IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 10136 OF 2020 (GM-RES)

C/W

WRIT PETITION NO. 10283 OF 2020 (GM-RES)

IN WP No. 10136/2020:

BETWEEN:

1. MUNIRAMASWAMY.B
S/O LATE BYRAPPA
AGED ABOUT 64 YEARS

2. SMT MANJULA M
W/O B MUNIRAMASWAMY
AGED ABOUT 57 YEARS

3. M SURESH
S/O B MUNIRAMASWAMY
AGED ABOUT 37 YEARS

PETITIONERS NOs. 1 TO 3 ARE
R/AT NO.16/17, DAIVA KRUPA
SUBRAMANYAPURA MAIN ROAD
CHIKKALASANDRA
BENGALURU-560 061.

4. SWABHIMANI SOUHARDA
CREDIT CO.OPERATIVE LTD.
BEING A REGD. CO OPERATIVE REGD.
UNDER THE KARNATAKA SOUHARDA

SAHAKARI ACT 1997
HAVING ITS REGD. OFFICE AT NO.125
DIAGONAL ROAD, V.V. PURAM
BANGALORE-560 004
REPTD. BY ITS CEO.

...PETITIONERS

(BY SRI. MALLA REDDY B V., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPTD. BY ITS PRINICIPAL SECRETARY
DEPARTMENT OF CO.OPERATION
M S BUILDING, DR AMBEDKAR ROAD
BANGALORE-560 001.

2. RESERVE BANK OF INDIA
NO.10/3/8, NRUPATHUNGA ROAD
BANGALORE-560 001
REPRESENTED BY ITS GENERAL MANAGER
(URBAN CO OP BANKS DIVISION).

3. SRI GURU RAGHAVENDRA
SAHAKARA BANK NIYAMITHA
BEING A REGD. CO.OPERATIVE SOCIETY
REGISTERED UNDER THE KARNATAKA
CO.OPERATIVE SOCIETIES ACT 1960
HAVING ITS REGD. OFFICE AT NO.15
SUBBARAMA CHETTY ROAD
NETTAKALLAPPA CIRCLE
BASAVANAGUDI BANGALORE-560 004
REPTD. BY ITS ADMINISTRATOR

...RESPONDENTS

(BY SMT. B. SUKANYA BALIGA, AGA FOR R1;
SRI. SYED SHABAZ, ADVOCATE FOR
SRI. MANIK B.T., ADVOCATE FOR R2;
SRI. S.D.N. PRASAD, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO ACT/RESPOND AND COMPLY WITH THE

REQUEST OF CLOSURE OF NPA LOAN ACCOUNTS OF PETITIONER NO.1 TO 3 IN TERMS OF ANNEXURE-H1 TO H5 AND TO RELEASE THE DOCUMENTS OF TITLE OF THE PROPERTIES OFFERED AS SECURITY BY P1 TO 3 AS PER ANENXURE-A1 AND A2 BY ENCASHING/APPROPRIATING /ADJUSTING THE AMOUNTS FROM OUT OF THE DEPOSIT ACCOUNTS OF RS.26,53,04,038/- OF P-4 HELD WITH THE R-3 BANK UNDER SECTION 18(1) OF KARNATAKA SOUHARDHA SAHAKARI ACT 1997 AND GRANT/MOULD SUCH OTHER RELIEFS.

<u>IN WP NO. 10283/2020:</u>

<u>BETWEEN:</u>

1. M/s.MSK SHELTERS
   HAVING ITS OFFICE AT NO.2
   13TH CROSS, ATTIMABBE ROAD
   C T BED EXTENSION
   BANASHANKARI II STAGE
   BANGALORE-560 070
   REPTD. BY ITS MANAGING PARTNER
   SURESH KUMAR M.

