IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 9452 OF 2026 (GM-DRT)

BETWEEN:

1. M/S. SHAMBHAVI GROUPS,
   NO.777, A BLOCK, BYTRAYANAPURA NAGAR,
   SAHAKARNAGAR,
   BANGALORE-560 092.
   REPRESENTED BY ITS PROPRIETOR
   SRI. SATYANARAYANA RAVENDRAPPA.

2. MR. SATYANARAYANA RAVEENDRAPPA,
   S/O. LATE RAVEENDRAPPA,
   AGED ABOUT 30 YEARS,
   R/O.NO.B-202, LIBRARY ROAD, OSCAR ORCHARDS,
   BEHIND CANARA BANK,
   NORTH SAHAKARNAGAR POST,
   SAHAKARNAGAR,
   BANGALORE-560 092.

3. MRS. G.P.LATHA,
   W/O. RAVEENDRAPPA,
   AGED ABOUT 55 YEARS,
   R/O.NO.777, A BLOCK,

BYTRAYANAPURA NAGAR,

SAHAKARNAGAR,

BANGALORE-560092.

...PETITIONERS

(BY SRI. C.H. JADHAV, SENIOR ADVOCATE FOR SRI. CHETAN JADHAV, ADVOCATE)

AND:

KOTAK MAHINDRA BANK LIMITED,

HAVING ITS REGISTERED OFFICE AT

27 BRC, C-27, G BLOCK,

BANDRA KURLA COMPLEX,

BANDRA EAST,

MUMBAI-400 051.

...RESPONDENT

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 16.03.2026 PASSED IN CRIMINAL MISCELLANEOUS PETITON NO.1730/2026 PASSED BY THE HONORABLE VI ADDITIONAL CHIEF JUDICIAL MAGISTRATE AT BANGALORE VIDE ANNEXURE-G IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION, COMING ON FOR FINAL HEARING, 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 most respectfully prayed that this Honorable Court may be pleased to:-***
>
> ***(a) Issue a Writ of Certiorari quashing the impugned order dated 16.03.2026 passed in Criminal Miscellaneous Petition No.1730/2026 passed by the Honorable VI Additional Chief Judicial Magistrate at Bangalore vide Annexure-G in the interest of justice and equity.***
>
> ***(b) Issue a Writ of Mandamus directing the respondent bank to furnish true and correct account details to the 1st petitioner in the interest of justice and equity.***
>
> ***(c) Pass such other orders as this Honorable Court may deem fit in view of the facts and circumstances in the interest of justice and equity."***

2. The respondent before this Court is Kotak Mahindra Bank Ltd. The facts of this case are that petitioner No.1 is the borrower, petitioner No.2 is the proprietor and petitioner No.3 is the guarantor having offered the property as security for the overdraft facility and business loan lent by the respondent to petitioner No.1. It is stated that all the petitioners are aggrieved by the letter dated 17.03.2026 in which they are directed to hand over the vacant possession of the property offered as security. It is the case that after four years from the

date of petitioner No.2 attaining his superannuation a false and frivolous complaint is given to Inspector of Lokayuktha alleging that petitioner No.2 has amassed wealth beyond his known sources of income. Based on the said complaint Crime No.5/2024 is registered as against petitioner No.2 under Section 13(1)(b) R/w 13(2) of the Prevention of Corruption Act, 1988 and all bank accounts of petitioner No.2 including the overdraft facility and business loan account were frozen. Aggrieved by the said action petitioner No.2 had approached the High Court by filing W.P.No.23846/2024 and all further proceedings are stayed. It is the case that in-spite of accounts being frozen, petitioner No.1 continued to serve both the overdraft facility as well as the business loan, however due to circumstances beyond the control of the petitioner some defaults occurred and the respondent/bank classified the loan lent to petitioner No.1 as a non performing asset, as such the petitioners are before this Court.

