NC: 2026:KHC:14385
WP No. 2393 of 2021

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 2393 OF 2021 (GM-DRT)

BETWEEN:

1. MR C.N.SANJEEVAPPA
S/O LATE C.N.NAGANNA
AGED ABOUT 80 YEARS
REPRESENTED BY ITS LR'S

1A. SMT.B.C.MALLAMMA
W/O LATE C.N.SANJEEVAPPA
AGED ABOUT 79 YEARS
R/O KT 274, 2ND CROSS
CHAMUNDESHWARINAGAR,
MANDYA-571 401

1B. SMT.C.S.THARA
W/O SRI.M.T.SHANKAR
D/O LATE N.SANJEEVAPPA
AGED ABOUT 54 YEAR
R/AT NO.521, 2ND CRO
KALABAIRAVESHWARA NILAYAA
SAHAKAR NAGAR
MANDYA-571 401

1C. MT.ANITHA C.S.
W/O.SRI. NINGANNA K.,
D/O LATE C.N.SANJEEVAPPA
AGED 50 YEARS
R/O E/88, KANAKAPURA MAIN ROAD
JARAGANAHALLI,
J.P.NAGAR
BENGALURU-560 078

1D. SMT.HEMALATHA C.S.,
W/O ASHANTH KUMAR
D/O LATE C.N.SANJEEVAPPA
AGED ABOUT 48 YEARS
R/AT BRUNDAVANA NILAYA
8^{TH} CROSS
NEAR WATER TANK
SARASWATHIPURAM
MADHUGIRI
TUMKUR-572 105

…PETITIONERS

(BY SRI. HEGDE PRAKASH R., ADVOCATE FOR
SRI.MURTHY K., ADVOCATE)

AND:

1. INDIAN OVERSEAS BANK
THE AUTHORISED OFFICER
INDIAN OVERSEAS BANK
REGIONAL OFFICE BENGALURU
NO.10/1 LAKSHMI NARAYAN COMPLES
3RD FLOOR PALACE ROAD,
VASANTHANAGAR
BENGALURU-560 052

2. INDIAN OVERSEAS BANK
MANDYA BRANCH (2836)
NO.2590 2ND CROSS
CHANNEPPA LAYOUT
MUNESHWARI NAGAR
MANDYA-571401
REPRESNETED BY ITS
BANK MANAGER

3. M/S S.K.TRACTORS
STATED TO BE PARTNERSHIP FIRM
HAVING ITS OFFICE
AT C-2 IST STAGE
INDUSTRIAL AREA MC ROAD,
MANDYA-571401

STATED TO BE
REPRESENTED BY ITS PARTNERS
MRS. LATHA AND
MR VISHAL KIRAN GOWDA

4. MRS. LATHA M.,
W/O LATE A LOKESH
STATE TO BE A PARTNER OF
M/S S.K.TRACTORS
AGED ABOUT 48 YEARS,
R/O HOUSE NO.12
MAHADESHWARA NILAYA
RAJKUMAR BADAVANE
MANDYA-571 401

5. MR.NAVEEN KUMAR
S/O LATE A LOKESH
AGED ABOUT 22 YEARS
R/O HOUSE NO.12
MAHADESHWARA NILAYA
RAJKUMAR BADAVANE
MANDYA-571 401

6. MS. DHANUSHREE
D/O LATE A LOKESH
AGED ABOUT 20 YEARS,
R/O HOUSE NO.12
MAHADESHWARA NILAYA
RAJKUMAR BADAVANE
MANDYA-571 401

7. MR. VISHAL KIRAN GOWDA
S/O LATE SIDDEGOWDA
MAJOR
(AGE IS NOT KNOWN TO PETITIONER)
STATED TO BE A PARTNER OF
M/S S K TRACTORS
R/O NO.560 SWARNASANDRA
3RD CROSS, GUTHALU
MANDYA-571 401

8. MS. K.S. SHREELAKSHMI
D/O K.V.SOMASHEKAR
MAJOR
(AGE IS NOT KNOWN TO PETITIONER)
R/O CHOULTRY STREET
KADUR TOWN
CHIKKAMAGALURU DISTRICT-577 548

