



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT APPEAL NO.100540 OF 2024 (CS-DAS)

BETWEEN:

SRI PARASHURAM
S/O. RAMAPPA ARALIKATTI
AGE. 53 YEARS,
OCC. LIC AGENT AND AGRICULTURE,
R/O. HOUSE NO.26, LAXMANSA NAGAR,
NEAR KANAK BHAVAN, MULGUND ROAD,
GADAG, TQ. & DIST. GADAG-582201.

...APPELLANT

(BY SRI MRUTYUNJAY TATA BANGI, ADVOCATE.)

AND:

1. THE STATE OF KARNATAKA,
REP. BY SECRETARY, CO-OP DEPARTMENT,
VIDHANA SOUDHA, BENGALURU-01.
2. THE JOINT REGISTRAR OF
CO-OP SOCIETIES (RULE 441)
AND ARBITRATOR, K,S,U,
CO-OP BANKS FEDERATION,
NO.1, 9/10, DOLLARS COLONY,
BEHIND NEW BUS STAND,
GOKUL ROAD, HUBBALLI-580030.
3. THE ASSISTANT REGISTRAR OF
CO-OP SOCIETIES (RULE 441)



AND ARBITRATOR, K,S,U,
CO-OP BANKS FEDERATION,
NO.1, 9/10, DOLLARS COLONY,
BEHIND NEW BUS STAND,
GOKUL ROAD, HUBBALLI-580030.

4. THE CHIEF MANGER,
SRI BASAVESHWARA CO-OP BANK LTD.,
HEAD OFFICE, SECTOR NO.25,
NAVANAGAR, BAGALKOT-587103.
5. THE BRANCH MANAGER,
SRI BASAVESHWARA CO-OP BANK LTD.,
JUBLI CIRCLE, NEAR OLD BUS STAND,
PALA-BADAMI ROAD, GADAG-582101.
6. THE SALE OFFICER,
SRI BASAVESHWARA CO-OP BANK LTD.,
NAVANAGAR, BAGALKOT,
DIST. BAGALKOT-587103.
7. SRI VARUN S/O MOHAN HIREGOUDAR
AGE: MAJOR,
R/AT 27, 1ST FLOOR,
C/O. HOUSE OF ISHANNA ANGADI,
ASHOK VANA, VIGNESHWARA NAGAR,
GOKUL ROAD, HUBBALLI, TQ. HUBBALLI,
DIST. DHARWAD 580030.
8. SRI ERANNA S/O YAMUNAPPA GIDDAPPAGOL
AGE: MAJOR,
R/AT. GARUDADINNI, POST. DHAVALESHWARA
TQ. BILIGI, DIST. BAGALKOT-587116.

...RESPONDENTS

(BY SRI SHARAD V. MAGADUM, AGA FOR R1-R3;
SRI LINGARAJ MARADI, ADVOCATE FOR R4.)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE
THE ORDER PASSED BY THIS COURT IN WRIT PETITION
NO.103619/2021 DATED 16.07.2024 AND ALLOW THE WRIT



PETITION IN ENTIRETY BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT
(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

This appeal filed under Section 4 of the Karnataka High Court Act, 1961 is directed against order passed in W.P.No.103619/2021 dated 16.07.2024, whereunder, the appellant's writ petition filed questioning the order dated 24.09.2019 passed by respondent No.3/Assistant Registrar of Co-operative Societies in Ex.Case No.148/2014-15 (Annexure-R) and the impugned order dated 25.09.2019, passed by respondent No.3 (Annexure-S) and the impugned order by the Minister of Co-operative Department, Government of Karnataka, in Review Petition No.CO/14/CAP/2019 dated 02.09.2021 (Annexure-T) and direct respondents No.1 to 6 to accept the debt of loan amount of ₹5,00,000/- as per the entry made in column



number 11 of RTC at Annexure-C with all legally payable amount from petitioner and to declare that petitioner is the absolute owner of the property under registered sale deed dated 22.12.2016, registered in Book No.1, vide Document No.GDG-1-9799-2016-17 and CD No.GDGD352 dated 22.12.2016 (Annexure-F) by way of a writ of *Certiorari*.

2. The parties would be referred with their ranks, as they were before the learned single Judge for the sake of convenience and clarity.

3. The case of appellant before the learned single Judge is that, he has purchased the property bearing Survey No.28/1+2+3/6 measuring 10 guntas 07 annas, situated at Mallasamudra village in Gadag taluk, from respondent No.7, which respondent No.7 obtained as gift from his grandmother Smt.Shantibai under registered gift deed; said respondent No.7 or Smt.Shantibai have not taken loan by mortgaging this property. The RTC Extract only shows the liability of ₹5,00,000/- on this property,



whereas another property bearing Survey No.106/2 measuring 12 acres 13 guntas was mortgaged to respondents No.4 and 5 by the father and grandmother of respondent No.7 to obtain loan of ₹45,00,000/-. However, respondents No.4 and 5 contended that both properties were mortgaged by way of deposit of title deeds dated 28.04.2011 and by executing registered mortgage deed. The borrower and owner of the property have not repaid the loan. Hence, they have raised dispute before respondent No.3, who in turn after conducting enquiry has passed the award dated 29.04.2014. Afterwards, the award amount was not paid. Hence, both properties were put on auction. Initially auction was scheduled on 08.02.2019, since it was unsuccessful, it was rescheduled on 15.02.2019 and on that day respondent No.8 auction purchaser has purchased the properties, which were mortgaged with the bank for ₹58,01,000/-. The appellant/petitioner is subsequent purchaser from respondent No.7 and has not obtained any loan. Even the RTC extract does not reveal the existence of



loan except ₹5,00,000/-. Further, the seller has sworn to an affidavit that he would clear the aforesaid loan. Based on the registered sale deed, the property is mutated into the name of the petitioner. Hence, he is not liable to make payment; alternatively, if he is liable, then he is liable to make payment of only ₹5,00,000/- and not more than that.

