HC-KAR

CNR: KAHC010588202026

NC: 2026:KHC:59159
WP No. 26494 of 2026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 17TH DAY OF OCTOBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE C.M. POONACHA**

**WRIT PETITION NO. 26494 OF 2026 (GM-DRT)**

**BETWEEN:**

1. SRIRAM K
   S/O LATE V N KRISHNAMURTHY
   AGED ABOUT 57 YEARS
   RESIDING AT NO.7/A, A BLOCK
   VASU LAYOUT, DATTAGALLI
   MYSURU 570 022

...PETITIONER

(BY SRI. SRIRANGA S , SENIOR ADVOCATE FOR
MS. SUMANA NAGANAND.,ADVOCATE)

**AND:**

1. STATE BANK OF INDIA
   A BODY CORPORATE ESTABLISHED
   UNDER THE STATE BANK ACT, 1955
   HAVING BRANCH OFFICE AT
   JAYALAKSHMIPURAM, 3RD BLOCK
   MYSURU 570 012
   REPRESENTED BY ITS CHIEF MANAGER

2. STATE BANK OF INDIA
   STRESSED ASSET MANAGEMENT
   BRANCH 4209
   BENGALURU 560 001
   REPRESENTED BY ITS
   AUTHORISED OFFICER

3. M/S. AABRAM INDUSTRIAL SERVICES
HAVING OFFICE AT
'AABRAM HOUSE', 24-86/2/4,
ANAND BAGH, ROAD, MALKAJGRI,
HYDERABAD - 500 047
REPRESENTED BY ITS DIRECTOR

4. RESERVE BANK OF INDIA
10/3/8, NRUPATHUNGA ROAD
BENGALURU -560001
REPRESENTED BY ITS GOVERNOR

5. DISTRICT COLLECTOR AND
DISTRICT MAGISTRATE
MYSURU DISTRICT
DEPUTY COMMISSIONER OFFICE,
GIRIBHOVIPALYA
SIDDARTHANAGAR,
MYSURU 570 011

6. UNION OF INDIA
MINISTRY OF FINANCE
KARTAVYA BHAWAN - I,
NEW DELHI 110 001
REPRESENTED BY SECRETARY

...RESPONDENTS
(BY SRI. FRANCIS XAVIER .,ADVOCATE FOR C/R2
MS. NAYANA TARA B G, ADVOCATE FOR R6)

THIS WP IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT SECTION 14 OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 IS UNCONSTITUTIONAL AND IS VIOLATIVE OF ARTICLES 14 AND 300A OF THE CONSTITUTION OF INDIA.

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THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

**ORAL ORDER**

The present writ petition is filed seeking for the following reliefs:

*a. Declare that Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is unconstitutional and is violative of Articles 14 and 300A of the Constitution of India;*

*b. Or in the alternate read down Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 to hold that audi alterum partum is an intrinsic part of Section 14 of the Act and hence Petitioner is entitled to be heard before an order under Section 14 of the Act is passed;*

*c. Issue a writ of certiorari or any other writ, order, or direction quashing the order dated 17.08.2023 bearing no. MAG (3) Misc /82/2023 passed by Respondent No.5 (Annexure 'L');*

*d. Issue a writ of certiorari or any other writ, order, or direction quashing the communication dated 23.06.2026 issued by Respondent No.1 bearing NO SAMB/CLO-2/MVR/TP1126 (Annexure 'K');*

*e. Declare that Respondent Nos.1 and 2 cannot proceed with any action under the SARFAESI Act, 2002 in view of pendecy of proceedings in OS No.207/2024; Annexure-G*

*f. Declare that Respondent No.1's action in initiating SARFAESI proceedings against M/s. Tapovan Projects and Petitioner is arbitrary and without jurisdiction;*

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*g. Declare that the action of Respondent No.1 in declaring M/s. Tapovan Projects account as a Non-Performing Asset is in violation of RBI's prudential norms of income recognition, asset classification and provisioning-pertaining to advances" dated 01.07.2014;*