3. Learned Senior Counsel appearing for the petitioners submits that in one of the notices it is mentioned as the outstanding amount is Rs.29,00,000/- and within 10 days another notice that is issued shows that the outstanding

amount is Rs.4 Crores and odd. When the matter came up for hearing, this Court had specifically raised a query with regard to the maintainability of the writ petition as the respondent is a private banking institution. Learned Senior Counsel had placed before this Court, the judgment passed by the Hon'ble Apex Court in the case of ***Harshad Govardhan Sondagar Vs. International Assets Reconstruction Co. Ltd. and Others***[1]. He had relied on para No.22 in which it is held that an order passed by the Chief Metropolitan Magistrate or the District Magistrate can be challenged before the High Court. Para No.22 of the said judgment reads thus:

> ***"22. Sub-section (3) of Section 14 of the SARFAESI Act provides that no act of the Chief Metropolitan Magistrate or the District Magistrate or any officer authorised by the Chief Metropolitan Magistrate or District Magistrate done in pursuance of Section 14 shall be called in question in any court or before any authority. The SARFAESI Act, therefore, attaches finality to the decision of the Chief Metropolitan Magistrate or the District Magistrate and this decision cannot be challenged before any court or any authority. But this Court has repeatedly held that statutory provisions attaching***

[1] 2014 Supreme (SC) 263

finality to the decision of an authority excluding the power of any other authority or Court to examine such a decision will not be a bar for the High Court or this Court to exercise jurisdiction vested by the Constitution because a statutory provision cannot take away a power vested by the Constitution. To quote, the observations of this Court in Columbia Sportswear Company v. Director of Income Tax, Bangalore [(2012) 11 SCC 224]:

> ***"17. Considering the settled position of law that the powers of this Court under Article 136 of the Constitution and the powers of the High Court under Articles 226 and 227 of the Constitution could not be affected by the provisions made in a statute by the Legislature making the decision of the tribunal final or conclusive, we hold that sub- section (1) of Section 2455 of the Act, insofar as, it makes the advance ruling of the Authority binding on the applicant, in respect of the transaction and on the Commissioner and income tax authorities subordinate to him, does not bar the jurisdiction of this Court under Article 136 of the Constitution or the jurisdiction of the High Court under Articles 226 and 227 of the Constitution to entertain a challenge to the advance ruling of the Authority."***

In our view, therefore, the decision of the Chief Metropolitan Magistrate or the District Magistrate can be challenged before the High Court under Articles 226 and 227 of the Constitution by any aggrieved party and if such a challenge is made, the High Court can examine the decision of the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, in accordance with the settled principles of law.

4. He had also relied on the order passed by the Hon'ble Apex Court in the case of ***S. Shobha Vs. Muthoot Finance Ltd.***[2] He had relied on para No.10 wherein the Hon'ble Apex Court had observed that the safeguards that were given by the High Court while holding that the writ petition is not maintainable. Para No.10 of the said judgment reads thus:

"10. Even while rejecting the writ petition on the ground of its maintainability, the High Court has protected the interest of the parties by observing in paras 6.1 as under:-

"6.1 Following order shall govern,

(i) It would be open for the respondent original petitioner to have recourse to civil remedy before the appropriate Court

[2] 2025 Supreme (SC) 240

in relation to the claim and grievance which she agitated by filing the writ petitions.

(ii) The appellant-Company is not precluded from taking any recourse in law, if it is of the view that it has any claim against the respondent - party-in-person.

(iii) It is also open to either side to invoke arbitration clause and engage in the process of arbitration to resolve the disputes.

(iv) The amount of Rs.24,39,085/-, which has been realized from sale of the gold pursuant to the auction conducted by the appellant-Company, shall remain deposited with the Registry of this Court.

(v) The Registry shall invest the said amount in a Fixed Deposit in a Nationalized Bank initially for a period of one year and renewable.

(vi) Such Fixed Deposit shall continue to renew for a maximum period of three years.

(vii) The amount of interest which may accrue on such deposit shall be receivable by the respondent- petitioner.

(viii) However, the petitioner shall not be entitled to raise any loan on the Fixed Deposit.

(ix) The Fixed Deposit kept shall remain in custody of the Registry of this Court.

(x) It would be open for either party to take recourse of civil remedy or before the arbitration within a period of three months from today."

5. By relying on the above said judgments, learned Senior Counsel submits that even in the said judgments, the Hon'ble Apex Court had affirmed the view taken the High Court and the writ petition against the private finance company is not maintainable. However, the Hon'ble Apex Court had observed rather upheld the findings by the High Court. It is submitted that in the case of ***S. Shobha*** referred Supra, though the High Court had held that the writ petition is not maintainable still has given the protection to the petitioner. It is submitted that in the facts and circumstances of this case, against arbitrary action of the bank, the interest of the petitioner may be protected till he approaches the appropriate forum for the redressal of his grievance.

