HC-KAR

NC: 2026:KHC:55437
WP No. 16838 of 2022

CNR: KAHC010383762022

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. 16838 OF 2022 (GM-DRT)

BETWEEN:

1. MR. JUNAID MELKAR ABBAS
   S/O ABBAS PANE MANGALORE
   AGED ABOUT 34 YEARS
   R/AT FLAT NO.410
   PEARL RESIDENCY, B-MOODA
   KAIKAMBA, JODUMARGA
   DAKSHINA KANNADA-574 219.

...PETITIONER

(BY SRI. VINAY KUMAR V.R., ADVOCATE)

AND:

1. CANARA BANK
   A GOVT. OF INDIA UNDERTAKING
   ARM BRANCH, CO BUILDING
   MANGALURU-575 001.
   REPRESENTED BY ITS
   AUTHORISED OFFICER
   JALLESH DINAKARAN.

2. M/S IKHALAS FAMILY FASHION
   AND FAMILY CARE
   HAVING ITS OFFICE AT
   GROUND FLOOR AND FIRST FLOOR
   MH HEIGHTS, MELKAR

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BANTWAL, KARNATAKA-574 231
REPRESNETED BY ITS PROPRIETOR
MR. PM.ABBAS.

…RESPONDENTS

(BY SRI. BRIJESH CHANDER GURU, ADVOCATE FOR R1)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE SALE NOTICE DATED 11.07.2022 VIDE REF:ARM/MNG/F293/170-2022-23 ISSUED BY RESPONDENT NO.1 AS THE SAME IS WITHOUT FOLLOWING MANDATORY PROVISIONS AS CONTEMPLATED UNDER THE PROVISIONS OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT (VIDE 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 borrower assailing the sale notice of secured assets by invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act'). Contrary

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to consistent view taken by the Hon'ble Apex Court and directions issued to the writ Court not to entertain writ petition filed by the default borrower, however, this Court granted some indulgence and stalled the recovery proceedings subject to petitioner depositing the sum of Rs.38,00,000/- in 3 installments.

2. There is no representation on behalf of the petitioner.

3. Learned counsel appearing for the respondent-bank on instructions, submits that the interim order is not complied.

4. Be that as it may, since the petitioner is questioning the action contemplated by the respondent-bank invoking the provisions of SARFAESI Act, this Court is of the view that the writ petition is not maintainable and petitioner ought to have availed the remedy under Section 17 of the SARFAESI Act.

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5. Therefore, this Court is of the view that in the light of law declared by the Hon'ble Apex Court in the case of ***United Bank of India vs. Satyavati Tondon and Others*** reported in ***[(2010) 8 SCC 110]***, that writ petition is not maintainable. The conduct of the petitioner also appears to be grossly unfair, having obtained interim order, not a single ruppee is deposited with the respondent-bank.

The petition is accordingly ***dismissed***.

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(SACHIN SHANKAR MAGADUM)
JUDGE

PGG
List No.: 1 Sl No.: 8