HC-KAR

NC: 2026:KHC:22319
WP No. 5301 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 5301 OF 2024 (GM-DRT)

BETWEEN:

1. MS. MALAVIKA HEGDE,
W/O. LATE V.G. SIDDHARTHA,
AGED ABOUT 60 YEARS,
RESIDING AT: NO.28,
3RD CROSS, 4TH MAIN,
RMV EXTENSION,
SADASHIVNAGAR,
BENGALURU-560 080.

2. MR. ESHAN HEGDE,
S/O. LATE V.G. SIDDHARTHA,
AGED ABOUT 30 YEARS,
RESIDING AT: NO.28,
3RD CROSS, 4TH MAIN,
RMV EXTENSION,
SADASHIVNAGAR,
BENGALURU-560 080.

3. MR. AMARTYA HEGDE,
S/O. LATE V.G. SIDDHARTHA,
AGED ABOUT 27 YEARS,
RESIDING AT: NO.28,
3RD CROSS, 4TH MAIN,
RMV EXTENSION,
SADASHIVNAGAR,
BENGALURU-560 080.

...PETITIONERS

(BY SRI. G.L. VISWANATH, SENIOR COUNSEL FOR SRI. ARJUN RAO, ADVOCATE)

AND:

1. CANARA BANK,
INDUSTRIAL FINANCE BRANCH,
NO.91, INFANTRY ROAD,
BENGALURU-560 001.
REPRESENTED BY ITS AUTHORIZED
OFFICER/BANK MANAGER

2. M/S. SICAL LOGISTICS LIMITED
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956.
HAVING ITS REGISTERED OFFICE AT
M/S. SICAL LOGISTICS LIMITED,
73, ARMENIAN STREET
CHENNAI-600 001.
REPRESENTED BY ITS AUTHORIZED SIGNATORY

...RESPONDENTS

(BY SRI. T.P. MUTHANNA, ADVOCATE FOR R1)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 04/12/2021 REJECTING THE IA NO.182 OF 2021 IN OA NO. 524 OF 2020 PASSED BY THE LD. DRT I, BENGALURU (ANNEXURE-C).B) ALLOWING IA NO.182 OF 2021 AND THEREBY DIRECTING THE LD. DRT. I, BENGALURU TO RECEIVE AND CONSIDER THE WRITTEN STATEMENT OF THE PETITIONERS IN OA NO. 524 OF 2020 (ANNEXURE-B).C) PERMITTING THE PETITIONERS TO OPPOSE THE PROCEEDINGS IN OA NO. 524 OF 2020 BEFORE THE LD. DRT I, BENGALURU AND ETC.

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:

> ***"WHEREFORE it is prayed that this Hon'ble Court be pleased to issue a writ, order, or direction:***
>
> ***a) Setting aside the order dated 04.12.2021 rejecting the IA No.182/2021 in OA No.524/2020 passed by the Ld. DRT I, Bengaluru (Annexure C);***
>
> ***b) Allowing IA No.182/2021 and thereby directing the Ld. DRT I, Bengaluru to receive and consider the Written Statement of the Petitioners in OA No.524/2020 (Anneure-B).***
>
> ***c) Permitting the petitioners to oppose the proceedings in OA No.524/2020 before the Ld. DRT I, Bengaluru.***
>
> ***d) Any other order(s) that this Hon'ble Court may deem fit, in the interest of justice and equity."***

2. The facts of the case are that the petitioner's husband was the guarantor of the loan granted by the respondent No.1/bank to respondent No.2. The petitioner's husband died in the year 2019. Thereafter, the said account has become NPA and an application is moved before the NCLT under Section 12 Read with 60(5) of the Insolvency and Bankruptcy Code, 2016. The NCLT had passed an order on 10.03.2021 admitting the insolvency application and later on the final order came to be passed on 08.12.2022 whereby, the resolution plan was approved by the authority. It was held that

the resolution plan is binding on the Corporate Debtor and other stakeholders involved so that the revival of the Debtor company shall come into force with immediate effect. The Moratorium imposed under Section 14 shall cease to have effect from the date of the order. Respondent No.1/bank had filed OA No.524/2020 before the Debt Recovery Tribunal. The legal representatives of the guarantor i.e., the petitioners herein are arrayed as respondent Nos.2(a), 2(b), and 2(c). The defendants were set ex-parte by order dated 27.10.2020. Then IA No.182/2021 was filed seeking to set aside the ex-parte order, that came to be dismissed by the Tribunal by order impugned dated 04.12.2021, whereby the Tribunal had observed that the Hon'ble Supreme Court of India in Suo Motu case has considered the situation raising from the difficulties affecting the litigants across the country and laid down the directions whereby the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. The Tribunal had further observed that in the instant case, the period of limitation for filing of written statement was upto

09.11.2020. As the said date fell during the relevant period i.e., between 15.03.2020 till 14.03.2021, defendant Nos.2(a) to (c) would be required to file written statement within 90 days from 15.03.2021 i.e., on or before 15.06.2021. In the instant case, the defendants have not filed the written statement so far. Further, IA for recall is filed without written statement. As the defendants failed to file written statement within the time prescribed by the Hon'ble Apex Court, the said IA is liable to be rejected.

