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(2025) 12 KAR CK 1533

In the Karnataka High Court, Dharwad Bench

Case No : Writ Petition No. 110111 Of 2025 (GM-DRT)

Saraswati Madiwale Tambe APPELLANT

Vs

State Of Karnataka & Ors RESPONDENT

Date of Decision : 30-12-2025

Acts Referred:

Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 — Section 17
Constitution Of India, 1950 — Article 12

Citation : (2025) 12 KAR CK 1533

Hon'ble Judges : R. Nataraj, J

Bench : Single Bench

Advocate : L. Havaragi, Kirtilata R. Patil

Final Decision : Dismissed

Judgement

R. Nataraj, J

1. The petitioner has challenged the possession notice, bearing No.Nil, dated 21.08.2025, issued by respondent No.4 under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 For short, 'SARFAESI Act, 2002'.

2. When this Court queried the learned counsel for the petitioner as to how a writ petition is maintainable against respondents No.3, 4 and 5, as they are neither State nor other authorities within the meaning of Article 12 of the Constitution of India, the learned counsel submitted that the respondents No.3, 4 and 5 have invoked the provisions of the SARFAESI Act, 2022, and therefore a writ petition is maintainable.

3. Respondents No.3, 4 and 5 are constituents of private small finance bank, which is neither a State nor an instrumentality of the State. None of the fundamental rights of the petitioner are violated by the respondents No.3, 4 and 5, but they have exercised rights conferred on them under SARFAESI Act, 2002.

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Section 17 of the SARFAESI Act, 2002, provides a remedy of filing application before the Debt Recovery Tribunal. Therefore, the writ petition is not maintainable against them. The Hon'ble Apex Court in M/s. South Indian Bank Ltd. And Others Vs. Naveen Mathew Philip and Another SLP (Civil) Nos.22021-22022 of 2022, has held that a writ petition challenging actions initiated under the Provisions of the SARFAESI Act, 2002, against a private bank, is not maintainable.

4. In that view of the matter, this petition is dismissed as not maintainable.

5. It is open for the petitioner to avail the alternative remedy of an application under Section 17 of the SARFAESI Act, 2002.

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