



**IN THE HIGH COURT OF KARNATAKA,
AT DHARWAD**

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DATED THIS THE 8TH DAY OF SEPTEMBER, 2025

BEFORE

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
WRIT PETITION NO. 105775 OF 2025 (GM-RES)**

BETWEEN:

STATE BANK OF INDIA,
ASSETS RECOVERY MANAGEMENT
BRANCH (40564),
2ND FLOOR, A BLOCK BKG COMPLEX,
MYSORE BANK CIRCLE,
1ST AVENUE ROAD,
BENGALURU – 560 009,
R/BY ITS AUTHORIZED OFFICER,
JAYANTHI A D/O. ANNIYAPPA C.,
AGED ABOUT 52 YEARS,
STRESSED ASSETS RECOVERY BRANCH,
HUBBALLI – 580 020.

... PETITIONER

(BY SRI. NANDISH PATIL, ADVOCATE)

AND:

1. M/S SWATHI AGENCIES,
FERTILIZER AND PESTICIDE DEALERS,
NAVALI ROAD,
KARATAGI – 583 229,
TQ: KARATAGI,
DIST: KOPPAL.
2. MAHESH SAJJAN
S/O. MALKAJAPPA SAJJAN,
AGE: MAJOR, OCC: BUSINESS,





R/O: WARD NO.1
NEAR SHARNABASWESHWARA TEMPLE,
KARATAGI – 583 229,
TQ: KARATAGI,
DIST: KOPPAL.

3. MALKAJAPPA SAJJAN
S/O. SIDDAPPA SAJJAN,
AGE: MAJOR, OCC: BUSINESS,
R/O: WARD NO.1,
NEAR SHARNABASWESHWARA TEMPLE,
KARATAGI – 583 229,
TQ: KARATAGI, DIST: KOPPAL.

... RESPONDENTS

(NOTICE TO RESPONDENTS IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 29.04.2025 IN CRL. MISC. NO.16/2025 PASSED BY THE COURT OF SENIOR CIVIL JUDGE AND CJM, KOPPAL VIDE ANNEXURE-B INsofar AS THE IMPUGNED OBSERVATION, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED ON 14.08.2025, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT DELIVERED THE FOLLOWING:



CAV ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The petitioner - Bank is before this Court seeking for the following reliefs:

- a. Issue a Writ in nature of Certiorari quashing the impugned order dated. 29.04.2025 in Crl. Misc. No. 16/2025 passed by the Court of Senior Civil Judge and CJM, Koppal vide Annexure-B in so far as the impugned observation, in the interest of justice and equity.*

- b. Grant such other and further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice and equity.*

2. Notice to respondents has been dispensed with in view of the matter being one between the Court and the secured creditor namely the petitioner.
3. The petitioner is a nationalized Bank and a secured creditor within the meaning of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') having advanced monies to the respondents.
4. Having complied with all the formalities under Section 13 of the SARFAESI Act, the petitioner had filed



proceedings under Section 14 of the SARFAESI Act before the Court of the Senior Civil Judge and CJM, Koppal in Criminal Miscellaneous No.16/2015, seeking physical possession of the secured assets. The said Court vide order dated 29.04.2025 allowed the petitioner's application for taking physical possession and had appointed an Advocates Commissioner for the said purpose. However, in the said order, a reference has been made that **"This possession delivery warrant is not binding on the 3rd parties, if they are in possession of the property in any of the capacity"**. It is being aggrieved by the said observation/direction in the aforesaid order, though the said order is in favour of the petitioner, that the petitioner is before this Court seeking the aforesaid reliefs.

5. The submission of Sri.Nandish Patil, learned counsel for the petitioner, is that



- 5.1. The petitioner, being a secured creditor, the asset being a secured asset, there could be no such restriction which can be imposed.
- 5.2. Once the power and authority under Section 13 of the SARFAESI Act is exercised by a secured creditor in respect of a secured asset, the secured creditor can enforce the security interest in respect of the entire secured asset and no other person can be said to have any interest in such secured asset.
- 5.3. In this regard, he relies upon the decision in the case of ***Balkrishna Rama Tarle (Dead) through LRs and Another vs. Phoenix ARC Private Limited and Others*** reported in AIR 2022 SC 4756 to contend that a Magistrate under Section 14 of the SARFAESI Act acts in a ministerial capacity, he does not adjudicate any rights of the parties and as such only the actions under Section 14 of the SARFAESI Act could be



performed by the Magistrate. The Magistrate could therefore not make any order under Section 14 of the SARFAESI Act subject to the rights of any third parties.

