



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1274 OF 2026 (GM-DRT)

BETWEEN:

1. THE SVC CO-OPRATIVE BANK LTD
HAVING ITS REGIONAL OFFICE AT
NO.27, 1ST FLOOR
MOUNT JOY ROAD, HANUMANTH NAGAR
BENGALURU - 560 019
BY ITS DGM AND AUTHORISED OFFICER
MR. SARATHY SOMIAH

...APPELLANT

(BY SRI SUPREETH, ADVOCATE)

AND:

1. SMT. M.R. SHUBHA
W/O C RAMESH
AGED ABOUT 51 YEARS
R/AT NO 37
BRINDAVANA 2ND CROSS
RBI COLONY, JAYANAGAR
3RD BLOCK, EAST
BENGALURU

...RESPONDENT

(BY MS. ANUPARNA BORDOLOI, ADVOCATE)

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Location: High
Court of
Karnataka



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 04/03/2026 PASSED BY THE LEARNED SINGLE JUDGE IN W.P. NO.7845/2021 CONSEQUENTLY DISMISS THE WRIT PETITION & ETC.

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

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal impugning an order dated 04.03.2026 passed by the learned Single Judge in W.P.No.7845/2021 (GM-DRT). The respondent had filed the said petition, being aggrieved by an order dated 16.12.2020 passed by the learned Debt Recovery Tribunal-I, Bangalore [**DRT**] in IA.No.2284/2020 dated 14.12.2020 in O.A.No.1804/2018.

2. The appellant [hereafter, **the SVC Bank**] filed the said OA [OA.No.1804/2018], *inter alia*, seeking recovery of an amount of ₹41,59,87,237.63 together with interest, from the borrowers as well as the husband of the respondent (Sri. C. Ramesh). The SVC Bank



claimed that Sri. C. Ramesh was the guarantor who had guaranteed the borrowers' repayment obligations. During the course of the proceedings, the SVC Bank filed an application dated 14.12.2020 (IA.No.2284/2020) styled as an application under Section 19(25) of the Recovery of Debts and Bankruptcy Act, 1993 [**RDB Act**] seeking attachment of the immovable property described as an house property bearing No.37, BBMP, PID No.62-71-37, comprising of a residential house with ground, first and second floors, 2nd Cross, RBI Colony, Jayanagar III Block East, Ward 153, (Old Ward 62), Bengaluru [**the subject property**].

3. There is no dispute that the subject property was purchased by the respondent and her husband, Sri. C. Ramesh in the year 2005. The respondent claims that both contributed equally to the purchase of the property in question. Subsequently, on 13.07.2017, the respondent's husband executed a gift deed, gifting his share of the subject property to the respondent. Thus, there is no dispute that the respondent became the registered owner of the entire property from 13.07.2017. Subsequently, the respondent had also



entered into an agreement to further sell the subject property to a third party.

4. It is stated that SVC Bank had sanctioned financial assistance to Unitex Apparels Private Limited (borrower) and Sri. C. Ramesh had issued a letter of guarantee dated 09.11.2015 guaranteeing the repayment of the loan.

5. The loan account's status was regular till 05.11.2018, but on that date it was classified as an NPA.

6. Thereafter, SVC Bank issued a notice dated 07.11.2018 under Section 13(2) of the Securities and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 [**SARFAESI Act**]. This was followed by SVC Bank filing an original application (OA No. 1804/2018) before the DRT for the recovery of the debt. Admittedly, the respondent is not a party to the said proceedings. The SVC Bank does not claim that the respondent is liable to pay any amount to the bank; she is neither a borrower nor a guarantor of any financial assistance extended by the SVC Bank. Notwithstanding the above, the SVC Bank has filed an application seeking attachment of the property before judgment, alleging that



Sri. C. Ramesh was likely to dispose of the subject property, with the intention of obstructing or delaying execution and frustrating the decree that may be passed against him. It is also alleged that he had entered into an agreement for the sale of the subject property.

7. We find that there was no challenge to the gift deed. No relief is sought to set aside the gift deed, or to declare the same a fraudulent transfer. Further, no other proceedings have been instituted by the SVC Bank claiming that the gift deed is fraudulent or seeking to set it aside. The SVC Bank had filed an application although styled as an application under Section 19(25) of the RDB Act, is an application in the nature of Order XXXVIII, Rule 5, of the Code of Civil Procedure seeking attachment before judgment. The same was allowed.

8. The respondent's writ petition challenging the learned DRT's order was allowed, and the order attaching the subject property was set aside.