2. SURESH KUMAR
   S/O LATE MUNISWAMY
   AGED ABOUT 54 YEARS
   PARTNER
   M/s.MSK SHELTERS

3. SMT M REKHA
   W/O SURESH KUMAR M
   AGED ABOUT 43 YEARS
   PARTNER
   M/s.MSK SHELTERS

   PETITIONERS NO.2 AND 3 ARE
   R/AT NO.471/16, 39TH C CROSS
   10TH MAIN, JAYANAGAR 5TH BLOCK
   OPP CHANDRAGUPTHA MOURYA STADIUM
   BANGALORE-560 041.

4. SWABHIMANI SOUHARDA
CREDIT CO.OPERATIVE LTD.,
BEING A REGD. CO OPERATIVE REGD.
UNDER THE KARNATAKA SOUHARDA
SAHAKARI ACT 1997
HAVING ITS REGD. OFFICE AT NO.125
DIAGONAL ROAD, V.V. PURAM
BANGALORE-560 004
REPTD. BY ITS CEO.

...PETITIONERS

(BY SRI. MALLA REDDY B V., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPTD. BY ITS PRINICIPAL SECRETARY
DEPARTMENT OF CO-OPERATION
M S BUILDING
DR AMBEDKAR ROAD
BANGALORE-560 001.

2. RESERVE BANK OF INDIA
NO.10/3/8, NRUPATHUNGA ROAD
BANGALORE-560 001
REPRESENTED BY ITS GENERAL MANAGER
(URBAN CO-OP BANKS DIVISION).

3. SRI GURU RAGHAVENDRA
SAHAKARA BANK NIYAMITHA
BEING A REGD. CO.OPERATIVE SOCIETY
REGISTERED UNDER THE KARNATAKA CO-OPERATIVE
SOCIETIES ACT 1960
HAVING ITS REGD. OFFICE AT NO.15
SUBBARAMA CHETTY ROAD
NETTAKALLAPPA CIRCLE,
BASAVANAGUDI, BANGALORE-560 004
REPTD. BY ITS ADMINISTRATOR.

...RESPONDENTS

(BY SMT. B. SUKANYA BALIGA., AGA FOR R1;
SRI. SYED SHABAZ ., ADVOCATE FOR
SRI. MANIK B.T., ADVOCATE FOR R2;
SRI. S.D.N. PRASAD, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO ACT/RESPOND AND COMPLY WITH THE REQUEST OF CLOSURE OF NPA LOAN ACCOUNTS OF PETITIONERS NO.1 TO 3, IN TERMS OF ANNEXURE-H-1 TO H-5 AND TO RELEASE THE DOCUMENTS OF TITLE OF THE PROPERTIES OFFERED AS SECURITY BY PETITIONER NOS.1 TO 3, AS PER ANNEXURE-A BY ENCASHING/APPROPRIATING/ ADJUSTING THE AMOUNTS FROM OUT OF THE DEPOSIT ACCOUNTS OF RS.26,53,04,038/- OF 4TH PETITIONER ALONG WITH ACCRUED INTEREST THEREON, HELD WITH THE R-3 BANK, UNDER SECTION 18(1) OF KARNATAKA SOUHARDHA SAHAKARI ACT 1997 AND GRANT/MOULD SUCH OTHER RELIEFS.

THESE PETITIONS, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

<u>ORAL ORDER</u>

Present petitions are filed seeking following reliefs:

> *"(i) direct the respondents to act/respond and comply with the request of closure of NPA loan accounts of petitioners 1 to 3, in terms of Annexures-H1 to H5 and to release the documents of title of the properties offered as security by petitioners 1 to 3, as per Annexures- A1 and A2 by encashing/ appropriating/adjusting the amounts from out of the deposit accounts of Rs.26,53,04,038/- of petitioner No.4 held with the respondent No.3-bank under Section 18(1) of the Karnataka Souhardha Sahakari Act, 1997 and grant/mould such other reliefs and to grant such other reliefs in the interest of justice by allowing this writ petition with costs.*

(i) directing the respondents to act/respond and comply with the request of closure of NPA loan accounts of petitioners 1 to 3, in terms of Annexures-H1 to H5 and to release the documents of title of the properties offered as security by petitioners 1 to 3, as per Annexure-A by encashing/ appropriating/adjusting the amounts from out of the deposit accounts of Rs.26,53,04,038/- of petitioner No.4 along with accrued interest thereon, held with the respondent No.3-bank under Section 18(1) of the Karnataka Souhardha Sahakari Act, 1997 and grant/mould such other reliefs and to grant such other reliefs in the interest of justice by allowing this writ petition with costs."

