



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS. JUSTICE M G UMA

WRIT PETITION NO. 9516 OF 2023 (CS-RES)

BETWEEN:

SMT. JAYASHREE M. SULAYA,
W/O G. MOHANDAS SULAYA,
AGED ABOUT 52 YEARS,
R/AT. 2-67/1B, SAMRUDDI
ALIKE KODI HOUSE, MODUERARA,
GRAMA GANGIMATTA POST,
MANGALORE TALUK - 574 144

...PETITIONER

(BY SRI. DHANANJAY KUMAR, ADVOCATE)

AND:

1. MATHRUBOOMI SOUHARDA SAHAKARI
SANGHA NIYAMITHA, NO.526/2006-07,
ADITHYA TOWERS, GURUPURA KAIKAMBA,
KINNIKAMBALA POST, MANGALORE D.K. - 574151
2. K. JAYAPRASAD SHETTY,
S/O M. ANANDA SHETTY,
NO.2-124, ALIKEKODI HOUSE,
MUDUPERAR POST, MANGALORE,
DAKSHINA KANNADA, KARNATAKA - 574166.
3. RAJASHREE S HEDGE,
W/O SANTHOSH KUMAR HEDGE,
AGED 54 YEARS, #S-124/19 ASHIRVAD,
BEHIND REHMAN SAWMILL,
KAND KINKS LAYOUT, DAMBEL,
MANGALORE, D.K.-575006.

...RESPONDENTS

(BY SRI. P. VITTAL SHETTY, ADVOCATE FOR R1

SRI. RUDRAPPA .P., ADVOCATE FOR R2



SRI. RAKSHITH KUMAR, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE DTD: 15/02/2023 ISSUED BY THE R-1 IN MA.SOW.SA.SA.NI/STHI.MA/MU.KA.NI-67/2022/23 VIDE ANNEXURE-A AND ALLOW THIS WP AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING - B GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE M G UMA

ORAL ORDER

The petitioner being the-Borrower from respondent No.1-Society is seeking issuance of writ in the nature of Certiorari, to quash the auction notice dated 15.02.2023 issued as per Annexure-A notifying auction of the property mortgaged at the time of availing loan.

2. Heard Sri Dhananjay Kumar, learned counsel for the petitioner, Sri. P. Vittal Shetty, learned counsel for respondent No.1, Sri. Rudrappa P., learned counsel for respondent No.2 and Sri. Rakshith Kumar, learned counsel for respondent No.3. Perused the materials on record.



3. Learned Counsel for the petitioner contended that she had borrowed loan of Rs.15,00,000/- from respondent No.1 agreeing to repay the same in installments. However, she committed default in repaying the same. Respondent No.1 brought the mortgaged property for sale. The auction notice dated 15.02.2023 produced as per Annexure-A was issued.

4. Learned counsel further contended that the property at the time of availing loan as per valuation dated 26.07.2016 was Rs.30,24,090/-, but the auction was held in the year 2023 for a sum of Rs.22,72,031/-. Therefore, there is under valuation of the property. Therefore, he prays that the petition is to be allowed.

5. Per contra, it is the contention of learned counsel for respondents No.1 and 2 that the petitioner has committed default in repaying the loan. Even in Undertaking Letter dated 19.04.2022 as per Annexure-R1 submitted by the petitioner, he has undertaken to repay the loan amount along with interest on or before 30.06.2022. In-spite of that, no steps are taken for payment of such amount. The auction notice as per Annexure-A was issued. The petitioner has not challenged the same in time.



There were 3 bidders and respondent No.2 was the highest bidder who purchased the property for Rs.22,72,031/-. He further, submitted that auction was held on 07.03.2023. The petitioner was notified to hand over the property on 20.04.2023. It is only thereafter, the present petition came to be filed. Hence he prays for dismissal of the petition.

7. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioner has made out any ground to allow the petition?"

My answer to the above point is in the 'negative' for the following:

REASONS

8. The auction notice is dated 15.02.2023. No steps whatsoever appears to have been taken by the petitioner pursuant to service of such auction notice. Admittedly, the auction was held on 07.03.2023. Respondent No.2 was the highest bidder for Rs.22,72,031/-. Respondent No.1 has produced the Letter dated 20.04.2023 calling upon the



petitioner to hand over the possession of the property. It is only thereafter, the present writ petition came to be filed on 25.04.2023. But strangely, the petitioner has suppressed the material facts regarding holding of auction on 07.03.2023 and he being served with notice dated 20.04.2023. But he is satisfied with seeking to quash the notice dated 15.02.2023. The conduct of the petitioner does not inspire confidence in the mind of the Court in suppressing the material facts and in approaching the Court only to seek quashing of the auction notice. When the auction is already held, petitioner No.2 being the highest bidder has already deposited the bid amount and it is stated that the amount in excess of the loan due from the petitioner is already credited to her account.

9. It is the contention of the petitioner that he is not served with the statement of loan account. Respondent No.1 has filed the statement of objections along with statement of account. But the petitioner has not filed any rejoinder to the same. Even the sale officer being the statutory authority is not made as a party to the proceedings. Considering all these facts and circumstances, I am of the opinion that the petitioner has approached this Court at a belated stage raising lame excuses



for not paying the amount as undertaken and not challenging the auction that was held before filing the writ petition. Admittedly, right is created in favour of respondent No.2 over the property in question. Under such circumstances, I do not find any reason to entertain the petition.

Accordingly, I answer the above point in the negative and proceed to pass the following:

ORDER

The petition is ***dismissed***.

**Sd/-
(M G UMA)
JUDGE**

MKM
CT:VS