HC-KAR

NC: 2026:KHC:55433
WP No. 14955 of 2022

CNR: KAHC010339532022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 14955 OF 2022 (GM-DRT)

BETWEEN:

1. SRI. K.P.THOMAS
   S/O LATE K.C.PHILIP
   AGED ABOUT 67 YEARS
   R/AT: BOLLA MANE
   AJEKAR MARNE VILLAGE
   KARKALA TALUK
   UDUPI DISTRICT-574 104.

...PETITIONER

(BY SRI. NAGARAJA HEGDE, ADVOCATE)

AND:

1. CANARA BANK
   MUNIYAL BRANCH
   3 BY 92, DINESH SADAN
   MANGALORE AGUMBE ROAD
   MUNIYAL, KARKALA TALUK
   UDUPI DISTRICT
   REP BY AUTHORIZED OFFICER

2. M/S St.MARY'S
   NO.3-95, KURSUKATTE ROAD
   AJEKARU POST
   KARKALA TALUK
   UDUPI DISTRICT-574 104
   REP BY ITS PROPRIETOR
   MR. SANDEEP K.T.
   S/O K.P.THOMAS
   AGED ABOUT 32 YEARS

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SACHIN SHANKAR MAGADUM
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R/AT: BOLLA MANE
AJEKAR MARNE VILLAGE
KARKALA TALUK
UDUPI DISTRICT-574 104.

…RESPONDENTS

(BY SMT. CHITHRA NIRMALA P., ADVOCATE FOR R1)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER QUASHING THE SALE NOTICE DATED 22.06.2022 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER IN NO.67/ROU2/REC/2022, WHICH IS PRODUCED AT ANNEXURE-A AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned petition is filed by the default guarantor questioning the impugned sale notice dated 22.06.2022 issued under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act') by respondent no.1-Bank as per Annexure-A.

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2. Despite consistent view taken by the Hon'ble Apex Court not to grant any indulgence in actions contemplated by the secured creditor under the provisions of SARFAESI Act, however, this Court granted some indulgence and stalled the recovery proceedings subject to petitioner depositing 30% of the amount due.

3. Learned counsel appearing for the petitioner submits that this interim order is not complied.

4. Learned counsel appearing for the respondent-Bank brings to the notice of this Court that auction is conducted pursuant to the application allowed by the Debts Recovery Tribunal in O.A.No.1223/2023.

5. In view of statement made by the learned counsel appearing for the respondent-bank, since auction is concluded and the property is now sold, this Court is of the view that the sale notice impugned in the captioned petition is rendered infructuous.

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6. Be that as it may, this Court also holds that this writ petition at first instance was not maintainable since the petitioner has an efficacious remedy under Section 17 of the Recovery of Debts and Bankruptcy Act, 1993.

With these observations, writ petition stands ***disposed of***.

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SACHIN SHANKAR MAGADUM
Verified

(SACHIN SHANKAR MAGADUM)
JUDGE

PGG
List No.: 1 Sl No.: 3