


22.06.2026

Presiding Officer

Case Citation: (2026) ibclaw.in 500 DRT
22.06.2026

SA No.481/2024 stands allowed, vide separate order. No order as to costs.


Presiding Officer

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THE DEBTS RECOVERY TRIBUNAL - 1, KARNATAKA
AT BENGALURU

PRESENT: SRI IMTIAZ ALI
PRESIDING OFFICER

Dated the 22nd day of June, 2026

SECURITISATION APPLICATION NO.481 OF 2024

Between

Veena Diana Tellis,
W/o Leo D'Souza,
Aged 54 years,
R/a. Door No.24-12-1193/7,
Flat No.302, 3rd Floor,
"The Spring" Apartment,
Near Marnamikatta Circle,
Nanddigudde, Mangalore-575002,
Dakshina Kannada.

.....Applicant

And

The Authorised Officer,
State Bank of India,
RACPC, Mangalore,
Damodar Towers, II Floor,
Sharbathkatte Bus Stop,
Airport Road, Yeyyadi,
Mangaluru-575008.

..... Defendant

This Securitisation Application having been heard on 08.04.2026 in the presence of Advocate Shri Puttaraju for the applicant, and Advocate Shri M K Venkatramana for the defendant, and stood over to this day for consideration, the Tribunal delivered the following: -

FINAL ORDER

The applicant filed the above Securitisation Application (SA) on 23.09.2024 under S.17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as amended from time to time – hereinafter referred to as 'the Act' – praying to set aside the order dated 02.09.2024 passed under S.14 of the Act by the Principal Senior Civil Judge and Chief Judicial Magistrate,

Mangalore in CrI. Misc. No.217/2024 in respect of the schedule property. The applicant is the borrower of a financial assistance availed in the form of housing loan facility of ₹18,60,000/- from the defendant bank.

2. The case set out by the applicant in the SA in brief is as follows: - The applicant is the borrower, mortgagor and absolute owner with lawful possession of schedule property. The applicant had availed housing loan of ₹18,60,000/- in the year 2011 from the defendant. After availing the housing loan, the applicant repaid the substantial amount to the defendant bank on several occasions. But the defendant has not properly deducted the said repayments. The applicant submits that her husband was working at Dubai and he was paying regular EMIs. But due to Covid-19 pandemic disease he lost his job. Hence he could not able to pay some instalments to the defendant. The defendant obtained an order from learned Magistrate under S.14 of the Act and without serving the mandatory notices. The defendant has not registered the security interest with Central Registry. The defendant has not given any opportunity to the applicant and also not served any notices personally such demand notice and possession notice. The defendant neither published the possession notice in two leading newspapers nor affixed the possession notice. The defendant planning to sell the schedule property for a meagre amount which is far less than the present market value of the schedule property. The defendant bank without following the Act and Rules obtained order under S.14 of the Act. Hence the application.

3. The defendant filed a statement of objection refuting the prayer and contending as follows: - The applicant availed the housing loan and she executed the loan documents and created the mortgage of the schedule property in favour of the defendant. The defendant registered the secured asset in CERSAI. Subsequently, the applicant failed to regularise the loan account and committed breach to the terms and conditions of the sanction. In spite of repeated requests and reminders by the defendant, the loan account

was classified as non-performing asset on 01.10.2020. Thereafter the defendant bank issued a demand notice under S.13(2) of the Act on 21.11.2020 and called upon the borrower to pay a total due within 60 days from the date of notice. The said demand notice was returned unserved and thereafter the defendant bank published the demand notice on 21.11.2020 in Vijaya Vani newspaper and on 27.04.2021 in New Indian Express newspaper. The applicant has failed and neglected to repay her outstanding dues and not raised any objection to the demand notice. Therefore, the bank issued the possession notice dated 24.08.2021. Thereafter the said notice was duly published in two leading newspapers such as Vijay Karnataka and Times of India on 29.08.2021 and affixed the notice in the schedule property. Further the applicant failed to repay the loan despite the several opportunities, the defendant bank initiated action under S.14 of the Act for taking physical possession of the schedule property from the applicant. Hence the defendant bank has followed due process of law. On the above contentions, the defendant prayed for dismissal of the SA with costs.

4. The applicant produced six documents along with the SA, which are for convenience referred to as Annexures A1 and A6. The defendant along with its statement objection produced seventeen documents in support of its contentions and the same are referred to as Annexures B1 to B17.

5. The only issue arises for consideration is as to whether the applicant is entitled to the relief prayed for?

6. The Issue- The applicant has challenged the impugned order passed by the learned Magistrate under Section 14 of the SARFAESI Act inter-alia on the ground that the defendant bank failed to serve the statutory notices and during pendency of challenge to an earlier Magistrate order, the defendant bank obtained the present order based on the same measures.

7. It is the contention of the applicant that no notice was served upon the applicant either under Section 13(2) of the SARFAESI Act or in respect of the possession proceedings. Per contra, the defendant bank contended that all mandatory procedures were duly complied with and produced documents in support thereof.

8. Upon perusal of the records, it is seen that in respect of the demand notice issued under Section 13(2) of the SARFAESI Act, the defendant bank has produced the returned postal cover and material regarding publication. Thereby indicating that an attempt was made to serve the notice at the address available in the records of the bank. Hence, mere denial of service of demand notice by the applicant cannot, by itself, invalidate the proceedings.

