HC-KAR

NC: 2026:KHC:61327
WP No. 19751 of 2024

CNR: KAHC010418952024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 19751 OF 2024 (GM-RES)

BETWEEN:

1. MR. AFSAR PASHA
   S/O MR. SYED ANWAR SAB
   AGED ABOUT 45 YEARS
   NO.107, 5TH CROSS
   KESARE BELWATHA GRAMA
   MYSORE-570 007

2. SANIYA COLLECTIONS AND FANCY CENTRE
   NO.3114, SHOP NO.31
   KSRTC BUS STAND, LASHKAR MOHALLA
   MYSORE-570 007
   PROPRIETOR CONSEREN
   REPRESENTED BY AFSAR PASHA

…PETITIONERS

(BY SRI. K. SHASHIKANTH PRASAD, ADVOCATE - [ABSENT])

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

AND:

1. THE AUTHORIZED OFFICER
   AND BRANCH MANAGER
   KOTAK MAHINDRA BANK
   MYSORE-07

2. MRS. MOHSINA BANU
   W/O MR. AFSAR PASHA
   AGED ABOUT 46 YEARS
   NO.107, 5TH CROSS

KESARE BELWATHA GRAMA
MYSORE-570 007

…RESPONDENTS

(BY SRI. FRANCIS XAVIER, ADVOCATE FOR R1;
SRI. J.M. PATIL, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET-ASIDE THE POSSESSION NOTICE DATED 06.06.2024 ISSUED BY THE FIRST RESPONDENT (ANNEXURE-B).

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 are before this Court challenging the Possession Notice dated 06.06.2024 issued by the respondent No.1 as per Annexure-B.

2. This Court while entertaining the writ petition and issuing the notice to the respondents, stayed the dispossession of the petitioners from the secured asset subject to the petitioners depositing Rs.2,00,000/- with the respondent No.1-Bank on or before 29.08.2024. The petition was listed on 30.10.2026. Though, there was no representation, however, the matter was adjourned to

today. Today too, there is no representation on behalf of the petitioners.

3. The learned counsel appearing for the respondents submits that the petitioners have complied with the interim order and they have deposited Rs.2,00,000/-, however, thereafter, no payments have been made.

4. In view of the interim order passed by this Court, possession of the secured asset was not taken by the respondent No.1-Bank. It is the contention of the learned counsel for the respondents that, if the petitioners are aggrieved by the impugned possession notice, it is open for them to approach the Debt Recovery Tribunal under Section 17 of the SARFAESI Act, 2002 and the writ petition is not maintainable.

5. Noticing the fact that after deposit of Rs.2,00,000/- in terms of the interim order passed by this Court, no further payments have been made in discharge

of the loan, there is no reason for keeping the instant writ petition pending and continue the interim order.

6. In view of the aforesaid circumstances, this Court deems it appropriate to dispose of the writ petition reserving liberty to the petitioners to avail the alternate remedy of appeal under Section 17 of the SARFAESI Act, 2002 before the Debt Recovery Tribunal. Since, the petitioners are before this Court from 22.07.2024 in prosecuting the present writ petition, the time spent by the petitioners in prosecuting the present writ petition be excluded from the period of limitation for filing of the appeal before the Debt Recovery Tribunal. The interim order, which is in force from 26.07.2024 till date, is extended for a further period of three weeks from today to enable the petitioners to file an appeal before the Debt Recovery Tribunal.

7. With the aforesaid observations, the writ petition is ***disposed of***.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB
List No.: 1 Sl No.: 47