9. REGISTRAR
THE DEBT RECOVERY TRIBUNAL -1
4 HAYES ROAD
SHANTHALA NAGAR
RICHMONDTOWN
BENGALURU-560 025

...RESPONDENTS

(BY SRI.S.VENKATESH SATRY, ADVOCATE FOR R1 & R2
V/O/D: 19/06/2021, NOTICE TO R3 TO R8 IS DISPENSED WITH
SRI.D.BASAVARAJA, CGC FOR R9)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 26.11.2020, PASSED BY THE DEBTS RECOVERY TRIBUNAL-1, BENGALURU IN DAIRY NO.2026/2020 ANNEXURE-A AND CONSEQUENTLY.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed seeking the following prayer:

> ***"PRAYER***
>
> ***Wherefore, it is prayed that the Hon'ble High Court may kindly be pleased to:***
>
> ***(i) Issue a Writ of Certiorari or any other Writ/Order/ Direction quashing the impugned order dated, 26-11-2020, passed by the Debts Recovery Tribunal-1 Bengaluru in Dairy No. 2026/2020 (Annexure-A); and consequently,***
>
> ***(ii) Issue a Writ of Certiorari or any other Writ/Order/ Direction quashing the impugned order dated, 23-12-2020 passed by the Debts Recovery Tribunal-1, Bengaluru in Dairy No.IR 60/2020 (Annexure-B);***
>
> ***(iii) Issue a Writ of Direction, declaring that the Court fee paid by the petitioner in filing the SA in Dairy No2026/2020 is sufficient (Annexure. C14);***
>
> ***(iv) Issue a Writ of Mandamus or any other Writ/Order/ Direction, directing the Debts Recovery Tribunal-1, Bengaluru to adjudicate the petitioners SA in Dairy No.2026/2020 and SA in Dairy IR No. 60/2020 in accordance with the procedure laid down by law; including the issue of determining the amount of compensation payable by the respondent bank to the (Annexure G) petitioner, as well as, the cost of the proceedings and***
>
> ***(v) Pass such other Writ/Order/Direction as this Hon'ble Court deems fit to grant in the circumstances of the case and in the interest of Justice and equity."***

2. It is the case of the petitioner that the petitioner was in need of money for his family necessities and he obtained loan from Punjab National Bank (PNB) and he obtained a valuation report dated 05.11.2011 pertaining to the schedule property

worth an amount of Rs.64,59,000/-. After obtaining the valuation report, the husband of respondent No.4 by name Sri.A.Lokesh, who is very well known to the petitioner, being a well-wisher had advised him not to go for a loan by mortgaging the highly valuable schedule property. The said Sri.A.Lokesh supported the petitioner by giving a small amount of hand loan which has been repaid by the petitioner.

3. Subsequently, the said Sri.A.Lokesh approached the petitioner for extending personal guarantee towards securing the loan amounts stated to be availed by him from respondent No.2/Bank for the purpose of getting enhanced the said business level and accordingly, when he got introduced the officials of the respondent No.2/Bank, they also represented and confirmed the petitioner that the business has been well established even by providing a copy of Credit sanction Advice dated 28.03.2014. Believing the said representations of Sri.A.Lokesh and the officials of the respondent/Bank, the petitioner also agreed to extend his personal guarantee with an intention of supporting him for improving the business. As

such, he has deposited the title deeds of the schedule property with the respondent/Bank.

4. While extending the personal guarantee, the petitioner has been further represented by Sri.A.Lokesh that some of his relatives and other well-wishers also have extended their personal guarantee and even some of them have executed equitable mortgage of their immovable properties. The said Sri.A.Lokesh has expired on 16.10.2018, leaving behind his wife and children being sole successors to the assets and properties. Subsequently, the petitioner came to know that he also had some insurance policies, enabling to have the benefit thereof by his wife and children. The petitioner has requested the Bank to take appropriate steps to recover the loan amount to the said Sri.A.Lokesh from the properties and assets left behind him and to release the schedule property. It is stated that the officials of respondent/Bank and respondent No.4 in collusion with each other, with a malafide intention of misusing the support extended by him to the business of the said Sri.A.Lokesh and in pursuance of the same are trying to push

the petitioner facing loss of schedule property amongst other hardship for no fault on his part.

5. It is stated that the petitioner has approached the Principal Civil Judge and JMFC, Mandya with a private complaint under Section 200 of Cr.P.C. against respondent Nos.4 and 2. It is stated that the bank has not replied to the legal notice issued by the petitioner. The petitioner had instituted the suit i.e., O.S.No.28/2020, wherein he sought for the relief of restraining the respondents/defendants from alienating the property, pending disposal of the suit and ad interim order was passed on 13.01.2020 restraining the respondents from interfering with the petitioner's peaceful possession and enjoyment of the schedule property. In the said suit, the Bank is also a party. It is submitted that aggrieved by the measures taken by the respondent No.1 amongst other, having no other alternative remedy, the petitioner had approached the DRT-1, Bengaluru, with an application under Section 17(1) of the SARFAESI Act, wherein the petitioner has challenged the measures taken by respondent No.1, in issuing the e-auction

sale notice dated 07.11.2020 in respect of the schedule property belonging to the petitioner.

