

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL 2019

BEFORE

THE HON'BLE Mr. JUSTICE B.VEERAPPA

WRIT PETITION NO.20324/2019(GM-RES)

BETWEEN

SRI. NIRMAL AJAY RAJ. S
S/O. SAMUEL. J,
AGED ABOUT 29 YEARS,
RESIDING AT NO. 1167/A,
BBMP KHATHA NO. 1738/1167/A,
H.B.R. 1ST STAGE,
4TH BLOCK EXTENSION,
BENGALURU-560 043.

... PETITIONER

(BY SRI S.P.KULKARNI, ADVOCATE FOR
SRI SANDEEP S MURTHY, ADVOCATE)

AND

1. THE AUTHORISED OFFICER/
CHIEF MANAGER,
KARNATAKA BANK LIMITED.,
ASSET RECOVERY MANAGEMENT BRANCH,
NO.105, III FLOOR,
MOHAN MANSION,
KASTURBA ROAD,
BENGALURU-560 001.
2. M/S. WHITE HORSE NETWORK
SERVICES PVT. LTD.,
NO.223, G.R. ARCADE,
3RD MAIN ROAD,
VYALIKAVAl,
BENGALURU-560 003,

REPRESENTED BY ITS MANAGING DIRECTOR,
MR. KAILASAM. P

3. MR. KAILASAM. P
S/O. MR.P.M.PANCHAPAKESAN IYER,
NO.46, 3RD MAIN ROAD,
VYALIKAVALL,
BENGALURU-560 003.
4. MRS. MAITHILI KAILASAM
W/O. KAILASAM. P,
NO.46, 3RD MAIN ROAD,
VYALIKAVALL,
BENGALURU-560 003.
5. THE SHERISTEDAR
ATTACHED TO THE OFFICE OF
XI ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE,
MAYOHALL,
AT BENGALURU. ... RESPONDENTS

(By Sri K V SHYAM PRASAD, ADVOCATE FOR C/R-1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 15.04.2019 PASSED BY THE HON'BLE XI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, MAYOHALL, BENGALURU, IN CRL. MISC.PTN.NO.50404/2017, VIDE ANNEXURE-E BEING ILLEGAL, ARBITRARY AND OPPOSED TO LAW AND CONSEQUENTLY; DIRECT THE HON'BLE XI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, MAYOHALL, BENGALURU TO CONSIDER THE APPLICATION OF THE PETITIONER, SEEKING TO IMPEAD HIM AS A NECESSARY PARTY IN THE CRL.MISC.PTN. NO.50404/2017 FOR FINAL DISPOSAL.

This petition coming on for Orders, this day, the Court made the following:

ORDER

After arguing the matter for some time, Sri.S.P.Kulkarni, learned counsel for Sri.Sandeep S.Murthy, learned counsel for the petitioner submits that the interest of the petitioner may be protected for two weeks directing the respondent No.1 not to dispossess the petitioner.

2. Sri.K.V.Shyam Prasad, learned counsel for the respondent No.1-caveator fairly submits that the first respondent will not disturb the possession of the petitioner for a period of two weeks. Said submission is placed on record.

3. Sri.Shyam Prasad further submitted that the writ petition filed by the petitioner against the order dated 15.04.2019 rejecting the application for advancement and impleading filed is not maintainable. If the petitioner is aggrieved by the order dated 27.11.2017 in CrI.Misc Petition No.50404/2017, he has to approach the competent Debt Recovery Tribunal under the provisions of Section 17 of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002. Said submission is also placed on record.

4. Respondent No.1 is directed not to precipitate/ dispossess the petitioner for a period of two weeks. Accordingly, the Writ Petition is disposed of.

It is needless to observe that all the contentions raised by both the parties to the present writ petition are kept open to be urged by both the parties before the appropriate authority, in accordance with law.

**Sd/-
JUDGE**

bnv*