HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 8563 OF 2024 (GM-DRT)

BETWEEN:

1. KOTAK MAHINDRA BANK LIMITED
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT 27, BKC C27 G BLOCK,
BANDRA KURLA COMPLEX,
BANDRA (E)
MUMBAI-400 051 AND
HAVING ITS BRANCH OFFICE
AT 6-3-1109/1/P202,
RAJ BHAVAN ROAD, SOMAJIGUDA
HYDERABAD-500 082
REPRESENTED BY ITS SENIOR VICE PRESIDENT
AND AUTHORIZED OFFICER
SMT. SRILATHA RANGAPPA

...PETITIONER

(BY DR. AMITH ANAND DESHPANDE, ADVOCATE FOR
SRI SURESH V., ADVOCATE)

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

AND:

1. SMT. NEETHA KRISHNAMURTHY
W/O. SRI G. KRISHNAMURTHY,
No. 376, 3RD FLOOR, 12TH CROSS
4TH MAIN, RMV 2ND STAGE
BENGALURU-560 094.

2. VIDYA VIHAR INTERNATIONAL SCHOOL
FORMED BY SRI GNANA GANGOTHRI
EDUCATIONAL TRUST,

SY.NO.22, BBMP NO.3, WARD NO.12,
ABBIGERE, BENGALURU-560 090
REPRESENTED BY ITS TRUSTEE
SRI G. KRISHNAMURTHY

…RESPONDENTS

(BY SRI B. PRASANNA KUMAR, ADVOCATE FOR R1;
SRI MAHESH KIRAN SHETTY, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ALLOW THIS WRIT PETITION BY ISSUING A WRIT OF CERTIORARI BY QUASHING THE IMPUGNED ORDER DTD. 23.11.2023 VIDE ANNEXURE-W, AND CONSEQUENTLY TO ALLOW CRL.MISC.PETITION NO.887 OF 2015 FILED UNDER SECTION 14 OF THE SARFAESI ACT, 2002 DTD 05.11.2022 VIDE ANNEXURE-U WITH EXEMPLARY COSTS.

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 the following prayer:-

> ***"(a) allow this Writ Petition by issuing a writ of certiorari by quashing the impugned order dated 23.11.2023 vide Annexure-Z, and consequently to allow Crl.Misc.Petition No.877 of 2015 filed under Section 14 of the SARFAESI Act, 2002 dated 07.12.2022 vide Annexure-X with exemplary costs.***

(b) To pass such other order or to issue such directions as deemed fit in the peculiar facts and circumstances of the case in the interest of justice and equity".

2. The Bank is before this Court. Petitioner/Bank has filed an application under Section 14 of the SARFAESI Act. The Magistrate by the order impugned has dismissed the same stating that as already the Court has passed an order under Section 14 of the SARFAESI Act, re-possession cannot be granted.

3. When the matter came up for hearing, learned counsel appearing for the guarantor/respondent has submitted that, in fact the Magistrate exercising the jurisdiction under Section 14 of the SARFAESI Act has recorded a compromise and directed the respondents to pay an amount of Rs.18 Crores. It is submitted that they have already filed an application stating that Court has no power to record a compromise while hearing a petition under Section 14 of the SARFAESI Act, the same is pending consideration. Learned counsel appearing for the guarantor/respondent further submits that the bank without taking action against the borrower is

proceeding against the guarantor and several other contentions are raised stating that after the earlier Section 14 order was passed, the bank has restructured the loan and now, they cannot carry the proceedings from the stage of Section 14 of the SARFAESI Act basing on an earlier order.

4. Learned counsel appearing for the petitioner-bank has denied the said submissions.

5. Looking at the order impugned, none of these contentions that are raised before this Court are forthcoming in the order. The learned Magistrate has only discussed about whether re-delivery of possession is permitted or not. In the order, the Court observed as follows:

> ***"Therefore, with due respect the decision relied by the learned counsel for the petitioner is not applicable to the present case on hand. Therefore, once the petitioner bank took the possession the secured property from the respondents under panchanama by authorized officer of the bank question of seeking re-possession of the secured property by invoking provisions of SARFAESI Act does not arise. In the entire act there is no concept of re-possession. Once the petitioner took the possession under panchanama thereafter the petitioner bank voluntarily appointed respondent No.1 as Manager to the schook run by the respondent No.2 by delivering possession. Therefore, the application filed by the petitioner seeking repossession is devoid of merits". Accordingly, the application***

filed by the petitioner/secured creditor under Section 14 of the SARFAESI Act seeking re-possession was rejected.

6. Learned counsel appearing for the petitioner-/Bank has relied on the judgment of this Court in the case of ***State Bank of India Vs. M/s. Swathi Agencies and Others*** arising out of W.P.No.105775/2025 dated 08.09.2025 which relates to a trespasser and in this case, the petitioner appointed the borrower as the Manager of the property and except that, no other contentions are forthcoming in the order.

7. Considering the rival contentions of the parties, particularly, restructuring of loan after Section 14 order is passed, as per the submission of learned counsel appearing for the guarantor/respondent, in the considered opinion of the Court, the order that is passed by the Magistrate has to be set aside. The learned Magistrate shall consider the present application along with other pending applications in a time bound manner and dispose of all the applications. In that view of the matter this Court is passing the following:

ORDER

(i) Accordingly, the writ petition is ***allowed*** by setting aside the order impugned dated 23.11.2023 and the matter is ***remanded back*** to the Magistrate to consider the same afresh.

(ii) The Magistrate shall consider all the pending applications, including the case on hand within a period of two months from the date of receipt of a copy of this order.

(iii) The learned Magistrate shall pass an order in detail considering all the contentions raised by the parties

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

SD/-
(LALITHA KANNEGANTI)
JUDGE

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List No.: 1 Sl No.: 9