



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

**DATED THIS THE 28<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE UMESH M ADIGA**

**WRIT PETITION NO.28257 OF 2025 (GM-DRT)**

**BETWEEN:**

1. SRI. JUTHARAM  
S/O MR. SANGRAMJI  
AGED ABOUT 46 YEARS  
RESIDING AT NO.3/2, 7/1  
2<sup>ND</sup> FLOOR, SHASTRI BUILDING  
ABOVE KRISHAN CARGO  
BETTAPPA LANE, NAGARTHPET  
BENGALURU – 560 002
2. SRI. CHELARAM CHOUDHARY  
S/O MR. SANGRAMJI  
AGED ABOUT 43 YEARS  
R/AT NO.9, TAVAREKERE VILLAGE  
KENGARI HOBLI  
BENGALURU - 560 060

...PETITIONERS

(BY SRI. N R NAIK., ADVOCATE)

**AND:**

DEWAN HOUSING FINANCE  
CORPORATION LIMITED



REGISTERED OFFICE AT 3<sup>RD</sup>-7<sup>TH</sup> FLOOR,  
DREAMS MALL, FIRST FLOOR  
L. B. S. MARG, BHANDUP (WEST)  
MUMBAI – 400 078  
BRANCH OFFICE AT NO.62,  
1<sup>ST</sup> FLOOR, ABOVE IDBI BANK  
2<sup>ND</sup> BLOCK, DR RAJ KUMAR ROAD  
RAJAJINAGAR,  
BENGALURU – 560 010  
REPRESENTED BY ITS  
AUTHORIZED OFFICER

...RESPONDENT

(BY SMT. SREEDEVI K.B., ADVOCATE FOR  
SRI. JAI M PATIL, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF  
MANDAMUS DIRECTING THE RESPONDENT TO RECEIVE THE  
BALANCE LOAN AMOUNT OF RS.23,21,506/- ANNEXURE-E AND  
HAND OVER KEY OF THE PREMISES WHICH IS BELONGS TO  
THE PETITIONERS.

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

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA



**ORAL ORDER**

This petition is filed under Articles 226 and 227 of the Constitution of India seeking the following relief:

*"The petitioner prays this Hon'ble Court be pleased to;*

- a) To issue writ of mandamus directing the respondent to receive the balance loan amount of Rs.23,21,506/- Annexure-E and hand over key of the premises which is belongs to the petitioners;*
- b) To call for records and grant such other relief/s deems fit by this Hon'ble Court."*

2. It is a petition filed by the borrowers with the averments that the borrowers have availed a loan of Rs.27,00,000/- on 01.10.2014 and borrowers have committed default in repayment of the loan amount. In the petition averments, it is stated that due to non-payment of the loan amount, symbolic possession was taken by the bank on 26.02.2019. Thereafter, the respondent filed Crl.Misc.No.555/2019 before Chief Judicial Magistrate, Bengaluru Rural District, Bengaluru and obtained an order dated 01.10.2019 as per Annexure-A. According to the petition averments, on 09.09.2025 the respondent/bank took actual



possession of the property mortgaged to the bank. It is the further contention of the petitioners that the mortgaged property is a residential house. The bank has forcefully taken possession of the property and even belongings of the petitioners and their family is still in the said house. The petitioners are ready to pay Rs.30,00,000/- towards outstanding amount of loan. With these reasons, prayed to direct the bank to hand over the key of the said property in favour of the petitioners after receiving Rs.30,00,000/- which was tendered to the bank in the form of a DD by the petitioner.

3. Learned counsel for the respondent/bank submits that the petitioners are chronic defaulter. The loan is outstanding from last more than 10 years. The respondent/bank did not take possession immediately after passing of the orders in Crl.Misc.No.555/2019 to give an opportunity to the petitioners to repay the said amount. Hence, contention is not tenable. The belongings of the petitioners is concerned, the bank is ready to permit them to take the belongings kept inside the said house. Moreover, efficacious remedy is available to the petitioners under the provisions of



SARFAESI Act and they cannot approach this Court under the extraordinary jurisdiction of Articles 226 and 227 of the Constitution of India that suffice to reject the writ petition.

4. The facts stated above are not in serious dispute. The petitioner have borrowed from the bank during the year 2014 and failed to repay the same. Therefore, the respondent/bank took an initiated action under Sections 13 and 14 of the SARFAESI Act and in accordance with the law, took possession of the property during November 2023. The said act of the bank cannot be considered as illegal. Moreover, as rightly contented, an efficacious remedy available to the petitioners under Section 17 of SARFAESI Act, they could have approached the Debt Recovery Tribunal seeking appropriate relief, if the action taken by the bank is illegal or contrary to the provisions of law. When an efficacious remedy is available, petitioners shall not approach the High Court seeking relief under extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India. The said principle of law has been laid down by the Hon'ble Apex Court in the case of ***Union Bank of***



***India versus Saraswathi Tandon***<sup>1</sup>. In view of the aforesaid discussions, this writ petition is not maintainable.

5. Accordingly, I pass the following:

**ORDER**

- i. The writ petition is ***rejected***.
- ii. Petitioners are given liberty to approach the Debt Recovery Tribunal, if so advised seeking appropriate relief.
- iii. Pending I.As. shall stand disposed off.

**SD/-  
(UMESH M ADIGA)  
JUDGE**

BN/List No.: 2 Sl No.: 8

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<sup>1</sup> AIR 2010 SC 3413