



CNR: KAHC010125022022

NC: 2026:KHC:51853
WP No. 6108 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 6108 OF 2022 (GM-DRT)

BETWEEN:

M/S. BONUM CIBUM
(A PARTNERSHIP FIRM SET UP UNDER
THE PARTNERSHIP ACT)
REP. BY NARASIMHAN P, PARTNER
FLAT NO.003, BLDG. 10,
SHANTHI PARK APARTMENTS,
NO.44/4, DISTRICT FUND ROAD
JAYANAGAR 9TH BLOCK,
BENGALURU - 560 069.

...PETITIONER

(BY SRI. KIRAN B.S, ADVOCATE)

AND:

1. MR. C. RAGHAVENDRA
AGED ABOUT 55 YEARS
PROPRIETOR, SRI GANESH BHAVAN,
S/O SRI. C. GANESH
R/A NO.646 (10), TP KAILASAM ROAD,
6TH MAIN, 7TH CROSS
HANUMANTHANAGAR
BENGALURU - 560 019.
2. THE NATIONAL CO-OPERATIVE BANK LTD.,
REP. BY ITS MANAGING DIRECTOR,
NO. 73/1, GROUND FLOOR,

Digitally signed
by
ANNAPURNA
G
Location: High
Court of
Karnataka



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GANDHI BAZAAR MAIN ROAD,
BENGALURU - 560 004.

3. THE AUTHORISED OFFICER
THE NATIONAL CO-OPERATIVE BANK LTD.,
NO. 73/1, GROUND FLOOR
GANDHI BAZAAR MAIN ROAD
BENGALURU - 560 004.

4. THE SUB REGISTRAR
WHWC+2V6, 1ST FLOOR
OPPOSITE TO ROTI GHAR
GANDHI BAZAAR MAIN ROAD,
GANDHI BAZAAR,
BASAVANAGUDI, BENGALURU - 560 004,
REPRESENTED BY ITS SUB REGISTRAR.

...RESPONDENTS

(BY SRI. MAHANTESH SHETTAR, AGA FOR R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO-DECLARE THAT
THE PETITIONER-DECREE HOLDER IS ENTITLED TO THE
ATTACHMENT OF MONIES FROM THE PROCEEDS OF ANY
AUCTION-SALE BY R2 AND 3 AS PER ANNEXURE-A TOWARDS
THE DECREE AMOUNT IN ACCORDANCE WITH ANNEX-B AND
ETC.,

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

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM



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ORAL ORDER

Captioned petition is filed seeking following reliefs:

"WHEREFORE, for the above reasons and grounds, and on such other reason(s), ground(s) as may be urged and advanced at the time of Final Hearing, this Hon'ble Court may be pleased to issue a Writ of Prohibition, Quo Warranto or any other appropriate Writ, order or direction:

A) DECLARING that the Petitioner-Decree Holder is entitled to the attachment of monies from the proceeds of any auction-sale by Respondent No.2 & 3 as per Annexure-A towards the decree amount; in accordance with Annexure-B.

B) DIRECTING the jurisdictional Sub-Registrar i.e., Respondent No.4 to register an encumbrance against the said property in favour of the Petitioner till the disposal of this petition.

C) RESTRAINING the Respondent No.2-Bank & Respondent No.3-Officer from issuing the Certificate of Sale to any successful bidder till the adjudication of this petition.

D) GRANTING all other reliefs as this Hon'ble Court may deem fit, proper and necessary under the facts and circumstances of the case."

2. The petitioner, placing reliance on the agreement executed by respondent No.1 in respect of transfer of the project, is before this Court seeking the aforesaid reliefs,



including a writ of prohibition and quo warranto. However, the material on record discloses that respondent No.1-borrower had already mortgaged the subject properties in favour of respondent No.2-Bank by deposit of title deeds on 07.12.2012. Respondent No.1 has also executed a registered memorandum of mortgage of title deeds in favour of respondent No.2-Bank. In view of the subsisting mortgage created in favour of respondent No.2-Bank, the petitioner, merely on the strength of the alleged transfer of the project in its favour, cannot seek to assert any right in derogation of the secured interest of respondent No.2-Bank.

3. If the petitioner has obtained any order or decree from a competent Court recognising its claim against respondent No.1 and such claim is made subject to satisfaction of the dues of respondent No.2-Bank, it is open for the petitioner to work out its remedies in accordance with law. The present writ petition was



instituted in the year 2022 and admittedly no interim order has been granted by this Court. The petitioner has also not placed before this Court any subsequent development with regard to the recovery proceedings initiated by respondent No.2-Bank or the status thereof. In the absence of such material, this Court cannot issue any direction which would have the effect of interfering with the secured interest of respondent No.2-Bank.

4. The petitioner, however, is reserved liberty to assert its claim in accordance with law, if, upon conclusion of the recovery proceedings, respondent No.2-Bank has recovered the entire amount legally due and any surplus remains thereafter. In such an eventuality, it is open for the petitioner to approach respondent No.2-Bank and work out its remedies in accordance with law. The measures initiated by respondent No.2-Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,



2002 cannot, in the facts and circumstances of the present case, be interdicted or questioned by seeking a writ under Article 226 of the Constitution of India, particularly when the petitioner has an efficacious remedy available under the statutory framework.

5. Likewise, no direction can be issued to the jurisdictional Sub-Registrar to register an encumbrance over the subject properties in favour of the petitioner. The records disclose that respondent No.2-Bank had already obtained a registered mortgage over the subject assets and its secured interest has precedence over the subsequent claim asserted by the petitioner. The petitioner, therefore, cannot seek registration of an encumbrance so as to prejudice or defeat the subsisting security interest of respondent No.2-Bank.

6. Accordingly, the writ petition stands dismissed. Liberty is reserved to the petitioner to work out its remedies in accordance with law in the event any surplus



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remains after full satisfaction of the dues legally
recoverable by respondent No.2-Bank.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

HDK
List No.: 1 Sl No.: 2