5.4. His submission is also that if at all any person is aggrieved by any order passed under Section 13 or Section 14 of the SARFAESI Act, such person or entity can file an appeal under Section 17 of the SARFAESI Act where these issues and claims would be adjudicated.

5.5. He therefore submits that this Court would be required to intercede in the matter to protect the sanctity of an order under Section 14 of the SARFAESI Act by allowing the writ petition as sought for.

6. Heard, Sri.Nandish Patil, learned counsel for the petitioner. Perused the writ petition papers.

7. The points that would arise for consideration are:



- i. Whether the magistrate performs adjudicatory duties or ministerial duties under Section 14 of the SARFAESI Act?
- ii. Whether while exercising powers under Section 14 of the SARFAESI Act, a magistrate can adjudicate any disputes between any of the parties?
- iii. Whether a magistrate is required to issue any notice to the debtor while exercising power under Section 14 of the SARFAESI Act?
- iv. Whether any person having any interest in the secured interest could agitate that claim before the magistrate exercising powers under Section 14 of the SARFAESI Act?
- v. What order?

8. I answer the above points as under:

9. **Answer to point No.1: Whether the magistrate performs adjudicatory duties or ministerial duties under Section 14 of the SARFAESI Act?**

9.1. The issue about whether it is the ministerial powers or adjudicatory powers which a Magistrate exercises under Section 14 of the SARFAESI Act is no longer *res integra*. The Hon'ble Apex Court in ***Balkrishna Rama Tarle's***



case has dealt with this aspect in detail in paragraph No.18 of the said judgment which is reproduced hereunder for easy reference:

"18. Thus, the powers exercisable by CMM/DM under Section 14 of the SARFAESI Act are ministerial steps and Section 14 does not involve any adjudicatory process qua points raised by the borrowers against the secured creditor taking possession of the secured assets. In that view of the matter once all the requirements under Section 14 of the SARFAESI Act are complied with/satisfied by the secured creditor, it is the duty cast upon the CMM/DM to assist the secured creditor in obtaining the possession as well as the documents related to the secured assets even with the help of any officer subordinate to him and/or with the help of an advocate appointed as Advocate Commissioner. At that stage, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets and the aggrieved party to be relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before the Debts Recovery Tribunal."

9.2. A perusal of the aforesaid extracted paragraph No.18 indicates that the powers exercisable by the CMM/DM under Section 14 of the SARFAESI



Act are ministerial steps and Section 14 of the SARFAESI Act does not involve any adjudicatory process qua points raised by the borrowers against the secured creditors while taking possession of the secured assets.

9.3. Hence, I answer point No.1 by holding that the action of the CMM or a Magistrate while exercising powers under Section 14 of the SARFAESI Act are purely ministerial in nature and there are no adjudicatory powers which can be exercised.

10. **Answer to point No.2: Whether while exercising powers under Section 14 of the SARFAESI Act, a magistrate can adjudicate any disputes between any of the parties?**

10.1. The answer to this point is also covered under paragraph No.18 of the decision in ***Balkrishna Rama Tarle***'s case. The Hon'ble Apex Court has categorically held that exercise of powers under Section 14 of the SARFAESI Act does not involve



any adjudicatory process qua points raised by the borrowers. Thus, Section 14 of the SARFAESI Act being a completely ministerial power exercised there is no adjudicatory power which would be excised by the CMM/magistrate.

10.2.Hence, I answer point No.2 by holding that while exercising powers under Section 14 of the SARFAESI Act, a magistrate cannot adjudicate any disputes between any of the parties.

11. **Answer to point No.3: Whether a magistrate is required to issue any notice to the debtor while exercising power under Section 14 of the SARFAESI Act?**

11.1.Section 14 of the SARFAESI Act is reproduced hereunder for easy reference:

"14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset.—(1) Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured assets is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such



secured assets, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him—

(a) take possession of such asset and documents relating thereto; and

(b) forward such asset and documents to the secured creditor:

[Provided that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorised officer of the secured creditor, declaring that—

(i) the aggregate amount of financial assistance granted and the total claim of the Bank as on the date of filing the application;

(ii) the borrower has created security interest over various properties and that the Bank or Financial Institution is holding a valid and subsisting security interest over such properties and the claim of the Bank or Financial Institution is within the limitation period;

(iii) the borrower has created security interest over various properties giving the details of properties referred to in sub-clause (ii) above;

(iv) the borrower has committed default in repayment of the financial assistance granted aggregating the specified amount;



(v) consequent upon such default in repayment of the financial assistance the account of the borrower has been classified as a non-performing asset;

(vi) affirming that the period of sixty days notice as required by the provisions of sub-section (2) of section 13, demanding payment of the defaulted financial assistance has been served on the borrower;

