



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**  
**DATED THIS THE 24<sup>TH</sup> DAY OF APRIL, 2026**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE ASHOK S. KINAGI**  
**WRIT PETITION NO. 100749 OF 2026 (CS-DAS)**

**BETWEEN:**

1. HEMA K J W/O KIRANKUMAR B J  
AGE. 43 YEARS, OCC. HOUSEHOLD  
R/O. H NO. 342, WARD NO. 4  
BUS NILDAN, HUVINAHADAGALI  
DISRICT. BALLARI -583219
2. BABURAO S/O PADMAPPA JAINAR  
AGE. 88 YEARS, OCC. AGRICULTURE  
R/O. KORLLALLI VILLAGE  
MUNDARAGI TALUK,  
GADAG DISTRICT

...PETITIONERS

(BY SRI. SRINIVAS NAIK, ADV)

**AND:**

1. THE ASSISTANT REGISTRAR OF  
CO-OPERATIVE SOCIETIES  
SUB DIVISION, HARAPPANAHALLI  
HARAPPANAHALLI,  
DISTRICT BALLARI 583131
2. THE MAHAVEER ALPHA SANKYATARA  
PATTINA SAHAKARA SANGHA NIYAMIT  
HUVINAHADAGALI  
TALUK HUVINAHADAGALI  
DISTRICT VIJAYANAGARA -583219

...RESPONDENTS

(BY SMT. KIRTELATA R. PATIL, HCGP FOR R1,  
SRI. S.A.SONDUR, ADV FOR R2)

Digitally signed  
by  
MOHANKUMAR  
B SHELAR  
Location: HIGH  
COURT OF  
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO,

A. ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE ORDER OF ATTACHMENT OF PROPERTY DATED 17/12/2024 BEARING NO. 17/12/2024 BEARING NO. ಸನಿ/ಹೆಚ್ ಆರ್ ಪಿ/ಅ.ಭಾ.ಪ್ರ./01/2024-25, AND ORDER DATED. 24/01/2025 BEARING NO. ಸನಿ.14/ವಿ-2/ಅ.ಭಾ.ಪ್ರ./02/2024-25 PASSED BY 1<sup>ST</sup> RESPONDENT, VIDE ANNEXURE-B AND B1, IN THE ENDS OF JUSTICE AND EQUITY.

B. ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE ORDER DATED. 20/12/2025 BEARING No. ಸನಿ/ಹೆಚ್.ಆರ್.ಪಿ/ಅಧಿಭಾರ/ಸಿಆರ್-1/2023-24 PASSED BY THE 1<sup>ST</sup> RESPONDENT, VIDE ANNEXURE-C, IN RESPECT OF SCHEDULE PROPERTIES OF THE PETITIONERS, IN THE ENDS OF JUSTICE AND EQUITY.

C. GRANT SUCH OTHER RELIEF AS THIS HON'BLE COURT DEEMS FIT IN THE ENDS OF JUSTICE AND EQUITY.

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

**ORAL ORDER**

(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

1. The petitioners filed this petition seeking the following reliefs:

A. *Issue a writ in the nature of certiorari quashing the order of attachment of property dated 17/12/2024 bearing No.17/12/2024 bearing No. ಸನಿ/ಹೆಚ್ ಆರ್ ಪಿ/ಅ.ಭಾ.ಪ್ರ./*



01/2024-25, and order dated 24/01/2025 bearing No. ಸಿ.14/ವಿ-2/ಅ.ಭಾ.ಪ್ರ./02/2024-25 passed by 1<sup>ST</sup> respondent, vide Annexure-B and B1, in the ends of justice and equity.

B. Issue a writ in the nature of certiorari quashing the order dated 20/12/2025 bearing No. ಸಿ.ಸಿ/ಹೆಚ್.ಆರ್.ಪಿ/ಅಧಿಭಾರ/ಸಿಆರ್-1/2023-24 passed by the 1<sup>st</sup> respondent, vide Annexure-c, in respect of schedule properties of the petitioners, in the ends of justice and equity.

C. Grant such other relief as this Hon'ble Court deems fit in the ends of justice and equity.

2. Brief facts, leading rise to the filing of this petition are as follows:

3. The husband of petitioner No.1, and father of petitioner No.2 was working as a Chief Executive Officer of respondent No.2-Society and is alleged to have misappropriated certain amounts and also borrowed loans in his name by misusing his position as Chief Executive Officer. On 07.03.2022, respondent No.2 submitted an application before respondent No.1. Respondent No.1 ordered an enquiry under Section 64 of



the Karnataka Co-operative Societies Act, 1959<sup>1</sup>. The Enquiry Officer conducted the enquiry, and submitted a report stating that the charges levelled against the husband of petitioner No.1 and father of petitioner No.2 were proved.

