HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

WRIT PETITION NO. 18364 OF 2026 (GM-DRT)

BETWEEN:

MR. N.MOHAN KUMAR,
S/O. V.NARAYANAPPA,
AGED ABOUT 49 YEARS,
RESIDING AT NO.116, 6TH CROSS,
NEAR SIDDARTHA SCHOOL,
NAGASANDRA POST, INDIRANAGARA,
BENGALURU NORTH, BENGALURU-560073.

...PETITIONER

(BY SRI. MANJUNATH M.R., ADVOCATE)

AND:

1. SRI. DHARMA M.S.,
   S/O. LATE SWAMANNA
   AGED ABOUT 42 YEARS

Digitally signed by GEETHA P G
Location: HIGH COURT OF KARNATAKA

2. SMT. GEETHA PRIYA,
   W/O. DHARMA S.,
   AGED ABOUT 32 YEARS,

   BOTH RESPONDENTS NO.1 AND 2 ARE
   RESIDING AT FLAT NO.10, GROUND FLOOR,
   SHIVA WOOD, NGF LAYOUT, NAGARABHAVI,
   BENGALURU -560 072.

3. NIDO HOME FINANCE LIMITED,
   FORMALLY KNOWN AS EDELWEISS HOUSING LTD.,
   REP. BY ITS MANAGER,
   OFFICE AT TOWER 3, 5TH FLOOR,
   WING B, KOHINOOR CITY MALL,

KOHINOOR CITY, KIROL ROAD,
KURLA (WEST), MUMBAI-400070.
(REGISTERED UNDER INDIAN COMPANIES ACT)

…RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR PRELIMINARY HEARING, THIS DAY, AN ORDER IS MADE AS UNDER:

ORAL ORDER

Sri.Manjunath.M.R., counsel for the petitioner appeared in person.

2. Though the matter is listed today for preliminary hearing, it is heard.

3. This petition is filed seeking following reliefs:

(i) Issue a Writ of Certiorari or direction to quash the sale notice dated:05.06.2026 produced at Annexures-H and H1 issued by the third respondent holding that the respondent No.3 issued possession notice taken possession of schedule property towards satisfaction of the credits due as per Annexure-A.

(ii) Issue such other or further relief as this Court may deem fit to grant in the circumstances of the case including the order as to the cost, in the interest of justice and equity.

4. Counsel for the petitioner urged several contentions. Heard the arguments and perused the papers with care.

5. The authorized officer had issued possession notice under Rule 8(1) on 20.05.2026. Thereafter, the authorized officer issued E-auction sale notice on 05.06.2026. The petitioner grievance is about the issuance of the possession notice and E-auction sale notice. Any person/s served with SARFAESI Act notices and E-auction sale notice are not powerless. They have a liberty of filing objections and also approach DRT under Section 17 of the Act, appealing to the Tribunal if needed. The relief sought by the petitioner cannot be granted under writ jurisdiction. The Apex Court has settled the law in a catena of decisions that a demand/ possession and E-auction sale notice cannot be challenged by filing a writ petition. The litigants are not remediless, as the Tribunal has been established specifically to adjudicate the *lis*.

It is significant to note that Article 226 is not intended to circumvent statutory procedures. When a right or liability is created by a statute which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before seeking the discretionary remedy under Article 226. The law is also well settled that a petition under Article 226 should not be entertained unless the statutory remedies are ill-suited to meet the demands of an extraordinary situation.

Moreover, the Apex Court has also observed in the case of ***UNITED BANK OF INDIA V/S. SATYAWATI TONDON AND OTHERS*** that the High Courts continue to ignore the availability of statutory remedies under the DRT and SARFAESI Act and exercised jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of the 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 great caution, care and circumspection. The petition is devoid of merits. Accordingly, the writ petition is ***dismissed***.

Because of dismissal the Writ Petition, interim order granted if any stands discharged and pending interlocutory applications if any are disposed of.

SD/-
(JYOTI M)
JUDGE

MRP
List No.: 1 Sl No.: 15