NC: 2026:KHC:32491
WP No. 17307 of 2026

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

WRIT PETITION NO. 17307 OF 2026 (GM-DRT)

BETWEEN:

CAN FIN HOMES LIMITED,
A NON-BANKING HOUSING FINANCE COMPANY,
INCORPORATED UNDER COMPANIES ACT, 1956.
REGULATED UNDER THE PROVISIONS OF THE
NATIONAL HOUSING BANK ACT 1987.
HAVING REGISTERED OFFICE AT
NO.29/1, SIR M.N.KRISHNA RAO ROAD,
LALBAGH WEST, BASAVANAGUDI,
BENGALURU-560004,
REPRESENTED BY ITS SENIOR MANAGER,
AUTHORISED OFFICER AND
AUTHORISED SIGNATORY
SHIVA V.R.,
AGED ABOUT 41 YEARS,
HAVING GENERAL POWER OF ATTORNEY

...PETITIONER

(BY SRI. NARAYANA SWAMY D., ADVOCATE)

AND:

1. SMT. NAGARATHNAMMA G.R.,(BORROWER)
WIFE OF LATE MUNIRAMAIAH,
AGED ABOUT 50 YEARS, (01/09/1967)
RESIDING AT NO.2,
SRILAKSHMI VENKATESHWARA NILAYA,
6TH CROSS, MUNESWARA BLOCK,
DEVINAGAR, RMV EXTENSION,
BENGALURU-560094.

2. JAYADEEP.
SON OF LATE MUNIRAMAIAH,
AGED ABOUT 34 YEARS, (25.09.1993)
RESIDING AT NO.2,
SRILAKSHMI VENKATESHWARA NILAYA,
6TH CROSS, MUNESWAR BLOCK,
DEVINAGAR, RMV EXTENSION,
BENGALURU-560094.

3. MR. GIRISH V.,
SON OF VENKATESH,
AGED ABOUT 38 YEARS, (05.01.1988)
RESIDINT AT NO.36, MARIYAMMA TEMPLE,
MSK NAGAR, CHIKKAMARANAHALLI,
BENGALURU NORTH-560054.

...RESPONDENTS

(VIDE COURT ORDER DATED 30.06.2026,
NOTICE TO RESPONDENTS, DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR PRELIMINARY HEARING, THIS DAY, AN ORDER IS MADE AS UNDER:

ORAL ORDER

Sri.Narayana Swamy.D., counsel for the petitioner has appeared in person.

2. This petition is filed seeking following reliefs:

(a) Allow the writ petition, quash and set aside the impugned adjudicatory order dated 13.05.2026 passed under

Section 14 of SARFAESI Act, 2002 by 08th Additional Chief Judicial Magistrate, Bengaluru in Crl.Misc.No.5307/2026 vide Annexure-D is not tenable in corresponding law.

(b) Allow the writ petition, quash and set aside the impugned order dated 24.04.2026 passed under Section 14 of SARFAESI Act, 2002 by 08th Additional Chief Judicial Magistrate, Bengaluru in Crl.Misc.No.10265/2025 vide Annexure-B is not tenable in corresponding law.

(c) Direct 08th Additional Chief Judicial Magistrate, Bengaluru to pass fresh order under Section 14 of the Sarfaesi Act within 30 days from the date of the receipt of order of this Court without insisting for issuance Possession Notice under Section 13(4) of Sarfaesi Act, 2002.

(d) Pass any other order or direction as deems fit under the circumstances of this case before this Court in the interest of justice.

3. Counsel for the petitioner urged several contentions. Heard the arguments and perused the papers with care.

4. Suffice it to note that the Can Fin Homes Limited filed a petition under Section 14 of the SARFAESI Act before the

Chief Judicial Magistrate of Bengaluru City in Crl.Misc.No.10265/2025. The Court vide Order dated 24.02.2026 dismissed the petition holding that the authorized officer of the petitioner had not published a possession notice. Subsequently, the petitioner filed one more petition under Section 14 of the SARFAESI Act in Crl.Misc.No.5307/2026 before the Chief Judicial Magistrate. The Court vide order dated 13.05.2026 dismissed the petition holding that, the earlier dismissal of Section 14 petition was not assailed before the appropriate forum and also imposed cost of Rs.25,000/-. This is untenable. The reason is apparent. The Apex Court in Standard Chartered Bank V/s. V.Nobel Kumar and others' in Criminal Appeal No.1218/2013 (Arising out of SLP (Criminal) No.2038/2011 has held that:

> *"37. Thus, there will be three methods for the secured creditor to take possession of the secured assets:-*
>
> *(i) The first method would be where the secured creditor gives the requisite notice under rule 8(1) and where he does not meet with any resistance. In that case, the authorised officer will proceed to take steps as stipulated under rule 8(2) onwards to take possession and*

thereafter for sale of the secured assets to realise the amounts that are claimed by the secured creditor.

(ii) The second situation will arise where the secured creditor meets with resistance from the borrower after the notice under rule 8(1) is given. In that case he will take recourse to the mechanism provided under section 14 of the Act viz. making application to the Magistrate. The Magistrate will scrutinize the application as provided in section 14, and then if satisfied, appoint an officer subordinate to him as provided under section 14(1)(A) to take possession of the assets and documents. For that purpose the Magistrate may authorise the officer concerned to use such force as may be necessary. After the possession is taken the assets and documents will be forwarded to the secured creditor.

(iii) The third situation will be one where the secured creditor approaches the Magistrate concerned directly under section 14 of the Act. The Magistrate will thereafter scrutinize the application as provided in section 14, and then if satisfied, authorise a subordinate officer to take possession of the assets and documents and forwards them to the secured creditor as under clause (ii) above."

It is, therefore, evident from the law laid down by the Apex Court that a secured creditor has three alternative remedies available for taking possession of the secured asset. In the present case, the petitioner, being the secured creditor, has chosen to invoke Section 14 of the SARFAESI Act by filing a petition thereunder. Consequently, the finding that the petition under Section 14 is not maintainable on the ground that the Authorized Officer had not issued a notice is unsustainable in law. Accordingly, the order passed in Crl.Misc.No.10265/2025 dated 24.02.2026 rejecting the petition under Section 14 of the SARFAESI Act is hereby quashed.

Further, while dismissing the subsequent petition, the Trial Court assigned the reason that the petitioner had not challenged the earlier order before the appropriate forum. In my considered view, such reasoning is legally untenable. The law having been conclusively settled by the Apex Court in *V. Noble Kumar's* case that a secured creditor is entitled to adopt any one of the three modes prescribed for taking possession of the secured asset, the Trial Court failed to appreciate the settled legal position. Consequently, the order dated 13.05.2026 passed by the VIII Additional Chief Judicial Magistrate, Bengaluru City, in Crl.Misc.No.5307/2026 is also quashed. Needless to observe that the order of imposition of cost is also quashed.

The VIII Additional Chief Judicial Magistrate, Bengaluru City, is directed to consider the petition afresh and pass appropriate orders under Section 14 of the SARFAESI Act within a period of 30 days from the date of receipt of a certified copy of this order.

5. With the above observations and directions, the writ petition stands ***allowed***.

Sd/-
(JYOTI M)
JUDGE

MRP
List No.: 1 Sl No.: 16