4. In pursuance of the report, respondent No.2 submitted a proposal to respondent No.1 to pass orders under Section 68 of the Act, 1959. The concerned authority proceeded to initiate recovery proceedings against the husband of petitioner No.1 and father of petitioner No.2.

5. Respondent No.2 filed an application under Section 103(1) of the Act, 1959 seeking attachment of the properties standing in the name of the petitioners. Respondent No.1 passed an order impugned, attaching the properties standing in the name of the petitioners. Being aggrieved by the impugned orders, the petitioners have filed this writ petition.

6. Heard the arguments of the learned counsel for the petitioners, learned Government Advocate for respondent No.1 and learned counsel appearing for respondent No.2

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<sup>1</sup> the Act, 1959



7. Learned counsel for the petitioner submits that no notice was served on the petitioners before passing the impugned order of attachment. He further submits that the petitioners are neither borrowers nor guarantors. Respondent No.1 has no authority to attach the properties of the petitioners. Hence, he submits that the impugned orders passed by respondent No.1 are arbitrary and erroneous. Accordingly, on these grounds, he prays to allow the writ petition.

8. *Per contra*, learned counsel for respondent No.2 submits that respondent No.1, before passing the impugned orders, had issued a notice to the petitioners. Despite the service of notice, the petitioners remained unrepresented. He further submits that the writ petition filed by the petitioners is not maintainable. However, if the petitioners intend to file objections, they have to approach respondent No.1 under Section 101(2)(b)(i) of the Act, 1959.

9. He further submits that the husband of petitioner No.1 had misappropriated, and misused his official position as Chief Executive Officer of respondent No.2, and an enquiry under Section 64 of the Act of 1959 was conducted, wherein the charges levelled against him were proved.



10. Hence, the respondent No.2 initiated recovery proceedings against the petitioners as the husband of the petitioner No.1 was not owning any properties in his name. He submits that the husband of the petitioner No.1 had purchased the properties in the name of the petitioners out of misappropriated amounts. Hence, on these grounds, he prays to dismiss the writ petition.

11. Perused the records, and considered the submissions of the learned counsel for the parties.

12. It is an undisputed fact that the husband of petitioner No.1 was working as the Chief Executive Officer of respondent No.2–Society. Allegations were made against him that he misused his official position, misappropriated funds, and also raised loans in his name. Respondent No.1 ordered an enquiry under Section 64 of the Act of 1959 by appointing an Enquiry Officer. The Enquiry Officer submitted a report stating that the charges levelled against the husband of petitioner No.1 were proved.

13. Respondent No.2 initiated recovery proceedings against the husband of petitioner No.1. As the husband of petitioner No.1 did not possess any properties in his name, an



application was made to respondent No.1 to attach the properties standing in the name of the petitioners. The petitioners contended that no notice was served on them before passing the impugned orders of attachment at Annexure B & B1.

14. Admittedly, the impugned orders passed by respondent No.1 is behind the back of the petitioners. As rightly pointed out by the learned counsel for respondent No.2, the petitioners have to file objections as per Section 101(2)(b)(i) of the Act, 1959, which reads as under:

*101. Execution of orders, etc.*

(2) [ (a) xxxx

*(b) (i) Where any claim is preferred against, or any objection is made to, the attachment of any property made under section 103 or in execution in pursuance of clause (c) of sub-section (1), on the ground that the said property is not liable to such attachment, the Registrar or the authorized person shall proceed to investigate the claim or objection:*

*Provided that where the Registrar or the authorized person considers that the claim or objection was designedly or unnecessarily delayed, he shall make an order refusing such investigation;*



15. Admittedly, the petitioners had no opportunity to file their objections to the application filed by respondent No.2. Hence, there is a violation of principles of natural justice. Therefore, on this ground alone, the impugned orders are liable to be quashed.

16. In view of the above discussion, I proceed to pass the following order:

**ORDER**

- (i) The writ petition is ***allowed***.
- (ii) The impugned orders at Annexures-B and B1 are hereby quashed.
- (iii) The petitioners and respondent No.2 are directed to appear before respondent No.1 on 02.06.2026.
- (iv) A liberty is reserved to the petitioners to file objections, if so desired. Thereafter, respondent No.1 shall provide an opportunity of personal hearing to both the petitioners and respondent No.2 and thereafter pass appropriate orders in accordance with law.



- (v) All the contentions of the parties are kept open.
- (vi) Pending applications, if any, shall stand disposed of accordingly.

**Sd/-**  
**(ASHOK S. KINAGI)**  
**JUDGE**