



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

WRIT PETITION NO. 110003 OF 2025 (GM-DRT)

BETWEEN:

SMT PALLAVI W/O. MANJUNATHA HULIHONDA
AGE. 36 YEARS, OCC. HOUSEWIFE,
R/O. POOJAR ONI,
NEAR HANUMAN TEMPLE, MACHAPUR,
VTC BELAVANTRA PO. BELAVANTRA,
TQ. KALGHATGI, DIST. DHARWAD-581204.

...PETITIONER

(BY SRI JAYANT RAMACHANDRA ITAGI, ADVOCATE)

AND:

1. TATA CAPITAL HOUSING FINANCE LIMITED
11TH FLOOR, PENINSULA BUSINESS PARK,
G K MARG, LOWER PAREL, MUMBAI 400013
BRANCH OFFICE AT 82/1, G. F KRISHNA TOWER,
RICHMOND ROAD, BENGALURU 560025
R/BY MR. CHETAN KUMAR N.,
S/O. NAGESH ACHAR GC
AGE ABOUT 30 YEARS.
2. MANJUNATH S/O VASU KAMBALLE
AGE: 44 YEARS, OCC: BUSINESS,
R/O. NO. 661, TAKKAD ONI, KALGHATGI,
TQ. KALGHATGI DIST. DHARWAD-581204
KARNATAKA
ALSO AT:
MNJUNATH S/O. VISHNU KAMBALLE
AGE: 44 YEARS, OCC. BUSINESS



R/O. PROPERTY NO. 15/4,
PLOT NO. 33, E-SWAT IN NO. 8-3-214 KALG,
KALLI ONI, KALGHATAGI, TQ. KALGHATAGI,
DIST. DHARWAD 581204, KARNATAKA.

3. NAGAVENI W/O. MANUNATH KAMBALLE
AGE. MAJOR, OCC. HOUSE WIFE,
R/O. 661, TAKKAD ONI,
KALGHATAGI, TQ. KALGHATAGI,
DIST. DHARWAD 581204 KARNATAKA
ALSO AT
NAGAVENI W/O. MANJUNATH KAMBALLE
AGE. MAJOR, OCC. HOUSE WIFE,
R/O. PROPERTY NO. 15/4,
PLOT NO. 33, E-SWAT IN NO. 8-3-214 KALG,
KALLI ONI, KALGHATAGI, TQ. KALGHATAGI,
DIST. DHARWAD 581204, KARNATAKA.

...RESPONDENTS

(BY SRI SACHIN C. ANGADI, ADVOCATE FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION BY QUASHING THE IMPUGNED ORDER DATED 13-10-2025 PASSED BY THE III ADDL. SENIOR CIVIL JUDGE AND CJM, DHARWAD IN CRL. MISC. NO.283/2025 U/S 14 PROCEEDINGS VIDE ANNEXURE-A; ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER WRIT OR DIRECTION TO THE COMMISSIONER APPOINTED TO REVERT THE POSSESSION BY BREAKING OPEN THE SEAL AND LOCK TO THE PETITIONER S WITHOUT ANY FURTHER LOSS OF ANY TIME THAT IS IMMINENTLY AND TO GRANT COMPENSATION AMOUNT OF ₹15,00,000/- (RUPEES FIFTEEN LAKHS ONLY) TO THE PETITIONER FOR THE HARDSHIP, PAIN, THE ARDUOUS OF SPENDING SLEEPLESS NIGHTS IN THE HARSH WINTER AND MENTAL AGONY/HARASSMENT CAUSED TO THE PETITIONER S FAMILY FOR NO FAULT OF THEIRS AND ETC.,.

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



ORAL ORDER

(PER: THE HON'BLE MRS JUSTICE K.S.HEMALEKHA)

The petitioner who claims to be a purchaser of the scheduled property and admittedly is not a borrower of respondent No.1 bank, has invoked the writ jurisdiction calling in question the order dated 13.10.2025 passed by the III Additional Senior Civil Judge and CJM Dharwad in Criminal Miscellaneous No.283 of 2025, passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act'), whereby the application filed by respondent No.1 bank was allowed and a possession warrant through a Court commissioner was ordered.

Brief Facts:

2. Respondent No.1 bank sanctioned housing and allied loans to respondent Nos.2 and 3 in the year 2022, secured by creation of mortgage over the subject property.



Upon default, the loan account was classified as a non performing asset and proceedings were initiated under the SARFAESI Act. Symbolic possession was taken and thereafter, respondent No.1 bank approached the jurisdictional Court by filing criminal miscellaneous No.283 of 2025 under Section 14 of the SARFAESI Act, which came to be allowed by order dated 13.10.2025, resulting in issuance of possession warrant and delivery of possession through a Court Commissioner.

3. The petitioner asserts that she has purchased the schedule property under a registered sale deed dated 31.10.2023 and claims to be in lawful possession of the residential house constructed thereon. It is asserted that the petitioner was not party to the proceedings under Section 14 of the SARFAESI Act and the borrowers were placed *ex parte* in those proceedings.

4. Learned counsel for the petitioner contends that respondent No.1 has seized the property which does not



belong to the borrower, since the petitioner has purchased the property under a registered sale deed dated 31.07.2023 and therefore the action of the bank in taking possession is unlawful. It is submitted that the proceedings under Section 13 of the SARFAESI Act were initiated without impeding the petitioner, though the petitioner is in possession of the property.

5. *Per contra*, learned counsel appearing for respondent No.1 bank submits that the writ petition is not maintainable in view of the Efficacious Statutory Remedy available under Section 17 of the SARFAESI Act. Any person aggrieved by measures taken under Section 13(4) including an order passed under Section 14, has to necessarily approach the Debt Recovery Tribunal. The petitioner has no *locus-standi*, having purchased the property subsequent to the creation of mortgage in the year 2022 and that the interference under Article 226 of the Constitution of India is impermissible when a complete adjudicatory mechanism is provided under the statute.



6. This Court has given its anxious consideration to the rival submissions and perused the material on record. The impugned order has been passed under Section 14 of the SARFAESI Act, pursuant to which a possession of the secured asset has been ordered. Section 17 of the SARFAESI Act provides an efficacious alternative remedy to any person aggrieved including a person aggrieved by the measures taken under Section 13(4) of the Act, to approach the Debt Recovery Tribunal.

7. In the presence of such statutory remedy, this Court is not inclined to exercise its writ restriction under Articles 226 and 227 of the Constitution of India. The contentions raised by the petitioner touching upon title, possession and validity of the measures taken by the secured creditors are matters which necessarily fall within the domain of the Debts Recovery Tribunal.

8. In view of the availability of the alternative remedy under Section 17 of the SARFAESI Act, the writ



petition is dismissed as not maintainable, reserving liberty to the petitioner to avail such remedy as is available in law.

9. All contentions are kept open to be urged before the appropriate forum.

Sd/-

JUSTICE K.S.HEMALEKHA

RH
CT-CMU
LIST NO.: 1 SL NO.: 1