

IN THE DEBTS RECOVERY TRIBUNAL-II, BANGALORE

Dated this 19th Day of June, 2026

PRESENT: SHRI T. RAJESH
Hon'ble Presiding Officer

S.A. No. 244 of 2025

BETWEEN:

Mr. Prasad Acharya G.N.
S/o. Narayana Acharya
Aged about 41 years
R/at. Sy.No.27-3, Property Declaration
No.III-2-19A1, PID No.2-4-50A,
Ward No.7 of Town Panchayath,
Saligrama, Karkada Village,
Brhamavara Taluk, Udupi-576221

. . . Applicant

AND:

The Authorised Officer
Karnataka Bank
(Uppinakote Branch)
Asset Recovery Management Branch
Karnataka Bank Building,
Kalsanka Ambagilu Road,
Ambagilu, Udupi-576105

. . . Respondent

Ld. Counsels on record / appeared :-

Counsel for Applicant :- Sri. Puttaraju
Counsel for Respondent :- Sri. Nithin Chandra M

: - O R D E R - :

1. This 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 impugning the measures initiated and continued

by the respondent leading to the procurement of section 14 order from the PC & CJM, Udupi in Crl.Misc.No.116/2025.

2. The applicant admits to be borrower of a housing loan to the tune of Rs.20,67,000/-. It is the case of the applicant that, without issuing any notice, the respondent obtained S.14 Order. The bank had not complied with the statutory requirements of provisions of SARFAESI Act. It is also stated that, due to covid the applicant business went in loss and hence the applicant could not able to pay the installments.

3. It is further contended that, the respondent bank has not mentioned the claim amount as on the date of filing (date 16.07.2025) Crl,Misc petition under S.14 of the Act and the Authorised officer has not filed the proper affidavit and have not complied the due process of law and violated the S.14 (1) (b) (i) and (ix) of SARFAESI Act.

4. In the grounds to the SA, the applicant is contending that, the order passed by the Ld. Magistrate is bad in law, illegal and enforceable. It is also stated that no demand notice is served on the applicant and the alleged non service of possession notice is also reiterated in the grounds. Apart from the above contentions, the applicant highlights the contention that, the actual due amount as on date of filing of the S.14 application is not mentioned in the affidavit filed in support of the application and that the respondent had failed in compliance of the mandate of the statute.

5. The next contention taken by the applicant is that, there is no registration of the secured asset with the Central Registry. The applicant

also contends that, the possession notice is not published within 7 days of its issuance and hence the measures are vitiated on the above ground also. Hence, on the above contentions, the applicant prays for setting aside the measures leading the procurement of S.14 Order. Along with the SA the applicant had filed the following documents:

- (i) Copy of the Order dated 01.08.2025
- (ii) Copy of the petition copy
- (iii) Copy of the Affidavit filed by Chief Manager

6. The respondents had filed their objections, denying the averments as stated in the SA and submits that, the SA is bad for non-joinder of necessary parties as the borrower who is a partnership who is not made a party. The availment of Term loan facility by the applicant is also reiterated in the objections filed by the respondent. The respondent had specifically denied the contentions of the applicant as to the alleged non registration of the secured interest with the Central Registry. It also contends that, though the applicant utilizes the credit facility, he failed to repay the loan in terms of the agreement, resulting the account being classified as NPA on 28.12.2020. the bank had issued the demand notice on 26.10.2021 calling upon him to pay the due amount of Rs.21,58,737.49 with interest from 26.10.2021. It is contended by the respondent that, the demand notice issued by the respondent was duly served on the borrowers. The symbolic possession notice was issued

which according to the respondent is duly served, published and affixed as mandate under the statute.

7. It is further contended by the respondent that, since the borrower had caused obstruct in taking physical possession, the S.14 measures had been resorted to, resulting the Ld. Magistrate issuing the Order which is sought to be impugned in the SA.

8. Apart from the above, the respondent had given point to point rebuttal of the contentions as taken in the SA. Along with the objections the respondent had produced the following documents:

- I. True Copy of the Credit Sanction Order bearing Ref. No. CPCSMRS/23524/2017-18/07.09.2017
- II. True Copy of the Term Loan Agreement dtd 28.09.2017
- III. True Copy of the Acknowledgement of Debt dtd 19.08.2023
- IV. True Copy of the Sale Deed dated 28.09.2017 bearing document No.KUN-1-03306-2017-18, bearing Document No. BHV-1-03306-2017-18., CD No. BHVD255., registered in the Office of the Sub Registrar, Bhamhavana
- V. True Copy of the Memorandum of Deposit of Title Deeds dtd 31.10.2017, bearing document No.BHV-1-03307-2017-18., CD No. BHVD255., registered in the Office of the Sub Registrar, Bhamhavana
- VI. True Copy of the Registration of Security Interest Acknowledgement Report dated (downloaded copy) issued from CERSAI 27.10.2017,
- VII. True Copy of the Demand Notice dated 26.10.2021 along with postal receipts (2 No's) & duly served Postal Acknowledgement/s (2 in No's).