*h. Issue a writ of certiorari or any other writ, order, or direction quashing the demand notice dated 02.03.2023 (Annexure 'C') and possession notice dated 24.05.2023 issued by Respondent No.1 (Annexure 'D');*

*i. Pass any such other or further orders as this Hon'ble Court deems fit, just, and appropriate in the facts and circumstances of the present case, in the interests of justice."*

2. At the outset, a submission is made on behalf of the learned Senior Counsel for the petitioner that the petitioner would not press prayers (a) and (b), which are made to declare Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002[1] as unconstitutional and violative of Article 14 and 300A of the Constitution of India as well as the alternative prayer made to read down Section 14 of the SARFAESI Act to hold that the principle of *audi alterum partum* is an intrinsic part of Section 14 of the SARFAESI Act.

[1] Hereinafter referred to as 'SARFAESI Act'

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3. At this juncture, it is pertinent to note that since the validity of Section 14 of the SARFAESI Act was assailed written submissions as also memo of citations, has been filed on behalf of respondent No.6 - Union of India for the purpose of contending that the validity of Section 14 of the SARFAESI Act has been upheld by the Hon'ble Supreme Court and various High Courts.

4. Having regard to the same, the reliefs sought for in the present writ petition has been limited by the petitioner to the remaining prayers made in the writ petition, which are for the purpose of assailing the action taken by respondent Nos.1 and 2 - State Bank of India[2] in initiating measures under Section 14 of the SARFAESI Act.

5. The primary contention put forth on behalf of the petitioner is that the order dated 17.08.2023 (Annexure-L to the writ Petition) passed under Section 14 of the SARFAESI Act is a *non est* one since respondent No.1 in the said proceedings was dead as on date of the order. It is further contended that respondent No.2 in the said proceedings is a non-existent

[2] Hereinafter referred to as 'Bank'

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person and hence, the measures initiated by the Bank under Section 14 of the SARFAESI Act are erroneous and are required to be interfered with. In this context, reliance is placed on behalf of the petitioner on the Division Bench judgments of the Andhra Pradesh High Court in the case of ***Mangalagiri Textile Mills Private Limited, Rep.by its Chairman, Dr.Goli Nagasaina Rao & Anr., v. State Bank of India, Rep.by its Authorized Officer & Anr.,***[3] and ***Sri.Chandramala Enterprises Pvt. vs. Punjab National Bank***[4]***.***

6. *Per contra*, learned counsel for respondent Nos.1 and 2 – Bank vehemently assailing the present writ petition contends that the petitioner has availed various credit facilities from the Bank in the year 2018 and having defaulted in payment of the same, a notice under Section 13(2) of the SARFAESI Act was issued on 02.03.2023 (Annexure-C to the writ petition) seeking to recover a sum of Rs.30,24,73,001/-. That the said notice issued under Section 13(2) of the SARFAESI Act was assailed by the petitioner in WP No.24339/2023 before this Court and the same was

[3] 2022 SCC OnLine AP 525
[4] 2022 SCC OnLine AP 2132

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subsequently withdrawn on 19.12.2025. That the notice under Section 13(4) of the SARFAESI Act was issued on 24.05.2023 (Annexure-D to the writ petition) and symbolic possession of the properties was taken, consequent to which the order dated 17.08.2023 was passed under Section 14 of the SARFAESI Act. It is hence contended that the order dated 17.08.2023, which is impugned in the present writ petition, is an offshoot of the measures taken under Sections 13(2) and 13(4) of the SARFAESI Act. Hence, it is contended that the writ petition is not maintainable since the petitioner has an adequate remedy under the provisions of the SARFAESI Act.

7. Further it is contended that a suit for partition (OS No.207/2024) on the file of VI Additional Senior Civil Judge & JMFC, Mysuru, is pending consideration with regard to various properties between the family members of the petitioner. That various writ petitions as well as proceedings before the Debts Recovery Tribunal[5] have been initiated and the petitioner not having succeeded in the same, the present writ petition is filed

[5] Hereinafter referred to as 'DRT'

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with the sole and oblique motive of delaying the recovery of legitimate dues payable to the Bank.

