



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

WRIT PETITION NO. 35437 OF 2024 (GM-DRT)

BETWEEN:

SMT. E.V.LALITHA,
AGED ABOUT 89 YEARS,
W/O. HANUMANTHA RAO M.V.,
R/AT NO.373, 6TH MAIN, 1ST CROSS,
NGEF LAYOUT, SADANANDA NAGAR,
BENGALURU-560038.

...PETITIONER

(BY SRI. YATHISH S., ADVOCATE)

AND:

M/S. DEUTSCHE BANK AG,
A BANKING COMPANY,
HAVING ITS OFFICE AT
NO.26-27, RAHEJA TOWERS,
M.G. ROAD, BENGALURU-560001.
REPRESENTED THROUGH ITS MANAGER

...RESPONDENT

(BY SRI. MANOJ K., ADVOCATE FOR
SRI. MAHABALESHWAR G.C., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR PRELIMINARY
HEARING IN 'B' GROUP, THIS DAY, AN ORDER IS MADE AS
UNDER:



ORAL ORDER

Sri.Yathish.S., counsel for the petitioner has appeared in person.

Sri.Manoj.K., counsel on behalf of Sri.Mahabaleshwar.G.C., for the respondent has appeared through video conferencing.

2. This petition is filed seeking following reliefs:

- (a) Issue a Writ of Certiorari or any other writ, order or direction, quashing the impugned order dated 23.12.2024 passed in CrI.Misc.No.50162/2022 passed by the Court of X Addl. Chief Metropolitan Magistrate Mayo Hall at Bangalore vide Annexure-A.
- (b) To quash the possession notice dated:13.12.2021 issued by the respondent bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Rule 9 of the Act at Annexure-G and the subsequently direct the respondent Bank to regularize the EMI on monthly basis.
- (c) Grant any such other reliefs as this Hon'ble Court deems fit or proper in the interest of justice and equity.



3. Counsel for the respective parties urged several contentions. Heard the arguments and perused the papers with care.

4. Suffice it to note that the respondent Bank had filed petition under Section 14 of the SARFAESI Act in Crl.Misc.No.50162/2022 and the Court vide order dated:23.12.2024 had allowed the petition. The order passed under Section 14 of the SARFAESI Act cannot be questioned under writ jurisdiction, as there is an alternate remedy of filing an appeal before the DRT.

The authorized officer of the Bank issued possession notice on 13.12.2021. The petitioner's grievance is about the issuance of the possession notice. Any person/s served with SARFAESI Act notices are not powerless. They have a liberty of filing objections and also approach DRT under Section 17 of the Act, appealing to the Tribunal if needed. The Apex Court has settled the law in a catena of decisions that a demand/possession notice cannot be challenged by filing a writ petition. The litigants are not remediless, as the Tribunal has been established specifically to adjudicate the *lis*.



It is significant to note that Article 226 is not intended to circumvent statutory procedures. When a right or liability is created by a statute which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before seeking the discretionary remedy under Article 226. The law is also well settled that a petition under Article 226 should not be entertained unless the statutory remedies are ill-suited to meet the demands of an extraordinary situation.

Moreover, the Apex Court has also observed in the case of **UNITED BANK OF INDIA V/S. SATYAWATI TONDON AND OTHERS** that the High Courts continue to ignore the availability of statutory remedies under the DRT and SARFAESI Act and exercised jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of the Banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with great caution, care and circumspection.



The Apex Court in Phoenix Case's has held that filing of writ petition before the High Court under Article 226 of Constitution of India is an abuse of process of the Court. It is also observed that whenever a notice is issued under Section 13(2) and 13(4) of the SARFAESI Act, a litigant has statutory efficacious remedy by filing an appeal under the SARFAESI Act, and has cautioned the High Courts not to entertain the writ petitions. Hence, I decline to exercise power under writ jurisdiction. Accordingly, the writ petition is ***dismissed***. The petitioner may approach the appropriate forum, if so advised and if the law permits.

Because of dismissal the Writ Petition, interim order granted if any stands discharged and pending interlocutory applications if any are disposed of.

Sd/-
(JYOTI M)
JUDGE

MRP
List No.: 1 Sl No.: 46