- VIII. True copy of the Possession Notice dtd 15.02.2022, along with Postal Receipts (2 in No's) & the duly served Postal Acknowledgement Cards (1 in No's) & returned Postal cover with an endorsement "Unclaimed, hence returned to sender"
- IX. Photographs (2 No's) for having affixed the Possession Notice on the conspicuous part of mortgaged asset.
- X. Paper Publication of the possession Notice dated 15.02.2022 in the "The Hindu" published on 20.02.2022
- XI. Paper Publication of the possession Notice dated 15.02.2021 in the "Udayavani" published on 20.02.2022
- XII. Final Order dtd 04.11.2022 passed in SA No. 98/2022 passed by the Hon'ble DRT-2 Bengaluru
- XIII. Order dtd 11-02-2025 passed in SA No. 36/2025 passed by the Hon'ble DRT-2 Bengaluru
- XIV. Order dtd 23-06-2025 passed in SA No. 140/2025 passed by the Hon'ble DRT-2 Bengaluru
- XV. Affidavit in the Form of Declaration Duly Affirmed by the Authorised Officer of the Respondent Bank Under Sec 14(1)(a)(b)(i) to (ix) OF SARFAESI ACT -2002
- XVI. Certified True copy of the Statement of account

9. Heard the submissions of both sides and perused the available records.

10. The only issue that is gone into with regard to the measures leading to the procurement of impugned S.14 Order. The applicant though has no dispute as to the availment of credit facility and creation of security interest. The respondent had produced the proof as the sanctioning, disbursement and acceptance of terms and conditions by the applicant as the loan documents including the sanction ticket, Term loan agreement,

Acknowledgment of debt and Memorandum of Deposit of Title Deeds is produced. The next contention is taken by the applicant is as to the non-service of demand notice. The respondent had along with the objection produced the proof as to the service of demand notice as the acknowledgment card evidencing the demand notice is produced along with the objections.

11. In rebutting the contention as to the service of possession notice also, the respondent had produced the postal acknowledgment card and returned cover along with proof as the affixture and publication possession notice. It is also to be noted that, the respondent had earlier filed SA.98/2022 impugning the possession notice dated 15.02.2022 which came to be dismissed by this Tribunal by the order dated 04.11.2022 wherein this Tribunal had detailed as to the legality of the measures found that, the measures leading to the issuance of possession notice dated 15.02.2022 and held that the same is in accordance with statute. Based on above it can be safely concluded that there is no point of re-visiting the legality of measures up to the point of issuance of possession notice and the only issue that is to be decided is as to the S.14 measures alone.

12. Even though the applicant contends that, the respondent failed in complying with the mandates of the Act, the respondent had come up with proof as to the registration secured interest in the Central Registry,

which nullify the contention of the applicant as to the alleged noncompliance of S.26(D) of the Act.

13. In the case in hand, the affidavit filed by the Authorised Officer before the Magistrate does not specified the amount due as on date of filing of the application, which leads the Tribunal to go into the question whether non mentioning of the amount due in the affidavit is fatal so as to hold that the S.14 measures are not maintainable, in answering this issue, this Tribunal has to consider the ambit and the purpose of this enactment which empower the secured creditor to securitize the mortgage property. Apart from harping on the technical ground, the due amount as on the date of filing of S.14 application is not mention in the affidavit, the applicant is not putting forth a case that, any substantial injury is caused to the applicant because of non-mentioning of the amount. The applicant is not even contending that, they are ready to pay off the liability and the amount being mentioned in the affidavit in support of the application. It is also to be noted that, the applicant had even failed to comply with the condition imposed by this Tribunal. The Hon'ble Apex court in L&T Housing Finance Limited Vs. Trishul Developers and Anr. held in Para 11 as follows:

11. In the facts and circumstances, when the action has been taken by the competent authority as per the procedure prescribed by law and the person affected has a knowledge leaving no ambiguity or confusion in initiating proceedings under the provisions of the SARFAESI Act by the secured creditor, in our considered view, such action taken thereof

cannot be held to be bad in law merely on raising a trivial objection which has no legs to stand unless the person is able to show any substantial prejudice being caused on account of the procedural lapse as prescribed under the Act or the rules framed thereunder still with a caveat that it always depends upon the facts of each case to decipher the nature of the procedural lapse being complained of and the resultant prejudiced if any, being caused and there cannot be a straitjacket formula which can be uniformly followed in all the transactions.

14. It is pertinent to note that, despite reiterating the contention as to the non-compliance of mandates in issuance of the possession notice which is already gone into and decided by this Tribunal in SA.No.98/2022, the applicant had not put forth any valid challenge as to the S.14 measures. In contra, the respondent had produced the proof as to the filing of affidavit which substantially fulfills the mandates of S.14. taking into consideration of the above, the only conclusion that can be gone is that, there in no merit in the SA and SA is liable to be dismissed.

15. In the result, SA.No.244/2025 is dismissed. All pending IAs stand closed. The parties to bear their respective costs. Copy of this order be communicated to the parties concerned.

(Dictated to the Stenographer (PR), after her transcription and necessary corrections, signed and Order passed on this 19th day of June 2026)

**(T. RAJESH)
PRESIDING OFFICER**