IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 25305 OF 2024 (GM-DRT)

BETWEEN:

M/S. AGRI HARVEST
A PROPRIETARY CONCERN
REPRESENTED BY ITS PROPRIETRIX
MS. DEEYA JAIN,
AGED ABOUT 33 YEARS,
NO.411, BINDU AMULYA APARTMENTS,
ANJANA NAGAR- VISHWANEEDAM POST,
BENGALURU - 560 091.

...PETITIONER

Digitally signed by MEGHA MOHAN
Location: HIGH COURT OF KARNATAKA

(BY SRI. BHAT RAMACHANDRA GANAPATI, ADVOCATE)

AND:

1. THE BANK OF INDIA
BENGALURU ZONE,
MALLESHWARAM BRANCH,
NO.112, MARGOSA ROAD,
BETWEEN 10TH AND 11TH CROSS,
MALLESHWARAM,

BENGALURU - 560 003.

2. THE ASSISTANT GENERAL MANAGER
AND AUTHORISED OFFICER
THE BANK OF INDIA,
BENGALURU ZONE,
MALLESHWARAM BRANCH,
NO.112, MARGOSA ROAD,
BETWEEN 10TH AND 11TH CROSS,
MALLESHWARAM,
BENGALURU - 560 003.

…RESPONDENTS

(BY SRI. B.S. JEEVAN KUMAR, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE NOTICE BEARING NO.MLM/ADV/2513-03 DTD 30.05.2024 UNDER SECTION 13(2) OF THE SARFAESI ACT, ISSUED BY THE R2, PRODUCED AT ANNX-F TO THE WP AND ETC.,

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed seeking for the following prayers:

> **"i. A writ in the nature of certiorari or appropriate writ, order or direction, quashing the notice bearing No.MLM/ADV/2513-03 dated 30/05/2024 under Section 13(2) of the SARFAESI ACT, issued by the second respondent, produced at Annexure-F to the writ petition**
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> **ii. A writ in the nature of Mandamus or appropriate writ, order or direction, directing the respondents to provide the benefit of restructuring the loan accounts of the petitioner and to provide an opportunity to regularise her loan accounts in terms of the master notification for MSME, dated 29/05/2015, and other RBI guidelines as per Annexures-E, E1, E2, E3 & E4 respectively.**
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> **iii. And to pass such other appropriate writ, order or direction and to grant such other appropriate reliefs which the petitioner is entitled to in the ends of justice."**

2. The facts of the case are that the petitioner is the Micro Small and Medium Scale Enterprises (hereinafter referred to as 'MSME'). The petitioner had availed an

overdraft limit of Rs.15,00,000/- and export packing credit of Rs.60,00,000/-, after execution of the security document including extension of the equitable mortgage of residential flat belonging to the parents of the proprietor of the Company. The bank sanctioned the loan on 13.01.2023. It is stated that, in the business a considerable amount of Rs.27,45,400/- has been held up at the hands of the supplier. In the meantime, the importer also delayed the payment in respect of the value of balance shipments.

3. The petitioner has brought to the notice of the Bank by giving representation about the hardships that are faced by the petitioner. Thereafter, the Bank issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (hereinafter referred to as 'SARFAESI Act') on 30.05.2024. The petitioner gave a reply to the said notice under Section 13(2) on 27.07.2024 and represented to the bank that in violation of the master circular and the RBI guidelines pertaining to the MSME, the 13(2) notice is issued. As per the reply, it is stated that the loan falls under

the agriculture loan category and the NPA Classification norms has been rendered invalid. As per the RBI guidelines, the petitioners loan should be classified as NPA after continuous default for six months or 180 days. But, the bank has violated the said norms by applying NPA classification criteria as applicable on MSME loan. A reply is given by the bank dated 07.08.2024, in the said reply the bank mentions that the account has been opened under MSME category and cannot be considered as an agriculture loan. The bank has not committed any violation of the provisions of SARFAESI Act and all actions are taken strictly as per law and RBI guidelines and the petitioner has violated the agreed terms of sanction and defaulted payment of the dues.

4. Learned counsel appearing for the petitioner submits that since the petitioner's concern is registered as an MSME, the Bank was bound to follow the RBI guidelines issued from time to time before declaring the account as NPA. It is contended that the notification dated 09.05.2013 issued by the Reserve Bank of India (hereinafter referred to

as "RBI") provides for a structured mechanism for monitoring the rehabilitation of sick units in terms of the guidelines issued by the RBI, the circular dated 01.11.2022.

5. It is submitted that further the RBI has issued a notification dated 07.03.2016 and also provides that if the enterprises requires financial sources to restructure or revive, a plan will be drawn up and additional funds will be provided to match the repayment of the existing dates. It is stated that the procedure is contemplated under the RBI guidelines. It is submitted that before classifying an MSME account as a Non-Performing Asset (NPA), the Bank is mandatorily required to follow the prescribed procedure under the RBI guidelines. However, the reply issued by the Bank itself makes it clear that none of the said procedures have been followed.

6. Learned counsel appearing for the respondent–Bank submits that upon issuance of a notice under Section 13(2) of the SARFAESI Act, the Bank would, by following the prescribed procedure, issue a notice under Section 13(4) of the Act, and thereafter the borrower would have an effective

alternative remedy before the Debts Recovery Tribunal. It is therefore contended that the present writ petition is premature.

7. It is submitted that, as held by the Hon'ble Apex Court in ***M/s Pro Knits v. The Board of Directors of Canara Bank & Ors.***, a mere assertion that the borrower is an MSME is not sufficient. The borrower is required to substantiate such claim by filing an affidavit along with all necessary supporting documents. It is further submitted that even in the reply submitted by the petitioner, no such particulars have been furnished. Therefore, the present writ petition is not maintainable, as it seeks to challenge a notice issued under Section 13(2) of the SARFAESI Act, which does not constitute a "measure" under the Act.

8. Having heard the learned counsels on either side, perused the material on record. It is an admitted fact that the petitioner–Company is a registered MSME. It is also undisputed fact that the loan was sanctioned under the MSME category, which is affirmed by the reply issued by the

Bank. Once the borrower is an MSME, the Bank is bound to follow the procedure prescribed under the RBI guidelines.

9. Admittedly, in the present case, such procedure has not been followed, as the reply issued by the Bank is silent with regard to compliance with the mandatory RBI guidelines. In this context, upon issuance of a notice under Section 13(2) of the SARFAESI Act, the procedure to be followed and the obligations of both the Bank and the borrower MSME have been clearly laid down by the Hon'ble Apex Court in ***Pro Knits's*** case (supra).

10. Be that as it may, there are clear procedural lapses on the part of the Bank. The submission of the learned counsel appearing for the respondent–Bank that the writ petition is not maintainable merely because the impugned notice is one issued under Section 13(2) of the SARFAESI Act and does not constitute a "measure" under the Act cannot be appreciated by this Court. In that view of the matter, this court deems it appropriate to pass the following:

ORDER

i. The notice dated 30.05.2024 issued by the Bank under Section 13(2) of the SARFAESI Act is ***set aside.***

ii. However, the Bank is at liberty to take further steps by following the procedure under the SARFAESI Act and also the guidelines issued by RBI.

iii. Accordingly, the writ petition is ***disposed of.***

iv. All I.As., in the writ petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

SMC
List No.: 1 Sl No.: 4
CT: BHK