

30.06.2026

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Securitisation Application No.184 of 2024 is allowed vide separate order.


Presiding Officer

IN THE DEBTS RECOVERY TRIBUNAL - 1, KARNATAKA
AT BENGALURU

PRESENT: SRI IMTIAZ ALI
PRESIDING OFFICER

Dated the 30th day of June, 2026

SECURITISATION APPLICATION NO.184 OF 2024

Between

Arun Kumar K S,
S/o K T Srinivasa Gowda,
Residing at No.921, 22nd Main,
38th Cross, 4th T Block, Jayanagar,
Bangalore-560041.

...Applicant

And

1. The Authorised Officer,
Punjab and Sind Bank,
Attibele Branch,
No.770/18, Anekal,
Attibele Main Branch,
Attibele, Bengaluru-562107.
2. B Sreenivasan,
S/o Byrappa,
Residing at No.340, Hig Type 'A',
Surya Nagar,
Karnataka Housing Board Composit Home,
Bangalore-81.

..... Defendants

This Securitisation Application having been heard on 01.06.2026 in the presence of Advocates M/s M Mohamed Ibrahim and Ehtesham Ibrahim for the applicant, and Advocates M/s Rakesh B Bhatt, Yashwant B Poojar, Aditya S N and Dinesh N for the 1st defendant, and Advocates M/s Vignesh Shetty and Natasha N Murthy for the 2nd 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 27.11.2023 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 01.06.2022 passed under S.14 of the Act by the Chief Judicial Magistrate, Bengaluru in CrI. Misc. No.535 of 2022 in respect of the schedule property. The applicant is none other than the borrower of a financial assistance availed in the year 2017 in the form of overdraft loan facility by mortgaging schedule immovable property by way of equitable mortgage in favour of the 1st defendant bank.

2. The case set out by the applicant in the SA in brief is as follows: - The applicant is a Class-I contractor involved in construction work. The applicant submits that the 1st defendant bank has sanctioned an overdraft loan facility for a sum of ₹67,20,000/- in the year 2017 after mortgaging the schedule immovable property by way of equitable mortgage in favour of the 1st defendant bank. The applicant further states that the applicant defaulted in payment of the loan due to covid pandemic and 1st defendant bank declared the loan account as NPA on 31.03.2021. Further the 1st defendant issued a demand notice dated 05.04.2021 under S.13(2) of the Act. The applicant further states that he issued a reply under Section 13(3) to the said notice and requested time for payment of the same. The 1st defendant issued possession notice on 13.07.2021 and without waiting for the statutory period the 1st defendant bank issued sale notice fixing the auction on 28.09.2021. The description of the schedule property in the notice is varied and different from the original title deeds deposited in the bank. The 1st defendant bank has not created any security interest as per the Act which is mandatory in view of the notification dated 20.01.2020. Hence, this application.

3. The 1st defendant bank filed objection refuting the prayer and contending as follows: - As per the request of the applicant, the 1st defendant bank sanctioned the loan after executing various loan documents in favour of the bank. In view of the default committed by the applicant in repayment of the loan, the 1st defendant bank has classified the loan account as NPA on 31.03.2021. Thereafter the 1st defendant bank has issued the

demand notice dated 05.04.2021 under S.13(2) of the Act. In spite of the demand notice, the applicant has failed to make the payment within the statutory period, the 1st defendant bank had taken the symbolic possession of the mortgaged schedule property vide possession notice dated 13.07.2021. The sale of the SA schedule property having already been completed by execution and registration of sale certificate in terms of the SARFAESI Act. The relief sought under Section 14 of the Act not being a measures defined under the SARFAESI Act. Hence, the applicant is not at all entitled to any of the relief sought in the petition and liable to be rejected.

4. The 2nd defendant bank filed objection refuting the prayer and contending as follows: - Upon compliance of the SARFAESI Act and Rules, the 1st defendant proceeded to sell the secured mortgaged properties by e-auction on 03.03.2023. The 1st defendant conducted auction on 03.03.2023 for reserve price of ₹1.55 crores and the schedule property was sold to the 2nd defendant. Since the 2nd defendant had deposited the entire sale consideration, the sale certificate has ben issued by the 1st defendant in favour of the 2nd defendant on 22.11.2023. The 2nd defendant is a bonafide purchaser for consideration and the malafide intention of the applicant to cause unnecessary hardship and deferment in the process of recovery which in turn causing grave prejudice to the 2nd defendant. Hence, the 2nd defendant prayed to dismiss the application with costs.