(vii) the objection or representation in reply to the notice received from the borrower has been considered by the secured creditor and reasons for non-acceptance of such objection or representation had been communicated to the borrower;

(viii) the borrower has not made any repayment of the financial assistance in spite of the above notice and the Authorised Officer is, therefore, entitled to take possession of the secured assets under the provisions of sub-section (4) of section 13 read with section 14 of the principal Act;

(ix) that the provisions of this Act and the rules made thereunder had been complied with:

Provided further that on receipt of the affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets [within a period of thirty days from the date of application]:

[Provided also that if no order is passed by the Chief Metropolitan Magistrate or District



Magistrate within the said period of thirty days for reasons beyond his control, he may, after recording reasons in writing for the same, pass the order within such further period but not exceeding in aggregate sixty days.]

Provided also that the requirement of filing affidavit stated in the first proviso shall not apply to proceeding pending before any District Magistrate or the Chief Metropolitan Magistrate, as the case may be, on the date of commencement of this Act.]

[(1A) The District Magistrate or the Chief Metropolitan Magistrate may authorise any officer subordinate to him,—

(i) to take possession of such assets and documents relating thereto; and

(ii) to forward such assets and documents to the secured creditor.]

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate [any officer authorised by the Chief Metropolitan Magistrate or District Magistrate] done in pursuance of this section shall be called in question in any court or before any authority."

11.2.A perusal of Section 14 of the SARFAESI Act
would indicate that where the possession of the



secured asset is required to be taken by a secured creditor or if any of the secured asset/s is required to be sold or transferred by a secured creditor under the provisions of the Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request in writing the Chief Metropolitan Magistrate or the District Magistrate, within whose jurisdiction any such secured asset or other document relating thereto may be situated or found, to take possession thereof and the CMM or as the case may be the DM, shall on such an application made to him, take possession of such asset and documents relating thereto and forward such asset and documents to the secured creditor.

11.3.What is required in terms of first proviso to Subsection (1) of Section 14 of the SARFAESI Act is for the secured debtor to on affidavit duly



affirmed by its authorised officer, make a declaration as regards the various aspects detailed under the said first proviso. In terms of second proviso to Subsection (1) of Section 14 of the SARFAESI Act, on receipt of the affidavit from the authorised officer, the CMM or the DM, as the case may be, shall after satisfying the contents of the affidavit, pass suitable orders for the purpose of taking possession of the secured assets within a period of 30 days from the date of application.

11.4.The second proviso to Subsection (1) of Section 14 of the SARFAESI Act does not indicate the requirement of any notice to be issued to the secured debtor and or for the debtor to be heard in the matter.

11.5.What is required is an affidavit duly affirmed by the authorized officer to be filed in terms of the first proviso to Subsection (1) of Section 14 of the SARFAESI Act and in terms of the second



proviso to Subsection (1) of Section 14 of the SARFAESI Act for the CMM or DM to be satisfied with the contents of the affidavit and once the same is done the CMM or the DM could direct the taking possession of the secured assets.

11.6. In terms of third proviso to Subsection (1) of Section 14 of the SARFAESI Act, it is required that the CMM or the DM, as the case may be, shall pass such order under Section 14 of the SARFAESI Act, on an application made under Section 14, within 30 days of the application and if any order is passed beyond period of 30 days, reasons have to be given as regards the delay. But in any case, such order is required to be passed within a period not exceeding in aggregate 60 days.

11.7. Thus, looked at it holistically, inasmuch as the second proviso to Subsection (1) of Section 14 of the SARFAESI Act not requiring any notice to be



issued, and the third proviso to Subsection (1) of Section 14 of the SARFAESI Act requiring an order to be passed firstly within 30 days, secondly within a period of 60 days, accompanied by reasons for delay, the same would categorically indicate that there would be no requirement to firstly issue a notice to the debtor, or secondly to consider any claim made by the debtor.

11.8.Hence, I answer point No.3 by holding that magistrate is not required to issue any notice to the debtor while exercising power under Section 14 of the SARFAESI Act.

12. **Answer to point No.4: Whether any person having any interest in the secured interest could agitate that claim before the magistrate exercising powers under Section 14 of the SARFAESI Act?**

12.1.Section 14 of the SARFAESI Act has been reproduced herein above, so also I have dealt with the earlier points in respect of Section 14 of



the SARFAESI Act. There being no notice which is required to be issued, the question of considering any objection would also not arise. Be that as it may, even if a debtor or anyone claiming under the debtor or independently were to voluntarily come before the CMM or the DM while an application under Section 14 of the SARFAESI Act were being considered, such a claim is not required to be considered in terms of Section 14 of the SARFAESI Act, since the order to be passed by the CMM or the DM is to be so done within a time-bound manner as indicated Supra.

