HC-KAR

NC: 2026:KHC:16619-DB
WA No. 704 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 704 OF 2026 (GM-RES)

BETWEEN:

1. SMT. PUSHPAVATHI B
W/O LATE KESHAVA MURTHY
AGED ABOUT 40 YEARS
RESIDENT OF MAGADI MAIN ROAD
TAVAREKERE
BEGUR HOBLI
BENGALURU - 562 130

…APPELLANT

(BY SRI. NATARAJ SHARMA S, ADVOCATE)

Digitally signed by AMBIKA H B
Location: High Court of Karnataka

AND:

1. ALTUM CREDO HOME FINANCE LTD
REG OFFICE AT NO.801
8TH FLOOR DERON HEIGHTS
OPP. MAHABALESHWAR HOTEL
BANER MAIN ROAD
ABOVE RANAKA JEWELLERS BANER
PUNE, MAHARASHTRA - 411 045

2. RAJIV GANDHI GRAMINA -
VASATHI NIGAMA NIYAMITA
4TH FLOOR, KAVERI BHAVAN
KHB COMPLEX

K.G.ROAD
BENGALURU - 560 009
REP BY MANAGING DIRECTOR

3. TAVAREKERE GRAMA PANCHAYAT
TAVAREKERE HOBLI
BENGALURU SOUTH TALUK
BANGALORE - 562 130
REP. BY ITS PDO/SECRETARY

4. SMT. LAKSHMI. K
R/AT RAJA BEEDI
1ST CROSS, MAGADI MAIN ROAD
TAVAREKERE
BENGALURU SOUTH - 562 130

5. NAGARAJA B
R/AT RAJA BEEDI, 1ST CROSS
MAGADI MAIN ROAD
TAVAREKERE
BENGALURU SOUTH - 562 130

…RESPONDENTS

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THE WRIT APPEAL & SET ASIDE THE ORDER DATED 05.01.2026 PASSED IN W.P.No.16340/2022 BY THE HON'BLE SINGLE JUDGE, IN SO FAR AS IT RELATES TO CRL. MISC No. 679/2022 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE, BENGALURU RURAL DISTRICT & ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU,CHIEF JUSTICE)

1. For the reasons stated in the affidavit accompanying the application – I.A No.1/2026, the same is allowed and the delay in filing the appeal is condoned

2. The appellant has filed the present appeal impugning an order dated 05.01.2026 passed by the learned Single Judge in Writ Petition No.16340/2022 (GM-RES), declining to entertain the same.

3. The appellant had filed the said petition, *inter alia*, impugning an order dated 02.07.2022 passed by the Chief Judicial Magistrate, Bengaluru Rural District, Bengaluru in Crl.Misc.No.679/2022 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [**SARFAESI Act**].

4. Respondent No.1 claimed that the property owned by the appellant had been mortgaged to avail financial assistance. The appellant contends that the subject property is a house allotted to

the appellant under the Basava Vasati Yojane Scheme. She also states that the subject land was allotted free of costs. In addition, the appellant was also provided financial assistance for the construction of a house on the property. The appellant also avers that she is illiterate, works as a coolie; and belongs to the below poverty line category and holds a BPL card. It is stated that she ekes out a living as a daily-wage agricultural coolie and sometimes in a tailoring shop. The petitioner states that respondent No.1 has instituted proceedings under the SARFAESI Act based on fraudulent documents. Additionally, she submits that the subject property was allotted on the condition of non-alienation and, therefore, in any event, respondent No.1 could acquire no right, title or interest in the said property.

5. Although the appellant claims that she belongs to the below poverty line category, the learned counsel for the appellant submits that the appellant has constructed the house at a cost of ₹5,00,000/-, which was partly funded by the Gram Panchayat. The appellant has also annexed photographs of the house property which, *prima facie,* indicate that a considerable amount of money would have been spent on the construction of the said property. It

does appear that the resources required to construct such a house would not be available to a person who describes herself as being below the poverty line and eking out a living as a daily-wage agricultural coolie. However, it is not apposite to examine these disputed questions in these proceedings. We do not consider it necessary to examine the allegation that a fraud has been committed by respondent No. 1 in collusion with the members of the Gram Panchayat. Since the controversy clearly involves disputed questions of fact, it would not be apposite for this Court to examine the same in the proceedings under Article 226 of the Constitution.

6. The learned Single Judge has declined to entertain the writ petition on the ground that the petitioner has a remedy available under the SARFAESI Act. The impugned order also indicates that the learned counsel appearing for the petitioner had made a statement that the amount deposited by her with respondent No.1-Bank be directed to be kept in an interest-bearing account till the disposal of the application to be filed before the Debts Recovery Tribunal. However, the learned counsel for the appellant now seeks liberty to file a suit, claiming that a fraud has been

perpetrated by respondent No. 1 and the concerned Gram Panchayat.

7. In view of the aforesaid, we clarify that neither the impugned order nor this order shall be construed as precluding the appellant from filing a suit. However, we also clarify that we have not examined whether any such suit would be maintainable, and nothing stated herein should be construed as such.

8. Indisputably, the appellant has a remedy under the SARFAESI Act, and it is not apposite for this Court to entertain the present controversy under Article 226 of the Constitution of India. We find no grounds to interfere with the impugned order.

9. The appeal is, accordingly, dismissed.

10. The pending interlocutory application also stands disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

AHB, List No.: 2 Sl No.: 14