

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

**Present: Dr. Harish Kumar K., I.A.S.**  
Deputy Commissioner,  
Uttar Kannada, Karwar

**No.DCB/MAG-3/Securitisation/CR-13/2019-20**

**Between**

1. Chief Manager,  
Syndicate Bank,  
Aversa Branch  
Taluk Ankola  
(Represented through Advocate Sri.Mallikarjun Gouda)

**.... Petitioner**

**V/s**

1. Sri. Arun Kumar S Naik S/o Sadananda Nagappa Naik  
R/o Sadalaxmi Nivas,  
Kavalgadde, Aversa  
Taluk: Ankola  
(Represented through Advocate Sumita P Bhoote)

**.... Respondent**

**Sub:** Application filed U/S 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SRFAESI) for enforcement of security interest of Sy No. 310/4B an extent of 0-2-2(A-G-A) situated in Aversa Village of Ankola Taluka, Uttar Kannada District.

**Preamble:**

The instant case has filed by Authorised Officer and Chief Manager Syndicate Bank Aversa Branch, Ankola under Securitisation 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 Shri Arun Kumar S Naik S/o Sadananda Nagappa Naik Aversa Village, Ankola Taluka have availed loan of Rs.9,71,261/- as Business loan on the terms and conditions contained agreements and executed documents in favour of Syndicate Bank Aversa Branch, Ankola on 09-12-2011 mortgaging his land Sy No. 310/4B an extent of 0-2-2(A-G-A) situated in Aversa Village of Ankola Taluka.

The loan account has become Non -Performing Asset NPA on 03-9-2012. The suit land is non-agricultural land and a mortgage has been created in favour of Syndicate Bank Aversa Branch, Ankola by the respondent.

The appellant Syndicate Bank Aversa Branch, Ankola had issued statutory demand notice to the defaulter on 10-10-2018 u/s 13(2) of SRFAESI Act 2002, with a request to repay the dues of Rs.9,01,636.32/- with the 60 days period. The respondent however has failed to discharge his liability during the stipulated period. The view of the facts the Authorised Officer and Chief Manager Syndicate Bank

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Aversa Branch, Ankola has requested that the Suit property be handed over to the appellat Bank as contemplated u/s 14 (1) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

**The respondent argued that:-**

- 1) The application filed by the petitioner Bank under Securitization act 2002 Section 14(1) and (2) is contrary to law and true facts of the case.
- 2) It is true and admitted fact that the Respondent has availed from the Syndicate Bank Aversa for the business purpose by mortgaging his immovable property as security for the loan. In fact, the Respondent has availed two type of the loan i) loan account No. 0312/7830000011 limit Rs. 8,00,000/- ii) 0312/7910000760 limit Rs. 1,71,261/-. The respondent is paying the installments regularly and due to some business ups and downs there is likelihood that the respondent must have not paid the installments very regularly. In fact, at the instance of the petitioner the respondent goes to the Bank as and when the Manager tells to pay the installments the Respondent is paying the installments regularly.
- 3) That on receiving the notice from the petitioner very promptly he has paid one loan account No. 0312/7830000760 of Rs. 2,51,122/89 along with interest in full entirety. The said loan account is closed.
- 4) Loan availed by the Respondent was on 5<sup>th</sup> Jan 2012, but in the notice issued to the Respondent date of NPA is showing as on 30-8-2012, it is totally false.
- 5) Now with regard to second loan account No. 0312/7830000011 for Rs. 8,00,000/- availed by the Respondent on 5<sup>th</sup> Jan 2012, since then Respondent has been paying the amount very regularly and till today the respondent has paid more than Rs. 16,00,000/- (Sixteen lacs) as against the loan amount of Rs. 8,00,000/-. But due to some business ups and downs the respondent could not pay the amount so regularly in time. Even the respondent had visited the petitioner Bank and said that he would close the entire amount though date of last payment is fixed on August 2019. In the month of August 2019 the Respondent has to pay the last installment towards the existing loan account. Such being the facts, in order to give mental torture the Respondent unnecessarily filing the petitioner under Securitisation Act 2002.
- 6) The respondent never and ever said that he would not close the loan account, in fact he is ready to pay the entire amount in a stipulated time. As such Respondent may be given sufficient time to close the said load account without attaching his immovable property for the recover that said loan.
- 7) That total worth of the mortgaged property is Rs. 95,00,000/- (ninety five lakhs) as per the market value prevailing the in the present market. Wherein the loan outstanding is Rs. 2,81,339/-.

After going through the records, it clearly shows that all the requirements of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 for direction u/s 14 have been met by Syndicate Bank Aversa Branch, Ankola. 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. 310/4B an extent of 0-2-2(A-G-A) as security as evident from the registered mortgage deed dated 29-12-2011. 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 Ankola to handover the suit property to the Appellant Syndicate Bank Aversa Branch, Ankola.

**ORDER**

**DCB/MAG-3/Securitisation/CR-13/2019-20**

**Date: 26-08-2019.**

The petition is allowed and Tahasildar, Ankola is directed to hand over the possession of the suit property noted in the schedule, to the Authorised Officer and Chief Manager Syndicate Bank Aversa Branch, Ankola.

**Schedule**

All that is part and parcel the property land and building standing in the bearing Sy No. 310/4B an extent of 0-2-2(A-G-A) situated in Aversa Village of Ankola Taluka with the following boundaries.

East - Sy No. 310/4B3  
West - Sy No. 310/4B1  
North - Sy No. 310/4A1 & Sy No. 310/4A2  
South - Road

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 26-08-2019)



**Deputy Commissioner,  
Uttara Kannada, Karwar.**

**Copy to**

1. Advocate Sri Mallikarjun Gouda and Sumita P Bhoote for information
2. Tahasildar Ankola for necessary action
3. Authorised Officer and Chief Manager Syndicate Bank Aversa Branch, Ankola for information.
4. Sri. Arun Kumar S Naik S/o Sadananda Nagappa Naik, R/o Sadalaxmi Nivas, Kavalgadde, Aversa Village, Taluk Ankola for information.