5. The applicant produced twelve documents along with the SA, which are for convenience referred to as Annexures A1 and A12. The 2nd defendant along with its statement objection produced six documents in support of its contentions and the same are referred to as Annexures B1 to B6.

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

7. The present Securitisation Application has been filed challenging the order dated 01.06.2022 passed by the learned Magistrate under Section 14 of the SARFAESI Act and the consequent actions taken pursuant thereto.

8. At the outset, the defendant bank has raised a preliminary objection regarding maintainability of the application on the ground of limitation. It is contended that the impugned order under Section 14 was passed on 01.06.2022 whereas the present Securitisation Application came to be filed 27.11.2023 and is therefore barred by limitation.

9. The applicant submits that immediately after passing of the order under Section 14, he approached the Hon'ble High Court of Karnataka by filing a Writ Petition No.19958/2022 challenging the said order and seeking interim protection. The writ petition remained pending before the Hon'ble High Court and was ultimately disposed of on 06.11.2023. While disposing the writ petition, the Hon'ble High Court granted liberty to the applicants to approach the Tribunal and specifically observed that the Tribunal shall consider the matter on merits.

10. The Hon'ble High Court also extended the interim protection operating in favour of the applicant till receipt copy of the order. The applicants thereafter filed the present Securitisation Application on 27.11.2023.

11. The record reveals that the applicant was bonafide prosecuting his remedy before the Hon'ble High Court in respect of the very same cause of action. Immediately upon disposal of the writ petition, the applicant approached this Tribunal without undue delay. There is no material to indicate negligence or lack of diligence on the part of the applicant. Having regard to the liberty granted by the Hon'ble High Court and its observation that the matter be considered on merits, this Tribunal is of the view that the explanation offered by the applicant is satisfactory. Accordingly, the objection regarding limitation is rejected and the present securitisation application is held to be maintainable.

12. On merits, the principle contention of the applicant is that the defendant bank failed to establish registration of the security interest with CERSAI and therefore the measures initiated under the SARFAESI Act, including the proceedings under Section 14, are unsustainable.

13. The records disclose that the defendant bank did not file any document to show registration under CERSAI. However, the records of SA 91 of 2026 disclose that the defendant bank has relied upon a CERSAI report indicating that security interest was created/submitted by maker on 14.07.2017. However, the very report relied upon by the defendant bank records that the security interest was "yet to be approved". No certificate of registration, acknowledgment containing a registration number, or any other document evidencing successful completion of registration with CERSAI has been produced before this Tribunal. Mere submission of particulars by maker cannot be treated as proof of completed registration. Despite specific challenge by the applicant, the defendant bank has failed to place satisfactory evidence establishing completed registration of the security with CERSAI.

14. It is further pertinent to note that the applicant had earlier challenged the possession notice issued by the defendant bank and the same came to be set aside by this Tribunal in SA No.91/2026 on 07.04.2026. The defendant bank has not placed any material to show that the said order has been stayed, reversed or modified by any superior forum. The findings recorded there in therefore continue to operate.

15. The proceedings under Section 14 of the SARFAESI Act are consequential in nature and derive their validity from the measures already taken by the secured creditor under the Act. Once the possession notice forming the foundation of the subsequent proceedings has been set aside by a competent Tribunal, the consequential order obtained under Section 14 cannot ordinarily survive unless an independent legal basis is

established. No such independent basis has been demonstrated by the defendant bank in the present case.

16. Apart from the above, the defendant bank has failed to establish compliance with the statutory requirements relating to registration of the security interest. The material placed on record falls short of proving a valid and completed CERSAI registration. Consequently, the foundation on which the defendant bank proceeded under the SARFAESI Act stands seriously undermined.

