent had

successfully rebutted the contention of applicant as to the dismissal of earlier section 14 application. The non-disclosure of earlier application u/s 14 as the account cannot be considered as fatal, as the filing a resh application was consequential to fresh NPA classification.

15. In view of the discussion as held above and findings entered therein, this Tribunal is of the considered opinion that there is no merit in the SA and the same is liable to be dismissed.

In the result, SA.273 of 2025 stands dismissed, all pending IAs stands closed. No orders as to cost. Issue copies in accordance with rule 16 of the Debt Recovery Tribunal (procedure) rule.

(Dictated to PY, directly on the computer, after its transcription, corrected, signed and pronounced by me in the open court on the 30th day of April, 2026)

Sd/-
(T. RAJESH)
PRESIDING OFFICER