9. However, in so far as the possession notice issued under Rule 8 of the Security Interest (Enforcement) Rules is concerned, though the defendant bank has produced documents relating to affixure newspaper publication, no postal receipt, acknowledgement, returned cover or material evidencing dispatch/service of the possession notice upon the applicant has been produced before this Tribunal. Affixure and publication of possession notice are procedural requirements intended to supplement, and not substitute service upon the borrower. In the absence of proof evidencing dispatch of possession notice to the applicant, the defendant bank cannot be held to have established complete compliance with the mandatory procedure contemplated under the law.

10. Further, the applicant has specifically contended that an earlier order obtained by the defendant from the learned Magistrate in respect of the same secured asset has already been challenged before this Tribunal and during pendency of such proceedings, the defendant bank obtained the present impugned order. The defendant bank has failed to demonstrate any fresh cause of action or changed circumstances

necessitating a subsequent application under Section 14 of SARFAESI Act founded on the same measures.

11. In view of the procedural infirmity relating to service of possession notice and having regard to the fact that the impugned order came to be obtained during pendency of challenge to the earlier proceedings arising from the same cause, this Tribunal is of considered opinion that the impugned Magistrate order cannot be sustained.

12. Accordingly, the impugned order passed by the learned Magistrate under Section 14 of the SARFAESI Act stands set aside. However, liberty is reserved to the defendant bank to proceed afresh in accordance with law after due compliance with the statutory requirements.

13. In the result, the Securitisation Application No.481 of 2024 stands allowed. No order as to costs.

14. The schedule to the SA shall be appended to this final order.

15. Communicate copy of this final order to both parties as provided in subsection (7) of S.17 of the Act r/w R.16 of the Debs Recovery Tribunal (Procedure) Rules, 1993 (as amended from time to time).

[Dictated to my Typist directly on the computer, corrected and pronounced by me in the open Tribunal on this the 22nd day of June., 2026]

[IMTIAZ ALI]
PRESIDING OFFICER

APPENDIX**Applicant's Exhibits**

Annexure A1	02.09.2024	Photocopy of the order passed by the Prl. Snr. Civil Judge and CJM, Mangaluru
Annexure A2		Photocopy of the petition with affidavit
Annexure A3		Photocopy of the attested/true copy of the GPA
Annexure A4	26.07.2022	Photocopy of the DC order
Annexure A5	02.09.2022	Photocopy of the interim order
Annexure A6		Photocopy of the payment receipt of ₹3,45,000/-

Defendant's Exhibits

Annexure B1	02.07.2011	Photocopy of the loan application
Annexure B2	30.07.2011	Photocopy of the housing loan sanction letter
Annexure B3	30.07.2011	Photocopy of the term loan agreement
Annexure B4	30.07.2011	Photocopy of the letter of guarantee
Annexure B5	30.07.2011	Photocopy of the memo relating to deposit of title deed
Annexure B6		Photocopy of the CERSAI report
Annexure B7	21.11.2020	Photocopy of the demand notice
Annexure B8		Photocopy of the returned postal cover
Annexure B9	27.04.2021	Photocopy of the extract of the paper publication in Vijaya Vani
Annexure B10	27.04.2021	Photocopy of the extract of the paper publication in Indian Express
Annexure B11	24.08.2021	Photocopy of the possession notice
Annexure B12		Photocopy of the affixure of possession notice
Annexure B13	29.08.2021	Photocopy of the extract of the paper publication in Vijaya Karnataka
Annexure B14	29.08.2021	Photocopy of the extract of the paper publication in Times of India
Annexure B15	26.04.2022	Photocopy of the applicant's balance confirmation letter
Annexure B16		Photocopy of the account extract-HTL loan account No.64081581925
Annexure B17		Photocopy of the account extract-S B I Surakasha account No.64081589797

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SCHEDULE OF PROPERTY

All that piece and parcel of residential apartment No.302, D.No.24-2-1198/7 on the 3rd floor of the multistoried apartment complex know as "Spring Apartment" measuring 940 sq ft along with an undivided 13.09% right in the common areas and facilities of the said condominium and together with similer 13.09 undivided right in the non-agricultural converted house site property held on warg right situated in Jeppinamogaru village of Mangalore Taluk, D.K District within the Attavara Ward of Mangalore city Corporation and within the Registration Sub-District of Mangalore city and comprised in. R.S NO.74/A6, T.S No.839-2F, Extent (A-C) 0.08.00, Portion North Eastern. And together will all appurtenances and easementary rights of way and water etc, along with car park slot in basement floor, standing in the name of Smt.Veena Diana Tellis and bounded on:

East By: Road, West By: Compound Walls,
North By: Compound Walls, South By: Compound Walls.

22.6.26
PRESIDING OFFICER

IN THE DEBTS RECOVERY TRIBUNAL - 1,
KARNATAKA AT BANGALORE

PRESENT: SRI IMTIAZ ALI
PRESIDING OFFICER

Dated the 22nd day of June, 2026

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State Bank of India,
RACPC, Mangalore,
Damodar Towers, II Floor,
Sharbathkatta Bus Stop,
Airport Road, Yeyyadi,
Mangaluru-575008.

..... Defendant

FINAL ORDER

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