2. These writ petitions seeking aforesaid reliefs by the petitioners 1 to 3 who are admitted defaulters and whose accounts has been declared as "Non Performing Assets" by respondent No.3-Bank for they not having serviced their loan accounts.

3. The averments in petition in W.P.No.10136/2020 indicate that petitioners 1 to 3 had availed the loan of Rs.9.5 crores from the respondent No.3-bank of which Rs.6 crores was against a deed of mortgage that was purportedly executed on 14.08.2019 and Rs.3.5 crores was against another deed of mortgage dated 16.08.2019.

4. The averments in petition in W.P.No.10283/2020 indicate that the petitioners therein were though sanctioned

Rs.125 crores against execution of mortgage deed dated 14.11.2019 they were released only 3 crores.

5. Respondent No.2 in the meanwhile had issued directions under Section 35A of the Banking Regulation Act, 1949 restraining respondent No.3 from dispersing or sanctioning any further loan.

6. Petitioner No.4 is a Credit Co-operative Society, which is carrying the business of accepting the deposit and advancing the loan under the regulation and supervision of Karnataka State Souhardha Federal Co-operative Ltd., under Karnataka Souhardha Sahakari Act 1997, is required to deposit the reserve funds and also surplus funds in any bank preferably Co-operative bank in terms of Section 18(1)(b) of the Act, 1997. Accordingly, petitioner No.4 has invested in Term Deposits, Savings Deposits and Current Deposits to the tune of nearly 26 crores with respondent No.3-bank. That the petitioner No.4 upon the request made by petitioners 1 to 3 has agreed in principle to extend the financial assistance/loan facilities to petitioners 1 to 3 subject to respondent No.3-bank discharging the mortgage in respect of the properties offered by way of

security by petitioners 1 to 3, by recording satisfaction of repayment of their loans and accepting, adjusting, appropriating funds of the petitioner No.4 maintained in the Term Deposits, Savings Deposits and Current Deposits with the respondent No.3-Bank.

7. Learned counsel for petitioners refers to additional documents filed along with the memo dated 18.02.2026 wherein he refers to a communication dated 17.09.2004 issued by the Joint Registrar, Co-operative Societies (Urban Banks Division) to the liquidator of certain Karnataka Contractors Sahakara Bank Niyamitha. Reading the contents of said communication, learned counsel for the petitioners insists that there has been precedents of this nature where upon the instructions issued by the Assistant Registrar of Cooperative Societies these kind of transactions have taken place which can be accommodated to the petitioners in this case. On a specific query by this Court as to the provisions which provide for such a transaction, he fairly submitted no such provisions available under any law.

8. He further contended that such a course of action is permissible in terms of the decision of the Apex Court rendered in the case of ***Khardah Company Ltd., Vs Raymon and Co.(India) Private Ltd.,*** reported in ***1963 (3) SCR 183***, which according to the petitioners is reiterated in the judgment in the case of ***ICICI Bank Ltd. Vs Official Liquidator of APS Star Industries Ltd., and others*** reported in ***(2010) 10 SCC 1***.

9. Thus based on these factual aspects and the aforesaid precedents, learned counsel for petitioners vehemently submit that petitioners are entitled for issuance of direction as sought for.

