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. 38917 OF 2016 (GM-DRT)

BETWEEN:

1. SRI PETER J R PRABHU
   AGED ABOUT 71 YEARS,
   S/O H.P.P.RODRIGUES
   NO.78, KALMANE
   LAVELLE ROAD,
   BENGALURU-560 001
   (SENIOR CITIZEN BENEFIT NOT CLAIMED)

...PETITIONER

(BY SRI. ABHINAV R.,ADVOCATE)

AND:

1. M/S KARNATAKA FINANCIAL SERVICES LIMITED
   NO.13, KRISHNA REDDY LAYOUT,
   DOMLUR,
   BENGALURU-560 071
   REPRESENTED BY ITS OFFICIAL LIQUIDATOR
   ATTACHED TO HIGH COURT OF KARNATAKA,
   GOVERNMENT OF KARNATAKA
   IV FLOOR, D&F WING,
   KENDRYA SADAN,
   KORMANGALA
   BENGALURU-560 034
2. DEBS RECOVERY TRIBUNAL-I
   AT NEW DELHI
   SANSKRITI BHAWAN,
   KESHAV KUNJ,
   D.B.GUPTA ROAD,
   JHANDWALA
   NEW DELHI-110 007
   REPRESENTED BY ITS REGISTRAR
3. RECOVERY OFFICER
   DEBT RECOVERY TRIBUNAL-I
   4TH FLOOR,
   JEEVAN TARA BUILDING,

PARLIAMENT STREET
NEW DELHI-110 001

4. INDIAN RENEWABLE ENERGY
DEVELOPMENT AGENCY LIMITED,
EAST COURT, 1ST FLOOR,
CORE 4A,
INDIA HIBITAT CENTRE COMPLEX,
LODHI ROAD,
NEW DELHI-110 003
REPRESENTED BY ITS MANAGING DIRECTOR

5. COMMISSIONER OF POLICE
BENGALURU DISTRICT,
INFANTRY ROAD,
BENGALURU-560 001

6. UNION OF INDIA
DEPT. OF FINANCE & ECONOMIC AFFAIRS, NORTH
BLOCK, NEW DELHI 110001, REP. BY ITS SECRETARY

…RESPONDENTS

(BY SRI. AGA FOR R5.,ADVOCATE)

THIS W.P. IS FILED PRAYING TO-DIRECT THE R-1 REPRESENTED BY ITS OFFICIAL LIQUIDATOR TO FURNISH THE AFFAIRS OF THE ASSETS OF THE R-1 COMPANY TO THE RECOVERY OFFICER, THE R-3 IN R.C.NO.81/2014 AT ANNX-M OF THE W.P.DECLARE THAT SECTION 25(b) OF THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTION ACT, 1993 [ACT 51 OF 1993] AT ANNX-N IS UNCONSTITUTIONAL AND STRIKE DOWN THE SAME.QUASH ALL PROCEEDINGS ON THE FILE OF THE R-3 IN R.C.NO.81/2014 AND CULMINATING THE ORDER DTD 01.06.2016 AT ANNX-M TO THE W.P.GRANT AN INTERIM ORDER TO RESTRAIN THE EXECUTION OF THE ARREST WARRANT ISSUED BY THE R-3 IN R.C.NO.81/2014 OF ORDER DTD 01.06.2016 AT ANNX-M TO THE W.P. THROUGH THE R-5 AND GRANT SUCH OTHER ORDERS AS MAY BE NECESSARY.

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, the Petitioner herein most respectfully prays that this Hon'ble Court be pleased to issue a writ, direction or order in the following manner:***
>
> ***(a) A Writ in the nature of mandamus, directing the 1st Respondent represented by its Official Liquidator to furnish the affairs of the assets of the 1st Respondent Company to the Recovery Officer, the 3rd Respondent in R.C.No.81/2014 at Annexure "M" of the Writ petition;***
>
> ***(b) Declare that Section 25(b) of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 [Act 51 of 1993] at Annexure-N is unconstitutional and strike down the same;***
>
> ***(c) Quash all proceedings on the file of the 3rd Respondent in R.C No.81/2014 and culminating the Order dated 01.06.2016 at Annexure-M to the Writ Petition;***
>
> ***(d) Grant costs; and***
>
> ***(e) Such other orders as this Hon'ble Court deems fit to grant in the facts and circumstances of the case. "***

