



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

WRIT PETITION NO.44612 OF 2017 (KLR-RES)

BETWEEN:

1. SRI. T. H. NARASARAJU
S/O HANUMANA BHOVI,
SINCE DECEASED REP. BY LRS.

1(a). SMT. D. PUSHPAVATHI
W/O LATE T.H. NARASARAJU
AGED ABOUT 56 YEARS
R/AT TUMBADI VILLAGE
KORATAGERE TALUK
TUMKUR DISTRICT - 572 129.

1(b). SRI. T.N. MADHU
S/O LATE H.T. NARASARAJU
AGED ABOUT 34 YEARS.
R/AT TUMBADI VILLAGE
KORATAGERE TALUK
TUMKUR DISTRICT - 572 129.

1(c). SMT. SARITHA T.N.
W/O K.T. MOHAN KUMAR
D/O LATE T.H. NARASARAJU
AGED ABOUT 36 YEARS
R/AT KUMARASWAMY
3RD 'A' CROSS
40 FEET ROAD,



SAPTHAGIRI LAYOUT SOUTH
TUMKUR.

1(d). SMT. MAMATHA T.N.
W/O VENKATESH
D/O LAE T.H. NARASARAJU
AGED ABOUT 32 YEARS
C/O FURTHER PASHA
NANDINI LAYOUT
TILES FACTORY
HINDUPUR ROAD
GOWRIBIDANUR
CHIKKABALLAPURA.

...PETITIONERS

(BY SRI. K.N. NITISH, ADVOCATE)

AND:

1. KARNATAKA STATE KHADI AND
VILLAGE INDUSTRIES BOARD,
NO.10,JASMA BHAVAN ROAD,
BANGALORE DIVISION,
BENGALURU -560052
BY ITS CHIEF EXECUTIVE OFFICER (A).
2. SPECIAL THASILDAR
KARNATAKA STATE KHADI AND
VILLAGE INDUSTRIES BOARD,
BANGALORE DIVISION,
BENGALURU -560 052.
3. THE ASSISTANT COMMISSIONER
MADHUGIRI SUB-DIVISION,
MADHUGIRI,
TUMKUR DISTRICT.



4. THE DEPUTY COMMISSIONER
TUMKUR DISTRICT
TUMKUR.
5. SRI. H.T. NATARAJA
S/O T.H. HANUMANTHARAYAPPA,
R/A TUMBADI VILLAGE,
KORATAGERE TALUK,
TUMKUR DISTRICT.

...RESPONDENTS

(BY SRI. SPOORTHY HEGDE N., HCGP FOR R3 AND R4;
SRI. SRIDHAR HEGDE, ADVOCATE FOR R1 AND R2;
SRI. VIJAYAKUMARA, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER PASSED BY THE RESPONDENT NO.3
DATED 03.07.2006 AT ANNEXURE-D, ORDER PASSED BY THE
RESPONDENT NO.4 DATED 25.02.2008 BEARING
NO.R.A.NO.25/2006-20 AT ANNEXURE-E AND THE ORDER
PASSED BY THE HON'BLE KARNATAKA APPELLATE TRIBUNAL
IN APPEAL NO.266/2008 DATED 21.7.2017 AT ANNEXURE-F;
AND ETC.



THIS WRIT PETITION HAVING BEEN RESERVED FOR
ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY,
E.S. INDIRESH J., MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

CAV ORDER

1. In this Writ Petition, petitioner has sought for quashing order dated 03.07.2006 (Annexure-D) passed by respondent No.3, order dated 25.02.2008 (Annexure-E) passed by respondent No.4 and order dated 21.07.2017 (Annexure-F) in Appeal No.266/2008 by the Karnataka Appellate Tribunal, Bengaluru,, inter alia, sought for direction to the respondents from interfering with the petitioner's schedule property.

2. The relevant facts for adjudication of this Writ Petition are that, the petitioner claims to be the Secretary of "Ravindra Khadi Gramodyoga Sangha" at Tumbadi Village, Koratagere Taluk, Tumakuru District. It is further stated that, the aforementioned Sangha availed loan of Rs.15,000/- from respondent No.1 and petitioner's house property bearing Khata No.57, described in the schedule to the Writ Petition



was given as security to the respondent No.1. It is further stated that, as there was no regular repayment made to the respondent No.1 by the above Sangha, and as such, respondent Nos.1 and 2 initiated proceedings for auctioning the property belonging to the petitioner. It is further stated that, without giving fair opportunity to the petitioner, auction of the schedule property was conducted as per Annexure-A to the Writ Petition. It is stated that, there were only three persons participated in the public auction, namely Director of the Sangha - T.H. Hanumantharayappa, his son T.H. Nataraja (respondent No.5) and another Sri. Hanumantharaju friend of T.H. Hanumantharayappa. In the said public auction, the respondent No.1 has declared the respondent No.5 as the highest bidder and the auction proceedings was concluded in favour of the respondent No.5, as per Annexure-D. It is also stated that, no notice was issued to the petitioner nor the auction proceedings was notified in the newspaper in a manner known to law and as such, being aggrieved by the same, petitioner has filed appeal before respondent No.4, which came to be dismissed on 25.02.2008 (Annexure-E). Thereafter, the petitioner has filed appeal before the



Karnataka Appellate Tribunal in Appeal No.266/2008 which came to be dismissed on 21.07.2017 (Annexure-F) and being aggrieved by the same, the petitioner has presented this Writ Petition.