3. When this matter came up for hearing, the Co-ordinate Bench of this Court on 21.02.2024, considering the submissions of the learned Senior Counsel had granted the interim stay of the impugned proceedings before the Tribunal, till the next date of hearing and the same was extended from time to time.

4. Learned Senior Counsel appearing for the petitioners submits that respondent No.1/bank having compromised with the principal borrower before the NCLT cannot continue the proceedings against the LRs of the deceased guarantor. It is submitted that even if the guarantor

is liable, being the LRs of the guarantor their liability is to the extent what they have inherited from the estate of the guarantor. It is further submitted that unless and until an opportunity is given to file the written statement and all these facts are placed on the record, lot of injustice would be caused to the petitioners. It is further submitted that in the order impugned, the Tribunal had observed that the period is extended till 14.03.2021 by the Hon'ble Apex Court and the petitioners ought to have filed the written statement by 15.06.2021. It is submitted that the said period is extended by the Hon'ble Apex Court upto 01.03.2022 and this order is passed on 04.12.2021. It is further submitted that even after the order passed by the Hon'ble Apex Court in suo motu case, still the time is left to the petitioners. It is further submitted that considering the plight of the petitioners and the peculiar facts and circumstances of this case, an opportunity may be given to the petitioners to contest the case and to put a quietus to the litigation.

5. Learned counsel appearing for respondent No.1/ bank submits that when the order impugned was passed on

04.12.2021, the submission of limitation being extended by the Apex Court was not brought to the notice of the Tribunal. From the year 2021 till 2024 there was no interim order passed and when the matter is posted for judgment, at that point of time, an interim stay was obtained from this Court. It is submitted that when the outstanding amount is running into Rs.1,400 and odd Crores, without making payment interim order is granted on 21.02.2024, the bank is not able to realize any amount. When the petitioners are made parties as the LRs of the deceased guarantor, they have conveniently not filed their written statement and even at the time of filing the recalling application also they were not ready with the written statement. All these aspects were considered by the Tribunal and the IA that is filed by them to recall the ex-parte order dated 27.10.2020 was rejected. It is further submitted that the petitioners have not made out any grounds seeking interference of this Court and the writ petition is liable to be dismissed.

6. Having heard the learned Senior Counsel for the petitioners and the learned counsel for respondent No.1/bank,

perused the material placed on record. The petitioners before this Court are the legal heirs of the deceased guarantor. There is no dispute about the fact that the proceedings as far as respondent No.2/company, who is the principal borrower the NCLT had already passed an order. The respondents have proceeded against the guarantors in the OA. As the defendants failed to file the written statement, the Tribunal has set the petitioners ex-parte and an IA is filed seeking to recall that order. The only reason on which the Tribunal had dismissed the said application is that whatever the limitation that is granted by the Hon'ble Apex Court has expired by 15.06.2021 and the petitioners ought to have file their written statement. Factually, the said finding of the Tribunal is not correct as in the Suo Motu case the time is extended till 01.03.2022 by the Apex Court. The only reason why the Tribunal had dismissed the I.A. is that the limitation has expired. Learned Senior Counsel has made submissions with regard to the liability of the legal heirs of the deceased guarantor and the submission is made before this Court stating that the legal heirs have not inherited any property from deceased guarantor. In the light of these submissions, balancing the interest of both the parties, this

Court is of the view that a reasonable opportunity shall be given to the parties to put forth their case so that there will be a quietus to the litigation. In that view of the matter, this Court is passing the following:

ORDER

i. Accordingly, the writ petition is ***allowed*** by ***setting aside*** the order passed in OA.No.524/2020 dated 04.12.2021 by the Debt Recovery Tribunal-I, Bengaluru.
ii. Consequently, I.A.No.182/2021 is ***allowed***.
iii. The petitioners shall file their written statement by 01.06.2026.
iv. The Debt Recovery Tribunal is requested to dispose of the O.A. by 03.11.2026.
v. The Debt Recovery Tribunal shall not grant unnecessary adjournments to the parties and shall expeditiously dispose of the O.A. as per the time limit fixed by this Court.
vi. All the contentions are kept open.
vii. All I.As., in the writ petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

BN/List No.: 1 Sl No.: 17