HC-KAR

NC: 2026:KHC:55283
WP No. 5091 of 2024

CNR: KAHC010101682024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 5091 OF 2024 (GM-RES)

BETWEEN:

1. WALTER D'SOUZA
   S/O MICHAEL D'SOUZA
   AGED ABOUT 55 YEARS
   D NO.11/81, DIAMOND ROAD
   ULLAL HOIGE, PERMANNUR
   MANGALORE-575 017

2. ASHOK MONTEORO
   S/O DENIS MONTEIRO
   AGED ABOUT 48 YEARS
   D NO.13-25/1, NEAR JUNIOR COLLEGE
   ALEKAL, ULLAL
   MANGALORE-575 020

Digitally signed by PAVITHRA B
Location: HIGH COURT OF KARNATAKA

3. JOSSY MONTEIRO
   S/O DENIS MONTEIRO
   AGED ABOUT 57 YEARS
   D NO.13-25/1, NEAR JUNIOR COLLEGE
   ALEKAL, ULLAL
   MANGALORE-575 020

...PETITIONERS

(BY SMT: KAVITHA N, ADVOCATE -[ABSENT])

AND:

UNION BANK OF INDIA
REP. BY ITS AUTHORIZED OFFICER /
CHIEF MANAGER
JEPPU BRANCH, MANGALORE
HOLY ROSARY CONVENT COMPLEX
JEPPU, MANGALORE-575 002

…RESPONDENT

(BY SRI: SHETTY VIGNESH SHIVARAM, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE SECTION 14 ORDER PASSED BY PRINCIPAL SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE IN CRL. MISC. NO.40/2024 DATED 01.02.2024 AT DAKSHINA KANNADA VIDE ANNEXURE-C AND DIRECTIONS TO THE RESPONDENT BANK NOT TO TAKE PHYSICAL POSSESSION WITHOUT FOLLOWING DUE PROCESS OF LAW.

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 petitioners in this writ petition have called in question the order dated 01.02.2024 in Crl.Misc.No.40 of 2024 passed by Chief Judicial Magistrate at Annexure-C. The petitioner is a borrower who has defaulted in repayment of the loan availed from the respondent - Bank.

2. This Court vide interim order dated 20.02.2024 stayed the possession notice dated 01.02.2024 subject to the petitioners depositing 30% of the outstanding loan amount within 12 weeks.

3. Learned counsel for the respondent submit that the interim order passed by this Court is not fully complied with, though some portion of the amount was paid. It is his submission that much prior to the filing of the present writ petition, the petitioners have approached the DRT, Bengaluru questioning the possession notice issued under Section 13(4) of the SARFAESI Act. The Tribunal has passed the interim order subject to deposit of the amount outstanding, which was not complied with by the petitioners, resulted in the Bank approaching the learned Magistrate under Section 14 of the Act. Since it is a fact that Section 13(4) notice was challenged before the DRT in SA No.624 of 2023, which is still pending consideration, the present writ petition challenging Section 14 order cannot be maintained. Added to that, the interim order passed by this Court is not fully complied with.

Therefore, the writ petition is ***dismissed*** as not maintainable.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

BGN
List No.: 1 Sl No.: 30