2. The case of the writ petitioner is that the 1st respondent company approached the 4th respondent company

and submitted a loan application seeking for financial assistance for the installation of Solar Water Heating Systems/Devices. Loan was sanctioned on 20.03.1997, pursuant to the said sanction, a loan agreement was entered into between the 1st and 4th respondent company on 10.06.1997. In pursuant to the loan agreement dated 10.06.1997, 1st respondent executed a deed of Hypothecation dated 10.06.1997 in favour of the 4th respondent company, whereby first charge was created on the movable assets with respect to Solar Water Heating System/Devices of the 1st Respondent company. Also, two deeds of guarantee dated 10.06.1997 and 19.07.1997 was executed by the petitioner, one Sri.Ananth Bhat, Sri.Rajaram Khandige and the K.T.Vijay Krishna in favour of the 4th respondent. In addition to the said deed of Hypothecation and deeds of guarantee, Sri.Rajaram Khandige also executed a demand promissory note dated 10.06.1997 in favour of the 4th respondent company. As there is a default on the part of 1st respondent-company, 4th respondent sent a letter dated 28.02.2004 whereby they called upon the 1st respondent to pay the amounts due under the loan agreement. Thereafter, the 4th respondent instituted proceedings i.e., O.A.No.38/2006 before the Debt Recovery Tribunal, Delhi. It is stated that 2nd respondent without property appreciating the defence set out by the petitioner and without considering the factual scenario has passed an order dated 30.04.2014, whereby the Debt Recovery Tribunal held that the 1st respondent company, petitioner and the guarantor are jointly and severally liable to pay an amount of Rs.93,83,527/- with interest at 13% p.a., and the recovery certificate in this regard was also issued. It is stated that Sri.K.T.Vijay Krishna and Sri.Ananth Bhat were discharged from the liability under the deeds of guarantee executed in pursuance to the loan agreement and proceedings against Rajaram Khandige have not been initiated and only the petitioner has been singled out and arrest warrant has been issued against the petitioner.

3. It is stated that 1st respondent company has already wound up by virtue of the order dated 18.07.2025 passed by the High Court of Karnataka in Company Petition No.178/2004, even prior to the institution of proceedings by the 4th respondent before the Tribunal on the petition filed by the Reserve Bank of India. The petitioner, who was the Director

of the company, has resigned in the year 1999 itself by virtue of a letter dated 17.09.1999 and the same was also forwarded to the jurisdictional Registrar of Companies. It is stated that the 4th respondent instituted recovery proceedings before the Recovery Officer and arrest warrant is issued. It is stated that on 23.10.2015, the Official Liquidator affirmed that 1st respondent is at liquidation and the value of the properties of the 1st respondent company will be sold by the Official Liquidator and that the same will be more than the amount involved in the recovery certificate. The Official Liquidator sought time to engage an Advocate by virtue of the letter 02.07.2015. Despite the 1st reminder being sent to the Official Liquidator to file the status report of the liquidation proceedings were not produced to the 3rd respondent. On 04.12.2015, another reminder was issued to the Official Liquidator to file the status report, again counsel sought for time. It is informed by the counsel of one of the Directors of 1st respondent company that there was a meeting between the Official Liquidator regarding the sale of the assets, since none appears for the Official Liquidator, 2nd respondent directed that one more reminder be given to the Official Liquidator to file a status report. The petitioner pursuant to a notice issued to him, directing him to appear personally before the recovery officer, sent a communication informing him about his ill-health and deteriorating physical health condition. It is stated that petitioner underwent a Elective Coronary Artery Bypass Grafting on 06.12.2011 and the petitioner has underwent another surgery on 05.03.2016 and was yet to recover from the surgery. He was advised for a complete bed rest and was also advised not to travel for a period of 1 to 2 months. It was under this situation that a letter dated 21.04.2016 enclosing his medical certificate was sent to 3rd respondent. The recovery officer without considering the application and the medical condition of the petitioner has proceeded to issue a arrest warrant against the petitioner. On the same day, one of the Directors of the wound up 1st respondent company submitted that the property of the company has been made available for auction and Official Liquidator is also ready to liquidate the property and therefore, a direction was issued to provide a fresh statement of accounts to the Official Liquidator. It is stated that section 25 of the Act provides that the recovery officer on receipt of the copy of the certificate under sub section

(7) of Section 19 of the Act can provide to proceed to recover the amount of debt specified in the certificate by wound up from all the modes as mentioned therein. It is stated that the amounts due to the 4th respondent is in relation to the amount that lent to the 1st respondent company which is under liquidation, there are sufficient assets of the wound up company to satisfy the liability of the 4th respondent. Despite these aspects, the recovery officer proceeded straightaway to issue a arrest warrant. In such circumstances, they questioned the validity of Section 25 of the Recovery of Debts Due to Banks and Financial Institutions, 1993, before this Court.