4. After hearing both sides, the learned single Judge verified the facts in detail and also noted that as per Section 32 of the Karnataka Co-operative Society's Act, 1959, the sale in favour of anybody without the permission in writing from the mortgagee is void and thus, dismissed the writ petition.

5. Aggrieved by the same, the appellant is before this court.

6. Learned counsel for appellant Sri Mrityunjay Tata Bangi, would submit that he is the purchaser of property without notice of alleged loan for a valuable consideration. The alleged loan taken by father of respondent No.7 or



mortgage loan by way of deposit of title deeds by the grandmother of respondent No.7 were not known to the appellant. As there was only entry of ₹5,00,000/- in liability column in RTCs, he is liable to make only payment of that much and not more than that. But his offer was not accepted by the concerned Authorities. Hence, he is put to trouble. He being purchaser of the property and property mutated into his name, he is entitled to enjoy the property as he wishes and it cannot be sold in auction without his involvement or without making him as party to the proceedings. Thus, it is prayed for allowing the appeal and consequently the writ petition.

7. Learned Additional Government Advocate Sri Sharad V. Magadum, for respondents No.1 to 3 would submit that, the action taken by respondent No.3 is in accordance with the procedure contemplated under the Karnataka Co-operative Societies Act, 1959 and Rules. When the person who obtained loan by mortgaging the property became defaulter, then the banks/respondents



No.4 & 5 have approached respondent No.2 & 3 and after initiating proceedings, respondent No.2 & 3 have found that the principal borrower and the guarantor would become defaulters of making repayment of loan. Hence, the award passed is in accordance with law. To execute the said award, Execution Petition No.148/2014-15 is filed and the property in question was auctioned and in the auction respondent No.8 being the highest bidder has purchased the property, which is also in accordance with law. Merely because the petitioner has purchased the property under registered sale deed, which is subsequent to the mortgage, he will not get any right over the property. In this regard, he places reliance on Section 32(2) and (3) of the Co-operative Societies Act and also the Judgment of Co-ordinate Bench of this Court in W.P.No.115353/2019. Hence, prayed for dismissal of appeal.

8. Learned counsel for respondent No.4 Sri Lingaraj Maradi, would submit that the action taken by respondents No.2 and respondent No.3 based on their claim petitions is



in accordance with law. Hence, it needs no interference. Hence, considering these aspects, rightly learned Single Judge dismissed the writ petition, which needs no interference.

9. Having heard the learned counsel for the parties, verifying the writ appeal papers and the writ petition papers, the only point that would arise for consideration is as under:

"Whether the order dated 16.07.2024, passed by the learned Single Judge in W.P.No.103619/2021, requires interference by this Court in this intra-Court appeal?"

10. Our finding on the above point is in the 'negative' for the following:

REASONS

11. The admitted facts of the case are that, the property bearing Sy.No.28/1+2+3/6 measuring 10 guntas 07 annas and property bearing Survey No.106/2 measuring 12 acres 13 annas were mortgaged by way of deposit of



title deeds by the grandmother of respondent No.7 Smt.Shantibai along with her son Mohan Hiregoudar i.e., the father of respondent No.7 to respondents No.4 and 5 banks to obtain loan of ₹45,00,000/-. However, they have not repaid the loan. Afterwards, respondent No.4 and respondent No.5 have taken legal action and Recovery Officer in A.R.E./UBF/Vicharane/2019-20 has passed the award and in Execution Case No.148/2014-2015, has ordered for auction of these properties. The appellant contended that in the meanwhile, he has purchased the said property from respondent No.7, which was gifted to him by his grandmother-Smt.Shantibai.

12. It is an admitted fact that the sale deed in favour of the appellant is subsequent to mortgage of the property and subsequent to passing of the award.

13. Learned counsel relied on Section 32 of the Karnataka Co-operative Societies Act, 1959, which reads as follows.



"32. First charge of co-operative society on certain assets.- (1)

Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

(2) No person shall transfer any property, which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void."

14. On careful perusal of the above provision of law, if any subsequent sale, gift or alienation is made, after the property has been mortgaged, then it has to be made only with the prior permission in writing of the co-operative



society, which holds the charge. If any transaction took place in contravention of this provision, then such transaction shall be void.

15. In the instant case, as discussed above, the grandmother of respondent No.7 has mortgaged the property in favour of respondents No.4 and 5 societies for the loan taken by her son and thus, first charge was created on behalf of co-operative society in respect of the property in question. After such charge, without obtaining any written previous permission from the co-operative societies, said Smt.Shantibai has gifted the property in favour of respondent No.7, which amounts to void transaction and such sale/purchase would be subject to change over the property.

16. In the light of above, we are of the considered view that the learned Single Judge has rightly concluded that the transaction of petitioner is hit by the provisions of Section 34(1), (2) & (3) of the Act and it needs no



interference. Thus, we find no merit in the appeal and accordingly, writ appeal stands ***rejected***.

17. In view of disposal of the appeal, pending interlocutory applications, if any, stand disposed of as they do not survive for consideration.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

MRK
CT: VP
LIST NO.: 1 SL NO.: 18