IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 8TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 104797 OF 2023 (GM-RES)

BETWEEN:

RAJU DEVATA KAMBLE,
AGE: 49 YEARS, OCC: BUSINESS,
R/O: PLOT NO.30, R.S. NO. 12260,
LAXMI NARAYAN NAGAR,
GASTI PLOT, ATHANI, NO.206/36,
DIST: BELAGAVI-591219.

...PETITIONER

(BY SRI BAHUBALI N. KANABARAGI, ADVOCATE)

AND:

1. KARNATAKA BANK LIMITED,
   CTS NO.122/108, P.B. NO.499,
   KARNATAKA BANK BUILDING,
   3RD FLOOR, NEW COTTON MARKET,
   HUBLI-580029,
   REPRESENTED BY CHIEF MANAGER & AUTHORISED
   OFFICER.

2. THE MANAGER,
   KARNATAKA BANK LIMITED,
   ATHANI,
   TQ: ATHANI, DT: BELAGAVI-590006.

...RESPONDENTS

Digitally signed by MOHANKUMAR B SHELAR
Location: HIGH COURT OF KARNATAKA, DHARWAD
Date: 2023.08.14 17:58:40 -0700

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE NOTICE DATED: 26-4-2023 IN NO. ARMB/HU/162/OR/23/24 ISSUED BY THE 1ST RESPONDENT VIDE ANNEXURE-B.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The captioned writ petition is filed assailing public notice for sale under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act' for short') r/w proviso to Rule 8(6) of the Security Interest (Enforcement) Rules, 2002.

2. The captioned petition cannot be entertained, as borrower is not entitled to knock the door of writ court assailing the order passed under the provisions of SARFAESI Act. The Apex Court in the case of ***United Bank of India Vs. Satyawati Tondon and Other***s reported in ***(2010) 8 SCC 110*** has heavily come down on High Courts entertaining writ petitions pertaining to the proceedings arising out of SARFAESI Act. The Apex Court in the said judgment has clearly held that High Court should not entertain writ petitions when the aggrieved party has a efficacious remedy before the Tribunal. It would be useful to refer paragraph 55 of the judgment, which reads as under:

> *"55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."*

3. In the light of the law laid down by the Hon'ble Apex Court, if the grounds urged in the present writ petition are examined, I am of the view that writ petition cannot be entertained. If the petitioner feels aggrieved, is at liberty to approach the competent authority.

4. Accordingly, the writ petition is dismissed.

Sd/-
JUDGE

MBS
List No.: 1 Sl No.: 45