10. Respondent No.2-RBI has filed detailed statement of objections in both the petitions. It is contended that relief sought for if granted would amount to preferential payment to the petitioners and will be against the other deposits of the bank. The relief sought is contrary to the directions issued by respondent No.2-RBI in furtherance to provisions of Section 35A read with Section 56 of the Banking Regulation Act. That the administrator of the respondent No.3-bank has already

been directed to initiate recovery proceedings against the borrowers who are defaulters if permissible even under provisions of SARFAESI Act, 2002. Any order as sought for is granted, would run contrary to the directions. Several audits of the respondent No.3 -bank are underway. Professional agency as advised by the respondent No.2-RBI has been appointed to carryout forensic audit. An FIR had already been lodged against the persons responsible for the mismanagement of the affairs of respondent No.3. The inspection conducted by RBI indicate the financial position of respondent No.3 as on 31.03.2019 to be very serious and irregularities large scale financial erosion. Irregularities also included creation of artificial deposits, dummy account/entries, diversion of funds to certain beneficiaries and for engineering NPAs which ultimately translated into violation of Income, Income Recognition and Asset Classification Norms. The liquidity available with the respondent No.3-bank is not sufficient to meet the requirement of all its depositors. The directions issued by respondent No.2-RBI is to stop further deterioration of the affairs of respondent No.3-bank. That the representation made by the petitioners has been responded to by respondent No.2-RBI vide its reply dated 06.07.2020 advising the petitioners to taken up the matter with the bank and the RBI would not be proper authority to consider such proposal since administrator of respondent No.3-bank is looking into day-to-day affairs of the bank in accordance with the directions issued by the RBI. Further in response to the letter dated 17.08.2020 received from the administrator regarding the proposals of setting of loans of the other petitioners against the deposits of petitioner No.4, respondent No.2-RBI vide its letter dated 01.09.2020 has informed the administrator that the proposals cannot be acceded to and he has advised to comply with directive dated 02.01.2020. Contending as above, sought for dismissal of the petitions.

11. The respondent No.3-Bank has filed its statement of objections regarding it initiating the proceedings against the petitioners for recovery of loan under the provisions of SARFAESI Act, 2002. It has further contended that the relief sought for by the petitioners cannot be granted without regulator taking final decision in the matter in accordance with law. Hence, seeks for dismissal of the petition.

12. Heard and perused the records.

13. Admittedly, respondent No.3-Co-operative Society is under the process of being governed under the directions of the RBI under Section 35A of the Banking Regulation Act, 1949 on the allegation of large scale irregularities, embezzlement, misappropriation, siphoning of funds and fraudulent transactions.

14. Section 35A of the Banking Regulation Act, 1949 reads as under:

> 35A. Power of the Reserve Bank to give directions.—(1) Where the Reserve Bank is satisfied that—
>
> (a) in the 2[public interest]; or
>
> 3[(aa) in the interest of banking policy; or]
>
> (b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or
>
> (c) to secure the proper management of any banking company generally, it is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be, shall be bound to comply with such directions.
>
> (2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

15. Clearly transaction of any nature whatsoever including as that of the one sought to be done by the petitioners 1 to 3 and petitioner No.4 on the one hand vis-a-vis respondent No.3 is concerned, the same has to go through the process of Section 35A. The respondent-RBI in its statement of objections as noted above has seriously objected for grant of relief as sought for as the same would not be in the interest of either revival of respondent No.3-bank or in the interest of its depositors.

16. The reliance placed on by the learned counsel for petitioners on to the judgment of the Apex Court in the case ***ICICI Bank Ltd. Vs Official Liquidator of APS Star Industries Ltd., and others*** reported in ***(2010) 10 SCC 1*** is of no avail in as much as the facts and circumstances involved in said matter is completely different and distinct from the one which is at hand.

17. In view of the above factual and legal aspect of the matter and in the light of fair submission made by the learned counsel for petitioners there being no specific provision under

law providing for any such transaction as sought for in these petitions, except the precedents cited and the communication produced and referred to above, this Court do not find it appropriate to grant the reliefs as sought for. Petitions therefore lack merit and same are ***dismissed***.

SD/-
(M.G.S. KAMAL)
JUDGE

SBN
List No.: 1 Sl No.: 14