6. Having heard the learned counsels on either side, perused the material on record. The first and foremost issue is with regard to the maintainability of the writ petition against the respondent/private bank. The Co-ordinate Bench of this Court in the case of ***Sri. Gowtham Vs. Karnataka Bank Ltd.***,[3] considering the various provisions, the Court had held that the writ petition against Karnataka Bank Ltd., is not maintainable. Considering the judgment passed by the Hon'ble Apex Court in the case of ***M.P. Singh Vs. Union of India and Others***[4] the Court had rejected the said contention and held that the writ petition is not maintainable. Then, in the case of ***Phoenix ARC Private Limited Vs. Vishwa Bharathi Vidya Mandir and others***[5] the Hon'ble Apex Court at para No.18 had held that the writ petition is not maintainable against the private institution wherein para Nos.18 and 21 reads thus:

> ***18. Even otherwise, it is required to be noted that a writ petition against the private financial institution – ARC – appellant herein under Article 226 of the Constitution of India against the proposed action/actions under Section 13(4) of the SARFAESI Act can be said to be not maintainable.***

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[3] 2013 AIR SCW 2545
[4] AIR 1987 SC 485
[5] (2022) 5 Supreme Court Cases 345

In the present case, the ARC proposed to take action/actions under the SARFAESI Act to recover the borrowed amount as a secured creditor. The ARC as such cannot be said to be performing public functions which are normally expected to be performed by the State authorities. During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities. If proceedings are initiated under the SARFAESI Act and/or any proposed action is to be taken and the borrower is aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the SARFAESI Act and no writ petition would lie and/or is maintainable and/or entertainable. Therefore, decisions of this Court in the cases of Praga Tools Corporation (supra) and Ramesh Ahluwalia (supra) relied upon by the learned counsel appearing on behalf of the borrowers are not of any assistance to the borrowers.

21. Applying the law laid down by this Court in the case of Mathew K.C. (supra) to the facts on hand, we are of the opinion that filing of the writ petitions by the borrowers before the High Court under Article 226 of the Constitution of India is an abuse of process of the Court. The writ petitions

have been filed against the proposed action to be taken under Section 13(4). As observed hereinabove, even assuming that the communication dated 13.08.2015 was a notice under Section 13(4), in that case also, in view of the statutory, efficacious remedy available by way of appeal under Section 17 of the SARFAESI Act, the High Court ought not to have entertained the writ petitions. Even the impugned orders passed by the High Court directing to maintain the status quo with respect to the possession of the secured properties on payment of Rs.1 crore only (in all Rs.3 crores) is absolutely unjustifiable. The dues are to the extent of approximately Rs.117 crores. The ad-interim relief has been continued since 2015 and the secured creditor is deprived of proceeding further with the action under the SARFAESI Act. Filing of the writ petition by the borrowers before the High Court is nothing but an abuse of process of Court. It appears that the High Court has initially granted an ex-parte ad-interim order mechanically and without assigning any reasons. The High Court ought to have appreciated that by passing such an interim order, the rights of the secured creditor to recover the amount due and payable have been seriously prejudiced. The secured creditor and/or its assignor have a right to recover the amount due and payable to it from the borrowers. The stay granted by the High Court would have serious adverse impact on the financial

health of the secured 24 creditor/assignor. Therefore, the High Court should have been extremely careful and circumspect in exercising its discretion while granting stay in such matters. In these circumstances, the proceedings before the High Court deserve to be dismissed.

7. In the light of the law laid down in the above said judgments, a writ petition seeking mandamus is not maintainable. Coming to the submission of the learned Senior Counsel for the petitioner that though the writ petition is not maintainable, in the case of ***S. Shobha*** referred supra the High Court has protected the interest of the parties and in this case also the protection may be granted to the petitioner. This Court in the light of the settled law, when the writ petition is not maintainable before the Court, this Court cannot grant any interim protection to the party. This practice has been deprecated by the Hon'ble Apex Court in recent judgments. In that view of the matter, this Court cannot grant any protection till the petitioner avails the appropriate remedy. In that view of the matter, this Court is passing the following:

ORDER

i. Accordingly, the writ petition is ***disposed of*** giving liberty to the petitioner to avail the appropriate remedy as the writ petition is not maintainable before this Court.

ii. The petitioner shall have the benefit of Section 14 of the Limitation Act, 1963.

iii. All I.As., in the writ petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

BN
List No.: 1 Sl No.: 27