8. It is contended that consequent to the measures initiated by the Bank, one property has been taken possession of and sold in an auction conducted on 11.12.2025 and the amounts that were realised in the said sale being insufficient to satisfy the amounts due and payable by the petitioner to the Bank, the possession of the another property has also been taken on 24.08.2026, for the auction of which a sale notice dated 25.08.2026 has been issued fixing the date of auction as 18.09.2026. However, for want of bidders, the said property could not be auctioned on the date that was fixed.

9. It is further contended that although periodically proposals for One Time Settlement[6] are being submitted by the petitioner, the same not having been accompanied with upfront payments, the said OTS proposals are not being favourably considered by the Bank. It is further contended that proceedings before the Tribunal are pending in SA No.860/2026

[6] Hereinafter referred to as 'OTS'

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and hence the question of entertaining the present writ petition does not arise.

10. Reliance is placed by the learned counsel for the Bank on various judgments of the Supreme Court as well as various High Courts.

11. Having regard to the matter in controversy, the aspect that has to be considered is, "*whether the measures initiated by the Bank under Section 14 of the SARFAESI Act are required to be interdicted by this Court in the present writ petition?*"

12. In this context, it is relevant to note that the primary contention put forth on behalf of the petitioner is that the order passed under Section 14 of the SARFAESI Act having been issued against a dead person and a non-existent person, the relief sought for in the present writ petition is to be granted. In this context, it is pertinent to note that the Bank has already issued the notice under Section 13(4) of the Act vide notice dated 24.05.2023 (Annexure-D to the writ petition). Various properties are mentioned in the said notice. Admittedly, the auction of one of the properties has already been

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completed. The petitioner has already initiated SA No.860/2026, which is pending before the Tribunal. It is pertinent to notice the reliefs sought for in SA No.860/2026, which are as under:

> *V. RELIEFS SOUGHT FOR: In view of the above facts and circumstances, this Hon'ble Tribunal may be pleased to order the following reliefs:*
>
> *(i) Quash the sale notice dated 21.11.2025 holding the auction on 11.12.2025 (Annexure 'N');*
>
> *(ii) Declare that the auction of schedule property held on 11.12.2025 is null and bad in law;*
>
> *(iii) Declare that any sale certificate issued by Respondents pursuant to auction dated 11.12.2025 is illegal, null and void;*
>
> *(iv) Declare that Respondent No.1's action in initiating SARFAESI proceedings against Appellant is arbitrary and without jurisdiction;*
>
> *(v) Declare that the action of Respondent No.1 in declaring Appellant's account as a Non-Performing Asset is in violation of RBI's prudential norms of income recognition, asset classification and provisioning-pertaining to advances" dated 01.07.2014;*
>
> *(vi) Declare that the action of Respondent No.1 in declaring Appellant's account as a Non-Performing Asset is in violation of RBI Notification dated 29.05.2015 "Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises;*
>
> *(vii) To grant costs of the proceedings;*
>
> *(viii) To pass such other order/orders as this Hon'ble Tribunal may deem fit to grant under the circumstances of the case, in the interest of justice and equity."*

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13. It is pertinent to note that the impugned order dated 17.08.2023 (Annexure-L to the writ petition) is one passed under Section 14 of the SARFAESI Act. The same is pursuant to the measures initiated by the Bank under the provisions of the SARFAESI Act.

14. The learned counsel for the respondent – Bank is justified in contending that the measures taken under Section 13(4) of the SARFAESI Act not having been assailed by the petitioner in the present writ petition, the question of granting the relief sought assailing the order dated 17.08.2023, which is one under Section 14 of the SARFAESI Act does not arise.

15. It is further pertinent to note that the petitioner has already availed his remedies before the Tribunal with regard to a portion of the measures that have been initiated under the SARFAESI Act. In view of the same, the question of interdicting any of the measures initiated by the Bank under the provisions of the SARFEASI Act in the present writ petition by favourably considering the prayers sought for in the present writ petition does not arise.

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16. Accordingly, the present writ petition stands dismissed.

17. Pending IAs., if any, stand disposed of.

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**(C.M. POONACHA)**
**JUDGE**

ND
List No.: 1 Sl No.: 2