

**IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR**

**Present: S.S.Nakul,**  
Deputy Commissioner,  
Uttar Kannada, Karwar



**DCB/MAG-3/Securitization/CR-3/2016-17**

**Between**

1. Authorised Officer,  
Canara Bank Kumta Branch.  
(Represented through Advocate R.M.Naik)

**.... Revision Petitioner**

V/s

1. M/s Soujanya Associates,  
Shree Kshetra Bangarmakki,  
Post Gersoppa Taluk Honnavar.  
( Respondent1 to 3 Represented through  
Advocate N.V.Naik, Ragini M.K.  
and Jyothi. M. Mirashi)

**... Respondents**

**Sub:** Application filed U/S 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SRFAESI) for enforcement of security interest in Sy No. 4b an extent of 0-10-0 (A-G-A) situated in Hulegar village of Honnavar Taluka Uttar Kannada District.

**Preamble:**

The instant case has filed Authorised Officer Canara Bank Kumta Branch Kumta under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SRFAESI) praying that the suit properties be handed over to the Bank as provided u/s/ 14 of the Act, Since Respondents have defaulted in payment of the loan availed from the bank. Notices were issued to both sides.

The respondent No.1 M/s Soujanya Associates Shree kshetra Bangarmakki Taluk Honnavar have taken loan fo Rs.3.01 crores for financial assistant to M/s Soujanya Associates Shree kshetra Bangarmakki Taluk Honnavar on the terms and conditions contained agreements and executed documents in favour of Canara Bank Bhatkal Branch Bhatkal on 12-02-2016. whereas M/s Siddi Vinayak G Bhat as partner being the guarantors had created security interest in respect of his property Sy No. 4/B an extent of 0-10-0 (A-G-A) situated in Hulegar village of Honnavar Taluka.

The loan account has become Non -Performing Asset NPA on 26-6-2014. The suit land is non-agricultural land and a mortgage has been created in favour of Canara Bank Kumta branch Kumta by the respondent.

The appellant Canara Bank Kumta branch Kumta had issued notice to Partner and guarantor Shri Siddivinayaka Ganesh Bhat on 26-6-2014 u/s 13(2) of SRFAESI Act 2002, with a request to repay the dues of Rs ,75,01,272/- with the 60 days period. The respondent however has failed to discharge his liability during the stipulated period. The view of the facts the Assistant General Manager Canara Bank, circle office Hubli has requested that the Suit property be handed over to the appellant Bank as contemplated u/s 14 (1) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.



The Advocate for respondent argued that

1. As per section 13(2) for initiation of measures u/s 13(4) of SRFAESI Act, existence of security agreements/ mortgage deeds are essential requisite. Without which measures under section 13(4) of SRFAESI Act, cannot be initiated.
2. Mortgage deed is not duly stamped and is hit by section 34 of the Karnataka Stamp Act, as there is evasion of stamp duty to the extent of Rs. 60,000/- on Rs.1.50 crores, to the Govt. of Karnataka on this mortgage deed.
3. Mortgage deed dated 8-7-2010 is not legal mortgage deed, which cannot be examined by this Hon,ble Tribunal u/s 14 of SRFAESI Act.
4. As per Article 34 of the Karnataka Stamp Act, 1957, the stamp duty payable is at 0.5% on the mortgage amount, but appellant bank has not paid stamp duty on mortgage deed.
5. The petitioner has not filed affidavit u/s 14(1) of SRFAESI act.
6. Requested to Pass the order for not taking the physical possession of the scheduled property.

Hence he requested to dismiss the petition.

After going through the records, it clearly shows that all the requirements of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 for direction u/s 14 have been met by the Canara Bank Kumta Branch Kumta. An affidavit is also filled by the appellant bank u/s 14(1) of SRFAESI Act. This is a case of secured loan with Sy.No. 4B an extent of 0-10-0 (A-G-A) as security as evident from the registered mortgage deed dated 24-3-2010. Further notices have been served with acknowledgement to the respondent, other objections raised in so far about evasion of stamp duty etc is not under consideration in this case. Therefore, under such circumstances it is fit case to direct the Tahasildar Honnavar to handover the suit property to the Appellant Canara Bank Kumta Branch Kumta.

#### ORDER

**DCB/MAG-3/Securitization/CR-3/2015-16**

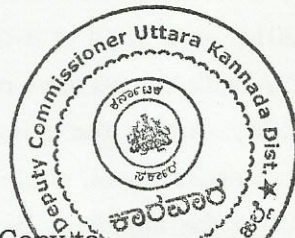
**Date: 11-11-2016.**

The petition is allowed and Tahasildar, Honnavar is directed to hand over the possession of the suit property noted in the schedule, to the Authorized Officer Canara Bank Kumta Branch Kumta.

#### Schedule

All that is part and parcel the property land and building standing in the bearing Sy. No. 4B an extent of 0-10-0 (A-G-A) situated in Hulegar village of Honnavar Taluk with the following boundaries.

East - Sy. No boundary  
West - Sy. No. 4A  
North - Sy.No. boundary  
South - Sy. No. boundary



Copy to

1. Tahasildar, Honnavar for necessary action
2. Shri Siddivinayaka Ganesh Bhat, M/s Soujanya Associates, Shree Kshetra Bangarmakki, Post Gersoppa, Taluk Honnavar.

*[Signature]*  
**Deputy Commissioner,  
Uttara Kannada, Karwar**