HC-KAR

NC: 2026:KHC:61930
WP No. 1527 of 2024

CNR: KAHC010022082024

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

**DATED THIS THE 6TH DAY OF NOVEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA**

**WRIT PETITION NO. 1527 OF 2024 (GM-DRT)**

**BETWEEN:**

MR. OBALESH S V, (BORROWER)
S/O VENKATAPPA
AGED ABOUT 59 YEARS
NO.118, SATHYAMMA COLONY
VIJAYAPURA
AMANIKERE
DEVANAHALLI TALUK
CHIKKABALLAPUR DISTRICT-562 135.

...PETITIONER

(BY SRI: VICTOR MANOHARAN S., ADVOCATE)

**AND:**

Digitally signed by PREMCHANDRA M R
Location: HIGH COURT OF KARNATAKA

M/S. EDELWEISS ASSET RECONSTRUCTION COMPANY LTD
A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956, AND
ASAN ASSET RECONSTRUCTION COMPANY
U/S 3 OF SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST, ACT 2002
HAVING ITS REGISTERED OFFICE AT
EDELWEISS HOUSE
1ST FLOOR, OFF CST ROAD
KALINA
MUMBAI - 400 098
ACTING IN ITS CAPACITY AS TRUSTEE OF

HC-KAR

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EARC TRUST SC 376
REPRESENTED BY ITS AUTHORIZED OFFICER
MR. K. RADHAKRISHNAN NAIR.

…RESPONDENT

(BY SMT: VEENA S., ADVOCATE FOR
SRI: VIJAY S., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 01.10.2022 PASSED IN C.MISC.NO.1043 OF 2022 BY THE HON'BLE CHIEF JUDICIAL, BENGALURU RURAL DISTRICT, BENGALURU, PRODUCED AT ANNEXURE-B AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

**ORAL ORDER**

The petitioner is before this Court calling in question the order passed by the learned Magistrate in Crl.Misc.No.1043 of 2022 on the petition filed by the respondent - Bank under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ' the SARFAESI Act'), seeking orders for taking physical possession of the secured asset.

2. This Court while entertaining the writ petition, on 16.01.2024 passed the interim order staying the impugned order, subject to petitioner depositing Rs.1.5 lakhs within four weeks.

3. Learned counsel for the respondent submits that in terms of the interim order referred to supra, the petitioner has deposited a sum of Rs.1,50,000/-. Thereafter, no further payments have been made. It is the contention of the respondent that instant writ petition challenging the order passed under Section 14 of the SARFAESI Act, is not maintainable and the petitioner has an alternative remedy of appeal under Section 17 of the SARFAESI Act before the DRT. The Hon'ble Apex Court in series of judgments has laid down that writ petition challenging the proceedings initiated under the provisions of SARFAESI Act is not maintainable and the borrower or any aggrieved person needs to approach the DRT by filing a statutory appeal. In that view of the matter, the instant writ petition is not maintainable.

4. In the result, the following:

**ORDER**

(i) The writ petition is ***disposed of.***

(ii) The prayer in the writ petition seeking to set aside the order dated 01.10.2022 passed by the learned Magistrate in Crl.Misc.No.1043 of 2022 is rejected.

(iii) However, it is open for the petitioner to avail the alternative remedy under Section 17 of the SARFAESI Act before the DRT.

(iv) Since the petitioner is before this Court from 09.01.2024 in prosecuting this writ petition, if an appeal is filed within a period of 3 weeks from today, the time spent by the petitioner in prosecuting the present writ petition be excluded from reckoning the period of limitation.

(v) The petitioner has the benefit of interim order from 16.01.2024. Therefore, this Court deems it appropriate to continue the said interim order for a further period of 3 weeks

to enable the petitioner to file an appeal before DRT and seek interim protection in accordance with law.

**Sd/-**
**(T.P.VIVEKANANDA)**
**JUDGE**

BGN
List No.: 1 Sl No.: 29