3. It is noted that the petitioner - T.H. Narasaraju, S/o Hanumana Bhovi, having died during the pendency of this Writ Petition, his legal representatives have come on record and have contested the matter.

4. Heard Sri. K.N. Nitish, learned counsel for the petitioners, Sri. Sridhara Hegde, learned counsel for respondent Nos.1 and 2, Sri. Spoorthy Hedge N., learned High Court Government Pleader for the respondent Nos.3 and 4 and Sri. Vijaya Kumara, learned counsel for respondent No.5.

5. Sri. K.N. Nitish, learned counsel appearing for the petitioners argued that, the respondent No.4 and the Karnataka Appellate Tribunal at Bengaluru failed to consider the fact that, auction notice was not duly notified in the newspaper and the provisions under Section 22A of the Karnataka Khadi and Village Industries Act, 1956 (hereinafter



referred to as 'the Act, 1956'), read with Sections 176 and 177 of the Karnataka Land Revenue Act, 1964 (hereinafter referred to as 'the KLR Act'), were not followed by the respondent - authorities and that apart, Rule 124 of the Karnataka Land Revenue Rules, 1966 (hereinafter referred to as 'the KLR Rules'), provides for the procedure to be followed by the Deputy Commissioner as to conduct public auction of the property in question and therefore, sought for interference of this Court. It is the principal contention of the learned counsel for the petitioners that, Rule 124(1)(c) of the Rules provides for publication of the notice in the vernacular newspaper having wide circulation in the locality and in the absence of the said statutory requirement, the entire auction proceedings vitiates and therefore, sought for interference of this Court.

6. Sri. K.N.Nitish, learned counsel appearing for the petitioners, refers to the confirmation of sale by the Assistant Commissioner, Madhugiri, at Annexure-D and submits that same runs counter to the provisions of the KLR Act which provides that the confirmation of sale has to be made by the



Deputy Commissioner alone as per Section 176 and 177 of the KLR Act and not the Assistant Commissioner, as done in the present case and therefore, sought for interference of this Court.

7. Sri. K.N. Nitish, learned counsel appearing for the petitioners, submitted that, the newspaper publication said to have been taken in 'Prajya Pragati' daily newspaper on 16.01.2006, however, the said newspaper had no wide circulation in the locality and further, the date of auction was taken as 18.01.2006 within two days from the publication of notice which is not an adequate advertisement to the public to participate in the auction and therefore, places reliance on the Judgment of the Hon'ble Supreme Court in the case of **STATE OF MADHYA PRADESH AND ANOTHER Vs. SHRI RAM RAGUBIR PRASAD AGARWAL AND OTHERS** reported in **(1979) 4 SCC 686** and in the case of **ICICI BANK AND ANOTHER Vs. MUNICIPAL CORPN. OF GREATER BOMBAY AND OTHERS** reported in **(2005) 6 SCC 404**.

8. Per contra, Sri. Vijaya Kumara, learned counsel for the respondent No.5, submitted that the sale confirmation has



been made long ago and respondent No.5 is in possession of the property in question and accordingly, sought for dismissal of the Writ Petition. Learned counsel for the respondent No.5 has filed memo along with the Praja Pragati daily newspaper dated 16.01.2006 and stated that due publication has been made as to the public auction and accordingly, sought for dismissal of the Writ Petition.

9. Sri. Spoorthy Hegde N., learned High Court Government Pleader sought for dismissal of the Writ Petition.

10. In the light of the submissions made by the learned counsel appearing for the parties, on careful consideration of the writ papers would indicate that, it is not in dispute that the schedule property belonging to the petitioners was mortgaged as a collateral security as to the loan availed by the Ravindra Khadi Gramodyoga Sangha at Tumbadi Village from respondent No.1. It is also to be noted that, as there was irregularity in the repayment of the loan and as such, the petitioner's schedule property was brought into public auction and auction notice is produced at Annexure-A. It is to be noted that, as the respondent No.1 is an instrumentality of



the State, comes within the purview of the Act, 1956. Section 22A of the said Act reads as under:

22A. Recovery of moneys due to the Board as arrears of land revenue.-

(1) Where any sum of rupees one lakh and above is payable to the Board under any agreement, express or implied or otherwise, however, by any person, is not paid on or before the due date and remaining in arrears after fifteen days from the date of service of a notice of demand on such person by the Chief Executive Officer or any other officer authorised by the Board in that behalf, may be recovered in any one or more of the following ways namely:-

(a) as an arrear of land revenue, on the written application of Chief Executive Officer or any officer authorised by the Board in this behalf certifying under his hand indicating the sum due to the Board to the Deputy Commissioner of any district in which proceedings are required to be taken.