4. Initially on 15.07.2016, an interim stay of the order in R.C.No.81/2014 dated 01.06.2016 (Annexure 'M') was granted for a period of six weeks from date of order, later that order was extended on 25.08.2016 and 28.11.2017. Thereafter, the said interim order was not extended. When this matter came up before this Court, this Court has specifically asked the learned counsel appearing for the petitioner how the writ petition is maintainable and to make submission on the

maintainability, when proceedings are already initiated before the DRT, Delhi and an order is passed by the DRT.

5. Learned counsel for petitioner submits that this Court is got the jurisdiction for the reason, the properties are situated within the jurisdiction of the High Court of Karnataka. Further, the company is in Bangalore. The company underwent liquidation by the order passed by the High Court of Karnataka, the company was wound up. It is submitted that when the petitioner is residing in Bangalore and when an order of arrest was issued and the fundamental rights of the petitioners are violated, the High Court of Karnataka at Bangalore is having the jurisdiction and also it is submitted that the validity of the Act can also be questioned in any Court in India. In that regard, he had relied on judgment in case of ***Kusum Ingots & Alloys Ltd. V/s Union of India and Another*** [1] and particularly, paragraph No.21 and 22 which reads as hereunder:

> ***"21. A parliamentary legislation when it receives the assent of the President of India and is published in the Official Gazette, unless specifically excluded, will apply to the entire territory of India. If passing of a legislation gives rise to a cause of action, a writ petition questioning the constitutionality thereof can be***

[1] (2004) 6 Supreme Court Cases 254

filed in any High Court of the country. It is not so done because a cause of action will arise only when the provisions of the Act or some of them which were implemented shall give rise to civil or evil consequences to the petitioner. A writ court, it is well settled, would not determine a constitutional question in a vacuum.

22. The Court must have the requisite territorial jurisdiction. An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act."

6. Learned counsel for petitioner also relied on the judgment of Division Bench of this Court in case of ***Syndicate Bank V/s Mrs.K.Chandrakalal Bhaktha and Others*** [2] and particularly page 3 which reads as hereunder:

> ***"A learned single judge, who heard the matter, felt that there were conflicting decisions in regard to jurisdiction of the High Court to entertain a writ petition filed against the orders passed by Debt Recovery Appellate Tribunals. He also entertained a doubt as to whether the writ petition challenging the order of Appellate Authority situated in Mumbai could be filed in this court. Therefore, he referred the matter to the Division Bench. On the contentions raised, the following two questions arise for consideration in this petition.***
>
> ***"(a) Whether a writ petition against the order passed by Debt Recovery Appellate Tribunal situated at Mumbai (in an appeal filed against the order of DRT, Bangalore) relating to a loan transaction which took place in the State of***

[2] 2002 SCC OnLine Kar 227

Karnataka, could be filed in the High Court of Karnataka.

(b) Whether the Appellate Tribunal was justified in reducing the rate of interest from the date of suit till date of realisation from 17 per cent. per annum to 6 per cent. per annum.

(c) Whether the Appellate Tribunal was justified in awarding simple interest instead of compound interest with quarterly rests."

Re : Point (a) :

In this case, the loan was advanced in Karnataka. The mortgaged property is situated in Karnataka and the respondents (borrower and guarantors) are residents of Karnataka carrying on business in Karnataka. Therefore, the cause of action arose within the State of Karnataka. Hence, even though the order challenged in this writ petition is passed by a Tribunal outside Karnataka, it is open to challenge in this court. We may, in this behalf, refer to the decision of this court in St. Johns Teacher Training Institute v. Union of India, ILR 2001 Karn 5617, wherein a somewhat similar question was considered:

"Where the order passed by a statutory authority situated within the territorial jurisdiction of a High Court merges in the order of the Appellate Authority which is situated outside its jurisdiction, unless there is any other factor giving rise to any cause of action within its territories, such High Court will not entertain a writ petition, merely on the ground the original authority is located within its territorial jurisdiction. .. Let me take the illustration of a debt due to a financial institution from a company situated at Hyderabad secured by immovable and movable properties situated at Hyderabad. The Debt Recovery Tribunal, where proceedings are initiated for recovery may be situated at Bangalore. The Debt Recovery Appellate Tribunal, hearing appeals against the orders of DRT, might be situated in Bombay or Madras. But whether the Tribunal is situated at Bangalore or Bombay, the matter will have to be decided with reference to the laws in force in Andhra Pradesh subject to the binding authority of Andhra Pradesh High

Court. The Tribunal cannot ignore or refuse to follow the decisions of the Andhra Pradesh High Court on the ground that, it is only bound by the law laid down by the Karnataka High Court as its seat is at Bangalore or Bombay High Court as its seat is at Bombay. In such cases, the Tribunal will also be subject to the writ jurisdiction of the Andhra Pradesh High Court."

