



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 19<sup>TH</sup> DAY OF DECEMBER, 2025**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**WRIT PETITION NO. 35709 OF 2024 (GM-DRT)**

**BETWEEN:**

SRI S H SIDDAPPA

S/O LT S B HANUMANTHAPPA

AGED ABOUT 62 YEARS

HUCHALIANAHKATTE COFFEE ESTATE

KALALTHIPURA VILLAGE AND POST

LINGADAHALLI HOBLI

TARIKERE TLAUK

CHIKCMAGALURU DISTRICT

KARNATAKA 577228

...PETITIONER

(BY SRI. V MOHAN., ADVOCATE)

**AND:**

1. STATE BANK OF INDIA

STRESSED ASSETS RECOVERY BRANCH

NO.11/90, 3<sup>RD</sup> FLOOR,



OPP NEAR OLD SHVIAJI THEATRE

J C ROAD,

BENGALURU -560 002.

(REGISTRAR UNDER COMPANIES ACT 1949)

2. SMT.A.P.JAYA

W/O H.A.PATTABHI RAME GOWDA

AGED ABOUT 75 YEARS

R/O #804, PAVANA GANGA

HOSMANE ROAD, HOSAMANE

CHIKKAMAGALURU-577 101

...RESPONDENTS

(BY SRI. NANDISH PATIL., ADVOCATE FOR C/R1 FOR  
SRI.GURUPRASAD HEGDE, ADVOCATE FOR  
S.V.PRAKASH, ADVOCATE FOR R2)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE RESPONDENT BANKS AUCTION SALE NOTICE DTD. 02.12.2024 ANNEX-A FIXING THE AUCTION SALE ON 07.01.2025 UNDER SARFAESI ACT IN RESPECT OF THE SCHEDULE PROPERTIES BELONGING TO THE PETITIONER IN THE INTEREST OF JUSTICE AND EQUITY SO FAR AS PETITIONER CONCERN.

THIS PETITION, COMING ON FOR PART HEARD, 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 :

***"a. Quash the respondent bank's auction sale notice dated 02.12.2024 annexure-a fixing the auction sale on 07.01.2025 under SARFAESI Act in respect of the schedule properties belonging to the petitioner in the interest of justice and equity so far as petitioner concern.***

***b. Pass such other order or orders as this Hon'ble Court may deem fit, in the interest of justice and equity."***

2. The brief facts of the case are that the petitioner has availed the loan from the respondent/Bank on 25.07.2008 by duly executing the mortgage deed in favour of the bank. The property mortgaged is a land measuring an extent of 41 acres 25 guntas. As the petitioner had failed to pay the amount on 19.10.2016, the account was classified as Non-Performing Asset (NPA) by the bank. On 24.02.2023, the bank issued a demand notice to both the petitioner and the guarantor under Section 13(2) of the SARFAESI Act. On 24.05.2023, the bank issued a possession notice under Section 13(4) and on the same day the possession notice was published in newspapers as required under Rule 8(1) and 8(2) of the Security Interest (Enforcement) Rules, 2002. On 07.03.2024, the Bank



approached the Magistrate under Section 14 of the SARFAESI Act and the learned Magistrate passed an order permitting the Bank to take physical possession of the secured asset. On 19.10.2024, the Bank took physical possession of the Schedule property belonging to the petitioner. On 02.12.2024, sale notice was issued to the petitioner fixing the date of auction as 07.01.2025. Then the petitioner approached this Court by filing the present writ petition. This Court, on 31.12.2024 granted interim order directing the respondent not to confirm the auction sale till the next date of hearing and that interim order has extended from time to time. The bank had conducted the auction and the auction purchaser had paid an amount of Rs.1,81,00,000/- on 21.10.2025. Petitioner has also deposited an amount of Rs.1,35,17,795/- on 19.03.2025 and 26.06.2025. It is the case of the petitioner that the land is an agricultural land and the valuation of the property is Rs.7,28,00,000/- but the reserve price is fixed at Rs.1,80,00,000/-. It is stated that first time the auction is conducted and they have obtained the valuation considering it as an agricultural land. According to him, after the respondent had filed the mortgage deed showing that it is a coffee plantation then the contention that is put



forth is that they have obtained the valuation considering it is an agricultural land. But it is a coffee plantation. As such there is a collusion between the bank and the auction purchaser and the bank to defraud the interest of the petitioner has fixed the reserve price. It is submitted that unless and until the sale is set aside, it will cause lot of hardship to the petitioner.