9. Before proceeding further, it is relevant to refer to the order dated 16.12.2020, passed ex parte by the learned DRT. It



proceeds on the basis that Sri. C. Ramesh is the absolute owner of one-half share of the subject property. This is premised on the basis that the respondent had no independent source of income and had not inherited any immovable assets.

10. The learned counsel appearing for the appellant has advanced submissions on two fronts. First, he submitted that the learned DRT was well within its jurisdiction to pass an interim order in exercise of the powers conferred under Sections 19(13)(A) and 19(13)(B) of the RDB Act. Second, he submitted that in any event, the writ petition ought not to have been entertained on account of an alternate remedy of an appeal under Section 20 of the RDB Act.

11. He also referred to the decision of the Supreme Court in **PHR Invent Educational Society Vs. UCO Bank and others : 2024 INSC 297** in support of his contentions.

12. It is relevant to refer to Sub-section (13) of Section 19 of the RDB Act, which was relied upon by the learned counsel for the appellant. The same is relevant and is reproduced below.

"19. Application to the Tribunal.-



(xxxxxx)

(13) (A) Where, at any stage of the proceedings, the Tribunal on an application made by the applicant along with particulars of property to be attached and estimated value thereof, or otherwise is satisfied that the defendant, with intent to obstruct or delay or frustrate the execution of any order for the recovery of debt that may be passed against him,-

(i) is about to dispose of the whole or any part of his property; or

(ii) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Tribunal; or

(iii) is likely to cause any damage or mischief to the property or affect its value by misuse or creating third party interest,

the Tribunal may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the certificate for the recovery of debt, or to appear and show cause why he should not furnish security.

(B) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Tribunal, the Tribunal may order the attachment of the whole or such portion of the properties claimed by the applicant as the properties secured in his favour otherwise owned by the defendant as appears sufficient to satisfy any certificate for the recovery of debt."



13. A plain reading of Sub-section (13) of Section 19 of the RDB Act indicates that it is wholly inapplicable in the facts of the present case. The respondent is the registered owner of the subject property, and not her husband. Absent any challenge to the gift deed dated 13.07.2017, there could be no assumption that the subject property belonged to the respondent's husband (arrayed as defendant no.4 in the OS). Thus, the allegations that he would dispose of his property or remove a part of his property from the local limits of the jurisdiction of the DRT or was likely to damage the property could not be sustained in reference to the subject property. Clause B of Sub-section 13 of Section 19 is also inapplicable as it contemplates an attachment order in respect of properties claimed by the applicant (bank) as property secured in its favour or otherwise owned by the defendant. Admittedly, the subject property is not mortgaged to the SVC Bank.

14. The contention that this court should refrain from entertaining writ petitions arising from orders passed under the RDB Act and SARFAESI Act is merited. It is now well settled that in cases where an equally efficacious alternative remedy is available, especially in matters relating to/arising from recovery of public dues, the court



should refrain from entertaining petitions under Article 226 of the Constitution of India. The legislation enacted by Parliament and the State Legislature for the recovery of dues is a complete code in itself. Having stated the same, we may also note that the said rule is a rule of self-restraint. The Court would, notwithstanding that it has jurisdiction to entertain the petition under Article 226 of the Constitution of India, refrain from doing so on certain settled principles.

15. In **PHR Invent Educational Society** (Supra), the Supreme Court noted that the courts have found certain exceptions where a petition under Article 226 of the Constitution of India may be entertained in spite of the availability of an alternate remedy. Paragraph 29 of the said decision referred to by the learned counsel is relevant and is set out below:

"29. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;



- (ii) it has acted in defiance of the fundamental principles of judicial procedure;
- (iii) It has resorted to invoke the provisions which are repealed; and
- (iv) when an order has been passed in total violation of the principles of natural justice."

16. The facts presented in this case may constitute an exceptional circumstance requiring the court to exercise its jurisdiction under Article 226 of the Constitution of India. The respondent was not a party to the Original Application, OA No. 1804/2018, filed by the SVC Bank. She was provided no opportunity to be heard. Cases involving violations of the principles of natural justice are well accepted as an exception to the rule of not entertaining writ petitions on the ground of alternate remedy.

17. However, we do not consider it apposite to set aside the impugned order on the ground of the existence of an alternate remedy for two reasons. First, that the learned Single Judge has already exercised the jurisdiction, and we find no fault with the said decision. And second, that the learned DRT's order was passed in a proceeding where the respondent was not a party and had no opportunity to be heard.



18. It also appears that the argument regarding an equally efficacious alternate remedy is advanced before the learned Single Judge, as it finds no mention in the impugned order.

19. In view of the above, the appeal is dismissed.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

SD
List No.: 2 Sl No.: 42