7. Learned counsel also relied on the judgment of the Apex Court in case of case of ***Stridewell Leathers (P) Ltd. and Others V/s Bhankerpur Simbhaoli Beverages (P) Ltd., and others***[3] and particularly paragraph No.15 which reads as here under:

" 15. It is also noteworthy that the jurisdiction of the High Courts under Article 226, if it be exercisable in respect of an order made by the Company Law Board, would be determined by the place where the cause of action, or any part of it arises and the Delhi High Court alone would not be the High Court for that purpose. The High Court, within whose jurisdiction the registered office of the company concerned lies giving rise to at least a part of the cause of action, would be entitled to exercise the writ jurisdiction under Article 226 of the Constitution. It is a different matter that the existence of the efficacious remedy of statutory appeal under Section 10-F would justify refusal of interference under Article 226. The Parliament could not have been unaware of this situation. This being so, it is difficult to accept that even though the High Court having jurisdiction in relation to the place at which the registered office of the company concerned is situate may be entitled to entertain a writ petition against an order made by the

[3] (1994) 1 SCC 34

Company Law Board, it would have no jurisdiction to entertain the statutory appeal under Section 10-F of the Companies Act in respect of the same company, except in the case of the Delhi High Court. No such distinction between the High Courts can be envisaged. It was precisely to remove such an anomaly in respect of the orders made by the Central Government or the other authorities situate in Delhi that the amendment was made in Article 226 as originally enacted in the Constitution. It is difficult to accept that, after that experience, a retrograde step was taken while enacting Section 10-F, as suggested by the respondents."

8. Relying on these judgments, it is submitted that the High Court of Karnataka is having jurisdiction to entertain the writ petition and the reliefs sought in the writ petition **are revolving around the fundamental rights that are guaranteed by the Constitution of India.**

9. On behalf of the 6th respondent/Union of India-DSGI submits that prayer (b) is to declare that Section 25(b) of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 [Act 51 of 1993] is unconstitutional. It is submitted that, the issue is well settled, and he relied upon the judgment of Apex Court in case of ***Union of India and Anr. V/s Delhi High Court Bar Association and Ors.,***[4] wherein the Hon'ble

[4] (2004) 4 SCC 275

Apex Court has upheld the constitutional validity of Section 25 and 28 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 , particularly he relied on paragraph No.29 (5), 30 and 31 which reads as follows:

> ***"29. The Guwahati High Court had held that Sections 25 and 28 are arbitrary and unreasonable, being without any guidelines or control. These observations were made prior to the amendment of Sections 25 and 28. After amendment the said provisions read as under:***
>
> ***(5) The Recovery Officer may recover any amount of debt due from the defendant by distraint and sale of his movable property in the manner laid down in the Third Schedule to the Income Tax Act, 1961 (43 of 1961)."***
>
> ***While Section 25 provides for modes of recovery of debts either by attachment and sale or arrest or appointment of a Receiver, Section 28 provides for modes of recovery in addition to the ones specified in Section 25. A perusal of the aforesaid provisions cannot lead one to the conclusion that the same are arbitrary, unreasonable or without any guidelines. It is quite clear that in order to recover the debts, the Recovery Officer has to attach and sell the immovable property and that for protection and preservation of the same, he has the power to appoint a Receiver for the management thereof.***
>
> ***30. By virtue of Section 29 of the Act, the provisions of the Second and Third Schedules to the Income Tax Act, 1961 and the Income Tax (Certificate Proceedings) Rules, 1962, have become applicable for the realisation of the dues by the Recovery Officer. Detailed procedure for recovery is contained in these Schedules to the Income Tax Act, including provisions relating to arrest and detention of the defaulter. It cannot, therefore, be said that the Recovery Officer would act in an arbitrary manner. Furthermore,***

Section 30, after amendment by the Amendment Act, 2000, gives a right to any person aggrieved by an order of the Recovery Officer, to prefer an appeal to the Tribunal. Thus now an appellate forum has been provided against any orders of the Recovery Officer which may not be in accordance with law. There is, therefore, sufficient safeguard which has been provided in the event of the Recovery Officer acting in an arbitrary or an unreasonable manner. The provisions of Sections 25 and 28 are, therefore, not bad in law.

