



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

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

WRIT PETITION NO. 32154 OF 2017 (GM-RES)

BETWEEN:

SMT C B KUNTHI
W/O LATE C M BOPAIAH
AGED ABOUT 64 YEARS
RESIDING AT NO 43, 208 SFS
OPP: MOTHER DIARY
YELAHANKA NEW TOWN
BENGALURU - 560 064

...PETITIONER

(BY SRI. K.S. BHEEMAIAH, ADVOCATE)

AND:

1. SMT SAVITHRAMMA
AGED ABOUT 53 YEARS
W/O RAMAKRISHNA REDDY
2. SRI RAMAKRISHNA REDDY
AGED ABOUT 66 YEARS
FATHERS NAME NOT KNOWN

BOTH ARE RESIDING AT NO.1
SHARADANAGAR
G.K.V.K. POST
BENGALURU - 560 065

3. THE BANGALORE CITY CO-OPERATIVE BANK LIMITED
NO.3, PAMPA MAHAKAVI ROAD,



CHAMRAJPET
BENGALURU - 560 018
REPTD BY ITS AUTHORISED OFFICER

4. THE BANGALORE CITY CO-OPERATIVE BANK LIMITED
SANJAY NAGAR BRANCH
BANGALORE - 560 001
REPTD BY ITS MANAGER

...RESPONDENTS

(BY SRI. G. SURESH, ADVOCATE FOR R3 AND R4)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE PUBLIC AUCTION WHICH IS GOING TO BE HELD ON 20.7.2017 BY THE R-3 & 4 WHICH IS AT ANNEXURE-H TO THIS W.P. PUBLIC AUCTION NOTICE PHAMPLET DTD 9.6.2017 ISSUED BY THE R-3 & 4 AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

Petitioner is before this Court being aggrieved by the public auction of the property bearing No.1636-B, EWS 3rd stage, Yelahanka New Town, Bangalore-560064 which was



sought to be conducted by respondent Nos.3 and 4 on 20.07.2017 in terms of Annexure-H.

2. The case of the petitioner is that, her husband had entered into an agreement of sale with respondent No.1 herein agreeing to purchase the aforesaid property for a sale consideration of ₹38,00,000/-. Since respondent No.1 failed to perform her part of the contract despite receipt of sum of ₹31,25,000/- towards the sale consideration and in the light of unfortunate demise of the husband of the petitioner, the petitioner was constrained to file a suit for Specific Performance in OS No.8406/2008 on 19.12.2008 before the City Civil Court(CCH 8), Bangalore. An interim order of injunction had been granted in favour of the petitioner restraining respondent No.1 from alienating the said property or creating any third party interest over the same, which was extended from time to time. Upon appearance of respondent No.1 and during the trial, the petitioner and respondent No.1 herein had entered into a compromise. A compromise application under Order XXIII Rule 3 read with Section 151 of CPC was also filed on 16.08.2016. In terms of which, respondent No.1 agreed to pay an aggregate sum of ₹60,00,000/- and paid ₹5,00,000/- by way of cash,



₹5,00,000/- by way of DD and issued post dated cheque for the remaining sum of the ₹50,00,000/- drawn on IDBI Bank, Yelahanka, Bangalore. The said compromise petition was accepted and the suit was decreed in terms of the said compromise. Non performance of the terms in the said compromise resulted in petitioner initiating execution proceedings in Ex.No.339/2017. Initially, an order of attachment of movable properties of respondent No.1 and later an order of attachment of immovable property of respondent No.1, to realise the decretal amount came to be passed on 18.02.2017. The order of attachment was duly executed. Respondent Nos.1 and 2 have preferred the writ petition against the order of attachment in WP No. 9552/2017. This Court on 07.03.2017 while granting interim order of stay had directed the respondents to deposit 50% of decretal amount before the Trial Court within a period of 4 weeks. Respondent Nos.1 and 2 failed to comply with the said direction. Things stood thus, petitioner learnt that on 15.07.2017 respondent Nos.3 and 4 being strangers had caused issuance of a public notice intending to auction the aforesaid property in a public auction to be held on 20.07.2017. Being aggrieved, the



petitioner approached this Court by filing the present petition. This Court by order dated 19.07.2017 while issuing emergent notice to the respondents had stayed auction confirmation till next date of hearing. However auction scheduled to held on 20.07.2017 was not stayed. In other words, public auction was permitted to be continued. However, the confirmation of the same was stayed. The said interim order was extended from time to time.

