HC-KAR

NC: 2026:KHC:55022
WP No. 23920 of 2022

CNR: KAHC010549792022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 23920 OF 2022 (GM-DRT)

BETWEEN:

1. SRI DURGE GOWDA
   S/O DODDAHOMBALE GOWDA
   AGED ABOUT 90 YEARS

2. SRI D MANJUNATH
   S/O DURGE GOWDA
   AGED ABOUT 43 YEARS

   BOTH ARE RESIDING AT
   VALAGEREHALLI VILLAGE
   THUGANI POST, KANAKAPURA TALUK
   RAMANAGARA DISTRICT-562117.

3. KANTHARAJU
   S/O LATE THIMMEGOWDA
   AGED ABOUT 45 YEARS
   R/AT ARALALUSANDRA VILLAGE
   KASABA HOBLI, KANAKAPURA TALUK
   RAMANAGARA DISTRICT-562117.

4. SRI LAKSHMIKANTHA GOWDA
   S/O V PUTTASWAMY GOWDA
   AGED ABOUT 38 YEARS
   R/AT VALAGEREHALLI VILLAGE
   THUGANI POST, KANAKAPURA TALUK
   RAMANAGARA DISTRICT-562117.

...PETITIONERS

(BY SRI. KRISHNA MURTHY .M, ADVOCATE)

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SACHIN SHANKAR MAGADUM
Verified

AND:

1. CENTRAL BANK OF INDIA
KANAKPURA BRANCH
NO.602 655, M G ROAD
KANAKAPURA TALUK,
RAMANAGARA DISTRICT-562117
REPRESENTED BY ITS AUTHORIZED OFFICER
MR Y S R S VIJAYA KUMAR
S/O SATHAYANARAYANA
AGED ABOUT 53 YEARS

…RESPONDENT

(BY SRI. EASHWAR PRASAD .B, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED NOTICE BEARING NO. NIL DATED 18.11.2022 VIDE ANNX-E ISSUED BY THE RESPONDENT; AND ETC.

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Learned counsel appearing for the petitioners submits that petitioner No.1 has expired. However, there are other borrowers and the writ petition survives for consideration.

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2. The records reveal that despite this Court granted some protection vide order dated 08.12.2022 subject to the petitioners depositing 30% of the amount in three installments. No documents are produced demonstrating that the order passed by this Court is complied with.

3. Be that as it may, the petitioners, in the captioned writ petition, are questioning the Possession Notice dated 18.11.2022 as per Annexure-E.

4. On perusal of Annexure-E, the action initiated by the respondent – Bank/Secured Creditor is under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act").

5. The Hon'ble Apex Court in the case of ***United Bank of India and Satyawati Tondon and others*** reported in ***(2010)8 SCC 110*** and subsequent judgments has held that the action of the Secured Creditor invoking

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provisions of the SARFAESI Act are not amenable to the writ jurisdiction and the borrowers have to be relegated to the Debt Recovery Tribunal to invoke the provisions of the SARFAESI Act.

6. Since the petitioners have taken the benefit of the interim order granted in 2002 without depositing any amount in compliance of the order dated 08.12.2022, the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is ***dismissed.***

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SACHIN SHANKAR MAGADUM
Verified

(SACHIN SHANKAR MAGADUM)
JUDGE

NBM
List No.: 1 Sl No.: 19