31. For the aforesaid reasons, while allowing the appeals of the Union of India and the Banks, we hold that the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is a valid piece of legislation. As a result thereof, the writ petitions or appeals filed by various parties challenging the validity of the said Act or some of the provisions thereof, are dismissed. It would be open to the parties to raise other contentions on the merits of their cases before the authority constituted under the Act and, only thereafter, should a High Court entertain a petition under Articles 226 and/or 227 of the Constitution. Transferred cases stand disposed of accordingly. Parties to bear their own costs.”

10. It is submitted that as far as Union of India is concerned, in the light of judgment of the Honb’le Apex Court, issue is settled and requires no consideration in the hands of this Court.

11. Learned counsel appearing for the 4th respondent submits that the company proceedings were initiated before the DRT, Delhi in the year 2014 and the petitioner had appeared

before the DRT and later approached this Court by filing the present writ petition. It is submitted that the petitioner having participated in the proceedings before the DRT, Delhi, cannot come before this Court by filing the instant writ petition. It is submitted that the writ petition is not maintainable and this Court has no jurisdiction to entertain this writ peition.

12. Learned counsel appearing for respondent No.1/Official liquidator submits that they have already submitted all the details before the recovery officer, as such nothing survives for consideration in this writ petition as far as prayer (b) is concerned. It is submitted that now the proceedings are transferred to the recovery officer, Debt Recovery Tribunal, Delhi and it is renumbered as TRC No.793/2020. It is submitted that as the 4th respondent, 1st respondent and petitioner are contesting the matter before the recovery officer DRT, Delhi, this writ petition is not maintainable.

13. Having heard the learned counsels on either side, perused the material on record. The undisputed facts in the case are that the respondent No.4 has initiated the

proceedings before the DRT, Delhi, and order was passed, when the recovery proceedings are initiated, at that time, as the petitioner has failed to appear before the recovery officer, arrest warrant was issued and it is questioned before this Court. Petitioner also has questioned the constitutional validity of Section 25(b) of the Recovery Of Debts Due To Banks and Financial Institutions Act, 1993 (for short herein after referred to as Act). There is no dispute about the fact that the petitioner's company is situated in Bangalore and the petitioner is residing in Bangalore. The 4th respondent company is situated in Delhi and had initiated the proceedings in Delhi. According to the petitioner, the proceedings are not maintainable before the DRT at Delhi and it has to be within the jurisdiction of DRT at Karnataka or the High Court at Karnataka, the petitioner ought to have brought this to the notice of the DRT by filing appropriate application and ought to have obtained an order from the DRT, Delhi. When an order is already passed by the DRT, Delhi and when the matter is before the recovery officer, the petitioner has approached this Court. In the considered opinion of the Court such a procedure is not permissible. Petitioner having already participated in the proceedings before DRT, Delhi cannot come before this Court questioning the jurisdiction of the Court at Delhi. The only remedy available to the petitioner is to pursue the remedy before the DRT at Delhi. Then, coming to the aspect of the arrest warrant that being issued, they have issued the arrest warrant as per the procedure contemplated under Section 25 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. It is the submission that in the light of the judgment in case of ***Kusum Ingots & Alloys Ltd*** *(*referred supra) the constitutional validity can be questioned before any Court. The petitioner is questioning the constitutional validity of Section 25(b) of the Act, on the ground that the recovery officer has issued a arrest warrant when another properties are available and when the company is on liquidation, such a warrant cannot be issued and procedure as contemplated under section 25(b) of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 is unconstitutional. It is submitted by the learned DSGI, that the constitutional validity is already upheld by the Hon'ble Apex Court in the case of ***Union of India and anr*** *(*referred supra). Petitioner is questioning the constitutional validity of Section 25(b) of the Act and also an order passed by the recovery officer. This Court is of the view that the petitioner cannot question any of the proceedings that are initiated before the DRT at Delhi or the recovery proceedings before the recovery officer at Delhi. The judgment in case of ***Kusum Ingots & Alloys Ltd*** case referred supra is also not applicable to the facts of the case. In view of the above discussion, the writ petition is not maintainable before this Court and the only remedy available to the petitioner is to approach the recovery officer DRT, Delhi, where the proceedings are pending.

Considering the fact that petitioner had the benefit of the interim order, petitioner shall not be arrested for a period of four weeks from the date of receipt of copy of the order.

14. In the light of the above discussion, this Court is passing the following:

ORDER

i. Accordingly, the writ petition is ***disposed of*** giving liberty to the petitioner to pursue the remedy available before the recovery officer, DRT, Delhi.

ii. Petitioner shall not be arrested for a period of 4 weeks from the date of receipt of the copy of the order.

iii. All pending I.As if any, in the petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

RHS
List No.: 1 Sl No.: 1