3. During the pendency of this writ petition, respondent No.2 is stated to have passed away. An application under Order XXII Rule 4(1) of CPC has been filed seeking to bring the legal representatives of deceased respondent No.2 on record. In facts, it is emanating from the records particularly in the affidavit accompanying application filed under Order XXII Rule 4(1) of CPC to bring the legal representatives of deceased respondent No.2. Learned counsel for the petitioner submits since respondent No.1 is the wife of respondent No.2, she may be treated as his legal representative for the purpose of this petition.

4. The said submission is taken on record. Accordingly, IA No.3/2018 is disposed of.



5. Perusal of affidavit annexed to the said application at paragraph No.4 indicate that respondent Nos.1 and 2 had created the mortgage much prior to parties entering into the compromise in the suit in OS No.8406/2008. Thus, it is alleged respondent Nos. 1 and 2 had perpetrated fraud on the petitioner inducing her to enter into compromise while they had already created a mortgage in favour of respondent No.3 and 4.

6. Heard and perused the records.

7. Facts narrated above and the submissions made pursuant thereof indicate that the petitioner and respondent No.1 are parties to a suit in OS No.8406/2008 which was filed by the petitioner for relief of specific performance, culminating in a compromise decree in terms of which Respondent No.1 has agreed and undertaken to pay ₹60,00,000/- to the petitioner of which a sum of his ₹10,00,000/- is stated to have been paid and remaining ₹50,00,000/- is yet to be paid. Non compliance of the terms of the compromise resulted in petitioner initiating the execution proceedings in Ex.No.339/2017, in which an order of attachment of movable and immovable property has been issued.



8. In the meanwhile, respondent Nos.3 and 4 which is a Bangalore City Co-operative Bank Ltd., claiming to have right over the subject property in terms of mortgage created by respondent Nos. 1 and 2 have sought to auction the property.

9. In the aforesaid complex facts situation matter, the petitioner will have to establish the allegation of fraud perpetrated by respondent Nos.1 and 2 while inducing her to enter into compromise in the suit which was filed by her for specific performance. The alleged mortgage created by respondent Nos.1 and 2 in favour of respondent Nos.3 and 4, apparently in disobedience to the interim order that was granted by the Trial Court in the said suit in OS No.8406/2008, which is yet another complex factual aspect of the matter.

10. Thus, the validity or otherwise the compromise and the prior charge purportedly created in favour of respondent Nos.3 and 4 needs to be adjudicated before a competent Court.

11. Even if the relief which as sought for in the present petition is to be considered, the right of the petitioner hinges upon the outcome of the aforesaid two aspects of the matter, which cannot be gone into in this writ petition. Whether the right created by respondent Nos.1 and 2 in favour of



respondent Nos.3 and 4 is subsequent to the interim order granted by the Trial Court in the said suit in OS No.8406/2008, and whether the compromise entered into between the petitioner and respondent Nos.1 and 2 was fraudulent also cannot be gone into the writ petition. Needless to state, the petitioner is required to seek redressal of the aforesaid grievance before the competent Court of Civil Jurisdiction.

12. Learned counsel for the petitioner at this juncture submit liberty be reserved to the petitioner to avail such remedy as may be permissible under law. He further submit the interim order granted by this Court be extended for a period of 3 months enabling the petitioner to seek such remedy before the competent Court of law.

13. Considering the factual aspect of the matter as narrated above, the said submission is accepted and placed on record.

Accordingly, the writ petition is ***disposed of;*** reserving liberty to the petitioner to avail such remedy as may be available and permissible under law in the light of the facts narrated above.



Interim order granted by this Court, staying confirmation of the public auction by respondent Nos.3 and 4 is extended for a period of 90 days from today.

In view of disposal of writ petition, pending IAs, if any, stands disposed of.

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

SPV
List No.: 1 Sl No.: 27