3. Learned counsel appearing for the bank submits that immediately after the auction, the entire amount is deposited by the auction purchaser, auction purchaser is impleaded in this writ petition. It is submitted that the account is declared as NPA on 19.10.2016 and the petitioner has successfully dragged on the proceedings. It is submitted that the petitioner at one stretch takes a stand that it is an agricultural land and SARFAESI proceedings cannot be initiated and when it comes to the valuation, it is submitted that it is a coffee plantation. The petitioner cannot take these kind of contra stands and in fact he has come before the Court with suppression and misrepresentation of facts, as such he is not entitled for any relief from this Court. It is submitted that when they have obtained the valuation report, it is a coffee plantation



considering the nature of the land and how it is situated, the valuer has fixed the rate. Further, he has relied on the judgment passed by the co-ordinate Bench of this Court in case of ***K.V. Jayaprakash Vs State Bank of India*** arising of WP.No.9800/2022 dated 25.05.2022 wherein the stand is taken by the petitioner therein that the bank has undervalued the property. The Court has observed that it is a disputed question of fact where the evidence is required, for that the petitioner has to go before the DRT and further when there is an effect to alternative remedy available, a writ petition cannot be entertained.

4. It is further submitted that the petitioner had paid this amount after one of the property which is mortgage to another bank is sold and whatever the amount that he has received, he has paid to this bank and he had questioned the very same sale approaching the DRT. It is submitted that this speaks volumes about the conduct of the petitioner and the petitioner is not entitled for any relief from this Court.

5. Learned counsel appearing for the auction purchaser submits that he is a *bona fide* purchaser and he has paid the



entire amount and the interest of the auction purchaser has to be protected.

6. Having heard the learned counsel on either side, perused the material on record. There is no dispute about the fact that it is a coffee plantation. It is also an admitted fact that the petitioner has come up before the Court with the stand that it is an agricultural land and SARFAESI proceedings cannot be initiated. The petitioner only with an intention to get an order from this court has come up with inconsistent stands. First, coming to whether it is an agricultural land or a coffee plantation, the mortgage deed makes it clear that it is a coffee plantation. For a coffee plantation, it is Rs.17,50,000/- per acre and if it is an agricultural land the value is Rs.5,50,000/- per acre. The valuer has valued it at Rs.5,50,000/- considering it as agricultural land as per the guidance value. On the face of it, there is lot of difference between the guidance value of agricultural land and the Coffee plantation. All these aspects have to be considered by letting in evidence and this Court cannot consider all these facts while exercising the jurisdiction under Article 226 of the Constitution. No doubt, once a sale



notice is issued, the borrower has no right to redeem the mortgage, *prima facie* it is submitted that the bank has not acted fairly and because of the reserve price fixed by the bank it has caused lot of hardship and allegation of fraud has been made against the bank. On the face of it, looking at the valuation of Rs.5,50,000/- and Rs.17,50,000/- per acre, there is a huge difference between both the prices. In spite of the fact that the petitioner has come up before the Court, that it is an agricultural land, with misrepresentation and suppression of facts, that itself cannot be a ground for this Court to dismiss the petition. However, considering the conduct of the petitioner this Court deems it appropriate to direct the petitioner to pay an amount of Rs.50,000/- towards costs to the respondent/bank.

7. In the facts and circumstances of the case, this Court deems it appropriate to relegate the petitioner to the DRT and the order that is passed by this Court, not to confirm the sale shall be in force till the petitioner's case is decided by the DRT. Accordingly this court is passing the following:



## ORDER

- i. The petitioner shall approach the DRT within 4 weeks from the date of receipt of copy of this order.
- ii. The interim order dated 31.12.2024 shall continue till the case is decided.
- iii. The auction purchaser shall also be made as a party to the proceedings.
- iv. As the interim order is operating, the DRT is requested to dispose of this matter within a period of 3 months from the date of receipt of copy of the order.
- v. If the petitioner fails to approach the DRT within a period of 4 weeks from the date of receipt of copy of the order, the bank is at liberty to confirm the auction.
- vi. Accordingly, the writ petition is ***disposed of***.
- vii. All I.As., in the writ petition shall stand closed.

**SD/-**  
**(LALITHA KANNEGANTI)**  
**JUDGE**