(b) by distraint and sale of the movable and immovable property of such person by any Officer authorised under the Karnataka Land Revenue Act 1964 and rules made thereunder.

(emphasis supplied)



11. It is also relevant to extract Sections 176 and 177 of the KLR Act, which read as under:

"176. Setting aside sale.—

(1) Where immovable property has been sold under this Chapter, the defaulter, or any person owning such property or holding an interest therein, may at any time within ninety days of the date of sale apply in the prescribed manner to the Deputy Commissioner to have the sale set aside,—

(a) on the ground of some material irregularity or mistake or fraud resulting in loss or injury to him, or

(b) on his depositing in the Deputy Commissioner's office the amount of the arrear specified in the proclamation of sale, the cost of the sale and for payment to the purchaser, a sum equal to five per centum of the purchase money.

(2) On an application made under clause (a) of sub-section (1), the Deputy Commissioner shall, if he is satisfied after a summary enquiry that there has been some material irregularity, mistake or fraud in publishing or conducting the sale, set aside the sale and direct a fresh sale:

Provided that no sale shall be set aside on the ground of any irregularity or mistake, unless it is



proved that the applicant has sustained loss or injury as a result of such irregularity or mistake.

(3) On an application with the required deposit being made under clause (b) of subsection (1) within the period specified therein, the Deputy Commissioner shall make an order setting aside the sale:

Provided that if more persons than one have made deposits and applied under this section, the application of the first depositor or in case all the depositors agree to the application of any other depositor being accepted, the application of such depositor, shall be accepted.

177. Confirmation of sale.—If, on the expiration of ninety days from the date of sale of any immovable property, no application has been made for setting aside the sale or if any such application has been made and rejected, the Deputy Commissioner shall make an order confirming the sale:

Provided that for reasons to be recorded, the Deputy Commissioner may set aside the sale subject to such conditions as he may deem proper, notwithstanding that no application therefor has been made, or on grounds other than those alleged in any application which has been made and rejected."



12. Perusal of the aforementioned provisions makes it clear that any sale of property by public auction under Section 169 of the KLR Act, Deputy Commissioner alone is having jurisdiction to setting aside sale under Section 176 of the KLR Act, so also, to pass order of confirmation of sale under Section 177 of the KLR Act. In the present case, perusal of the Annexure-D dated 03.07.2006 would indicate that the order of confirmation of sale is made by the Assistant Commissioner, Madhugiri and therefore, the entire proceedings is required to be set aside on the sole ground that the order of confirmation of sale is made by an authority which has no authority under law and therefore, contrary to Sections 176 and 177 of the KLR Act.

13. It is also pertinent to mention here that, Rule 124 of the KLR Rules provides for the procedure to be followed as to conducting sale by the respondent authorities. Rule 124(1)(c) stipulates that, if the arrears to be recovered in an auction sale exceeds Rs.5,000/-, the public notice of sale shall be published in a vernacular newspaper having wide circulation in



the locality. Perusal of the Writ Petition would indicate that, procedure adopted by the respondent - authorities is contrary to the spirit of Rule 124 of the KLR Rules and therefore, on this ground also, the impugned order dated 25.02.2008 (Annexure-E) passed by the respondent No.4 and the order dated 21.07.2017 in Appeal No.266/2008 on the file of the Karnataka Appellate Tribunal, Bengaluru, requires to be set aside.

14. On careful consideration of the finding recorded by both the authorities, wherein finding is recorded that the petitioner has not deposited the amount as per Section 176(1)(b) of the KLR Act, which cannot be accepted in terms of the observation made above. On careful examination of the aforementioned provision provides for setting aside of the sale on account of the non deposit of the amount by the bidder, as the public auction notice has been issued without following Rule 124(1)(c) of the KLR Rules and order of confirmation of sale at Annexure-D has been passed by the respondent No.3, in contravention of Sections 176 and 177 of the KLR Act read



with Section 22A of the Act, 1956 and as such, the entire proceedings requires to be set aside.

15. It is pertinent to mention here that, the date of public auction was on 18.01.2006, however, the newspaper publication was made on 16.01.2006 in 'Praja Pragati' daily newspaper and perusal of the said aspect would indicate that sufficient time was not provided to the public to participate in the public auction and the said publication cannot be taken as a meaningful publication as to wide public auction. It is well settled principle that publication should serve as a purpose of persuading the public to respond and therefore, in the present case, the publication cannot be considered as a valid publication in law and therefore, the said publication is contrary to the Judgment of the Hon'ble Supreme Court in the cases of **SHRI RAM RAGUBIR PRASAD AGARWAL** (supra) and **ICICI BANK** (supra), and therefore, I pass the following:

ORDER

- (i) The Writ Petition is allowed.



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(ii) The order dated 03.07.2006 (Annexure-D) passed by respondent No.3, order dated 25.02.2008 (Annexure-E) passed by respondent No.4 and order dated 21.07.2017 (Annexure-F) in Appeal No.266/2008 by the Karnataka Appellate Tribunal, Bengaluru, are hereby set aside.

SD/-
(E.S.INDIRESH)
JUDGE

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List No.: 1 Sl No.: 64