12.2. That does not mean that any person who is aggrieved by the order has no remedy, inasmuch as Section 17 of the SARFAESI Act deals with application against measures to recover secured debts.

12.3. Said Section 17 of the SARFAESI Act is reproduced hereunder for easy reference:



"17. [Application against measures to recover secured debts].—(1) Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter,¹ [may make an application along with such fee, as may be prescribed,] to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measure had been taken:

[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]

[Explanation.—For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section. (1) of section 17.]

[(1A) An application under sub-section (1) shall be filed before the Debts Recovery Tribunal within the local limits of whose jurisdiction—

(a) the cause of action, wholly or in part, arises;

(b) where the secured asset is located; or

(c) the branch or any other office of a bank or financial institution is maintaining an account



in which debt claimed is outstanding for the time being.]

[(2) The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.

[(3) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management or restoration of possession, of the secured assets to the borrower or other aggrieved person, it may, by order,—

(a) declare the recourse to any one or more measures referred to in sub-section (4) of section 13 taken by the secured creditor as invalid; and

(b) restore the possession of secured assets or management of secured assets to the borrower or such other aggrieved person, who has made an application under sub-section (1), as the case may be; and

(c) pass such other direction as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.]



(4) If, the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (4) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (4) of section 13 to recover his secured debt.

[(4A) Where—

(i) any person, in an application under sub-section (1), claims any tenancy or leasehold rights upon the secured asset, the Debt Recovery Tribunal, after examining the facts of the case and evidence produced by the parties in relation to such claims shall, for the purposes of enforcement of security interest, have the jurisdiction to examine whether lease or tenancy,—

(a) has expired or stood determined; or

(b) is contrary to section 65A of the Transfer of Property Act, 1882 (4 of 1882); or

(c) is contrary to terms of mortgage; or

(d) is created after the issuance of notice of default and demand by the Bank under subsection (2) of section 13 of the Act; and

(ii) the Debt Recovery Tribunal is satisfied that tenancy right or leasehold rights claimed in secured asset falls under the sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) of clause (i), then notwithstanding anything to the contrary contained in any



other law for the time being in force, the Debt Recovery Tribunal may pass such order as it deems fit in accordance with the provisions of this Act.]

(5) Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application:

Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (1).

(6) If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), any part to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the Appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

(7) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial



Institutions Act, 1993 (51 of 1993) and the rules made thereunder.]

12.4. Though much of the reference which have been made under Section 17 of the SARFAESI Act are dealing with the steps taken under Section 13 of the SARFAESI Act, the fact remains that it is after completion of the proceedings under Section 13 of the SARFAESI Act that an application under Section 14 of the SARFAESI Act is made to give effect to such actions by taking possession of the property. Since without possession, the entire proceedings initiated under Section 13 of the SARFAESI Act would be rendered otiose.

12.5. Thus, Section 17 of the SARFAESI Act, dealing with application against measures to recover secured debts, which would also include recovery of possession, I am of the considered opinion that any person or entity aggrieved by any action



either under Section 13 or 14 of the SARFAESI Act could avail the remedy available under Section 17 of the SARFAESI Act.

12.6.Hence, I answer point No.5 by holding that any person having any interest in the secured interest cannot agitate that claim before the magistrate exercising powers under Section 14 of the SARFAESI Act, but could do so under Section 17 of the SARFAESI Act.

13. **Answer to point No.5: What Order?**

13.1.In view of my answers to all the aforesaid points, it being clear that the actions on part of the Magistrate in respect of an application under Section 14 of the SARFAESI Act is ministerial in nature, there is no adjudicatory power exercised by the Magistrate. When application under Section 14 of the SARFAESI Act is filed, there being no requirement to issue any notice to the debtor or anyone else, there being no



requirement to consider any objection filed by any interested party in respect of action taken under Section 14 of the SARFAESI Act, the magistrate in the present case could not have made the observation that the possession delivery warrant would not be binding on third parties if they are in possession of the property in any of the capacity.

13.2.Once the property is said to be a secured property, the said property being a secured asset would be subject to SARFAESI Act and cannot be made subject to any rights of any of the third parties.

13.3.In that view of the matter, I pass the following:

ORDER

- i. Writ petition is allowed.
- ii. The observation made in the order dated 29.04.2025 by the Senior Civil Judge and CJM,



Koppal in CrI.Misc.No.16/2025 "This possession delivery warrant is not binding on the 3rd parties, if they are in possession of the property in any of the capacity" is set aside.

iii. The said order dated 29.04.2025 shall be implemented without reference to the aforesaid observation which has been set aside.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

SH/CT-ASC
List No.: 1 Sl No.: 173