17. In view of the foregoing discussions, this Tribunal is satisfied that the impugned order dated 01.06.2022 passed under Section 14 of the SARFAESI Act and the consequential actions taken pursuant thereto cannot be sustained in law.

18. Accordingly, this Securitisation Application No.184 of 2024 is allowed. The order dated 01.06.2022 passed by the learned Magistrate under Section 14 of the SARFAESI Act is hereby set aside. All consequential actions taken pursuant to the said order are also set aside. This order shall not preclude the defendant bank from initiating fresh proceedings in accordance with law after complying with all statutory requirements. No order as to costs.

19. It is pertinent to note that in the connected Securitisation Application No.568 of 2023 this Tribunal has already set aside the sale notice, auction sale, confirmation of sale and the sale certificate issued in favour of the auction purchaser(s). Consequently, neither the defendant bank nor the auction purchaser(s) can claim any right to continue in possession of the secured asset on the strength of the proceedings which have already been declared unsustainable.

20. Since the order under Section 14 of the SARFAESI Act and the consequential actions taken thereunder have also been set aside, the applicant is entitled to restoration of possession so as to restore the parties to the position which existed prior to the illegal measures adopted by the defendant bank.

21. Accordingly, the defendant bank, its officers, agents and any person claiming through the impugned proceedings shall restore vacant possession of the secured asset to the applicant within 30 days from the date of receipt of this order. In the event possession of the secured asset is with the auction purchaser(s) pursuant to the sale proceedings which have already been set aside, the defendant bank shall take all necessary steps to secure redelivery of possession and restore the same to the applicant within the aforesaid period.

22. No order as to costs.

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

24. Communicate copy of this final order to both parties as provided in sub-section (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 P.A directly on the computer, corrected and pronounced by me in the open Tribunal on this the 30th day of June, 2026]


[IMTIAZ ALI]
PRESIDING OFFICER

APPENDIX**Applicant's Exhibits**

Annexure A1	24.01.2023	Photocopy of the sale notice
Annexure A2	14.06.2017	Photocopy of the loan sanction
Annexure A3	05.04.2021	Photocopy of the demand notice
Annexure A4	13.07.2021	Photocopy of the possession notice
Annexure A5	22.09.2021	Photocopy of the order passed by the Hon'ble DRT 1, Bengaluru in S A (Diary) No. 1260 of 2021
Annexure A6	13.10.2021	Photocopy of the payment receipts
Annexure A7	29.12.2021	Photocopy of the order in WP NO.24294 of 2021 of the Hon'ble High Court of Karnataka
Annexure A8	29.12.2021	Photocopy of the letter with payment receipts
Annexure A9	01.06.2022	Photocopy of the Section 14 order
Annexure A10	06.11.2023	Photocopy of the order in WP No.19958 of 2022
Annexure A11	20.11.2023	Photocopy of the sale confirmation
Annexure A12	22.11.2023	Photocopy of the sale certificate

2nd Defendant's Exhibits

Annexure B1	02.03.2023	Photocopy of the order passed by the Hon'ble High Court of Karnataka in WP No.19958 of 2022
Annexure B2	03.03.2023	Photocopy of the email sent by the defendant No.1 to the defendant No.2
Annexure B3	06.03.2023	Photocopy of the email sent by the defendant No.1 to the defendant No.2
Annexure B4		Photocopy of the orders in WP No.19958/2022
Annexure B5	22.11.2023	Photocopy of the sale certificate
Annexure B6	27.02.2024	Photocopy of the order in WP No.1893/2024

A.
30.06.26
PRESIDING OFFICER

SCHEDULE PROPERTY

All that piece and parcel of property bearing No.388, MIG II, Type -A, 6th B Cross, on site measuring 243 Sqmt developed by Karnataka Housing Board in development known as Suryanagar, Chandapura, Surya City Phase I, Iggalur Banahalli Village, Anekal Taluk, Bangalore, Karnataka – 560 099.

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PRESIDING OFFICER

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Dated the 30th day of June, 2026

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The Authorised Officer,
Punjab and Sind Bank,
Attibele Branch,
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Attibele, Bengaluru-562107
And Another.

..... Defendants

FINAL ORDER

30.06.26