6. It is stated that at the time of filing of the SA diairy No.2026/2020, on having enquiry in the matter of paying the Court fee, respondent No.9 has represented that the petitioner requires to pay the Court fee. Hence, the petitioner was constrained to file I.A.No.2114/2020 seeking an order, enabling him to pay the Court fee in respect of the security interest value/limit created by him on the schedule property alone instead of the entire value/claim based upon the remaining secured properties referred in the sale notice.

7. The DRT-1, Bengaluru, had taken up the matter to hear the interim applications on 26.11.2020. However, even though no statement of objections has been filed, only on the submission made on behalf of the respondent/Bank that the scheduled sale did not take place due to want of bidders and without giving any opportunity of being heard to the petitioner's side and without issuing notice to the remaining respondents, the DRT had dismissed the SA Diary No.2026/2020. It is the case of the petitioner that he had filed

two applications and the two applications were dismissed on the ground that the sale has not taken place. Learned counsel for the petitioner had relied on Section 17(2) and Section 17(4) of the SARFAESI Act.

8. Placing reliance on these provisions, it is submitted that whenever an application is filed before the DRT, the DRT has to look at every measure that is taken by the Bank and if there is failure on the part of the Bank in taking up the measures as per the Act, then the Court has to pass appropriate orders. It is the contention of the petitioner that in this case, when he has questioned all the measures before the DRT on the ground that the sale has not taken place had dismissed the application as infructuous. It is submitted that in the light of the language employed in Section 17(2) and 17(4) of the SARFAESI Act, the DRT ought to have passed an order on the merits of the matter.

9. Learned counsel appearing for respondent No.9 submits that as the auction notice was questioned and as the auction was not conducted, the DRT had dismissed the application as infructuous. It is submitted that no where in the

petition, the petitioner has questioned the steps that are taken by the Bank, except the prayer that is sought is to set aside the auction sale notice. It is submitted that it is not open to the petitioner to agitate all these issues and he has to restrict his relief to the prayer that is sought in the application.

10. Having heard the learned counsels on either side, perused the entire material on record. Before going into the merits of the matter, it is appropriate to look at Section 17(2) and 17(4) of the SARFAESI Act:

> ***"17. [Application against measures to recover secured debts.]***
>
> ***(1)Any person (including borrower), aggrieved by any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor or his authorised officer under this Chapter, [may make an application alongwith such fee, as may be prescribed,] to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days from the date on which such measures had been taken:***
>
> ***[Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.]***
>
> ***Explanation.- For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section.]***

> ***(1A)[An application under sub-section (1) shall be filed before the Debts Recovery Tribunal within the local limits of whose jurisdiction-***
>
> ***(a)the cause of action, wholly or in part, arises;***
>
> ***(b)where the secured asset is located; or***
>
> ***(c)the branch or any other office of a bank or financial institution is maintaining an account in which debt claimed is outstanding for the time being.]***
>
> ***(2) The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder."***

11. Coming back to the facts of this case, the petitioner has questioned the auction notice. The prayer is to set aside the auction notice. As stated by the petitioner, he has not questioned any of the measures that are taken by the Bank. Ultimately, whatever the petitioner wants to agitate before the DRT, the DRT will look at the prayer that is sought in the SA. The relief that is sought in the SA is to set aside the auction sale. Except that he has not sought for any other relief. Considering the fact that the sale could not be conducted, the DRT had held that the writ petition has become infructuous.

12. This Court is not able to appreciate the submission of the learned counsel for the petitioner that whether the petitioner has questioned the measures or not, it is the

bounden duty of the Tribunal to consider the measures that are taken by the respondent/bank. The party who comes before the Court has to specifically state what is the prayer before the Court and this Court is not able to appreciate the submission of the learned counsel for the petitioner that without a prayer everything has to be done and it is the purport of Section 17 of the SARFAESI Act. Hence, this Court is passing the following:

ORDER

i. Accordingly, the writ petition is ***dismissed***.

ii. All I.As. in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

MEG
List No.: 1 Sl No.: 3