

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

MISCELLANEOUS FIRST APPEAL NO.4227 OF 2017 (RES)

BETWEEN:

TALAVANE KRISHNA
AGED 68 YEARS
S/O T. THIMMAPPAIAH
INDUS VALLEY AYURVEDIC CENTRE
TALAVANE FARM, LALITADRIPURA
MYSURU-570 010

...APPELLANT

(BY SMT. ANURADHA S.R., SENIOR COUNSEL A/W
SMT. SABAHATH SULTANA, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
BY COMPETENT AUTHORITY
HOUSE RENT CONTROLLER, SOUTH RANGE
BENGALURU NORTH SUB-DIVISION
BENGALURU
- 2 . INVESTECH BUILDERS & DEVELOPERS PVT. LTD.,
No.377, 1ST FLOOR, 7TH CROSS
2ND MAIN, NEAR HOTEL SHANTHISAGAR
(AIRPORT ROAD), DOMLUR LAYOUT
BENGALURU-560 071

Digitally
signed by
RAKSHA
Location:
High Court of
Karnataka



- 3 . SHRI. N. SURESH KRISHNAMURTHY
MAJOR IN AGE
S/O LATE N.S. KRISHNAMURTHY
"SAMRUDDHI", VISHVESWARAIAH ROAD
VIDYANAGAR, HASSAN
- 4 . SMT. VEENA SURESH
MAJOR IN AGE
W/O SHRI. SURESH KRISHNAMURTHY
"SAMRUDDHI", VISHVESWARAIAH ROAD
VIDYANAGAR, HASSAN
- 5 . SHRI. S. ASHWIN KUMAR
AGED MAJOR
S/O N. SURESH KRISHNAMURTHY
No.377, 1ST FLOOR, 7TH CROSS
2ND MAIN, NEAR HOTEL SHANTHISAGAR
(AIRPORT ROAD), DOMLUR LAYOUT
BENGALURU-560 071
- 6 . SHRI. B.S. MALLIKARJUN
AGED 59 YEARS
S/O SHRI. B.S. SIDDANNAIAH
COFFEE PLANTER
R/O. OLD B.M. ROAD
BALLUPET, SAKALESHPUR TALUK
HASSAN DISTRICT

...RESPONDENTS

(BY SRI. VEERESH R. BUDIHAL, ADVOCATE FOR R1;
SRI. YESHU MISHRA, ADVOCATE FOR R2;
SRI. S.S. SRINIVASA RAO, ADVOCATE FOR R3 TO R5;
SRI. MOHANDAS RAO, ADVOCATE FOR R6)

THIS MFA IS FILED U/S 16 OF THE KARNATAKA
PROTECTION OF INTEREST OF DEPOSITORS IN FINANCIAL
ESTABLISHMENTS ACT, 2004, AGAINST THE ORDER DATED
24.04.2017 PASSED IN MISC. PETITION No.721/2009 ON THE

FILE OF THE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, PARTLY ALLOWING THE PETITION FILED U/S 5(2) OF THE KARNATAKA PROTECTION OF INTEREST OF DEPOSITORS IN FINANCIAL ESTABLISHMENTS ACT.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.08.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This Miscellaneous First Appeal is filed challenging the Order dated 24.04.2017 passed by the Principal City Civil and Sessions Judge at Bengaluru in Misc. No.721/2009.

2. We have heard Smt. Anuradha, learned senior counsel along with Smt. Sabahath Sultana, learned counsel appearing for the appellant, Shri. Veeresh R. Budihal, learned counsel appearing for respondent No.1, Shri Yesu Mishra, learned counsel appearing for respondent No.2, Shri. S.S. Srinivasa Rao, learned counsel appearing for respondents No.3 to 5 and Shri. Mohandas Rao, learned counsel appearing for respondent No.6.

3. The learned Senior counsel appearing for the appellants submits that the appellant is a medical doctor, residing in the United States of America. On his return to India, he intended to establish an Ayurvedic Wellness Centre and to set up a residential house at Bangalore. Respondent No.2 is a company registered under the provisions of the Companies Act, 2013 and respondent No.3 was one of its Directors. It is submitted that respondent No.3 approached the appellant with a proposal that his concern would provide an attractive return on investment. Acting on the said representation, the appellant invested a sum of Rs.7,77,86,527/- with the respondent No.2 - Company, on the understanding that the amount would be released immediately whenever he required it for the purchase of property.

4. It is further submitted that in January 2005, the appellant informed respondent No.3 that he intended to purchase a residential property in Bangalore, and requested respondent No.3 to identify a suitable property and to make available the amounts already invested. Respondent No.3

informed the appellant that he, along with respondents No.4 and 5, jointly owned property bearing No.1083, situated at 12th Main, 5th Cross, HAL II Stage, Indiranagar Extension, Bangalore, measuring 15.25 metres by 14.9 metres east to west and 24.40 metres north to south, and that they were willing to sell the same, subject to the condition that the construction of the building thereon would be entrusted to respondent No.3.

5. Thereafter, an Agreement of Sale came to be executed between the parties on 12.02.2005 for a total sale consideration of Rs.2,10,00,000/-. It was agreed that a sum of Rs.1,71,31,000/- out of the amount invested by the appellant would be adjusted against the sale consideration. In addition, the appellant paid a sum of Rs.77,75,000/- towards the cost of construction of the building. It is contended that the balance sale consideration had been paid thereafter.

6. The construction of the building commenced pursuant to the agreement. It is submitted that construction was stopped by the end of the year 2005. The appellant

addressed communications and made enquiries with respondent No.3 who informed him that certain creditors had forcibly taken away the title deeds of the property, and that the sale deed would be executed once the issue was resolved. Consequently, the appellant instituted O.S. No.1777/2006 on the file of the City Civil Court, Bangalore, seeking specific performance of the Agreement of Sale, and obtained an interim order of injunction on 01.03.2006. The said suit came to be decreed for specific performance on 11.06.2012, and the said decree is stated to be under challenge in a Miscellaneous Petition before this Court, which is pending consideration.

7. In the meanwhile, the State Government issued Notification No.FD 44 TAR 2006 under Section 5(1) of the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 ("KPIDFE Act" for short) and appointed the Competent Authority. The State Government issued a notification of attachment dated 16.09.2009 under Section 3(2) of the KPIDFE Act. The property in question, being Item No. 4 of Schedule 2 to the said Notification, was

included in the properties attached. Thereafter, the Competent Authority filed Miscellaneous Petition No.721/2009 before the Special Court praying that the order of attachment passed by the Government dated 16.09.2009 be made absolute. The appellant was arrayed as respondent No.8 in the said proceedings, and filed his statement of objections, asserting that the Agreement of Sale in his favour was executed on 12.02.2005, long before the date of attachment, that the entire sale consideration had been paid, and that substantial amounts had also been paid towards construction of the building.

8. The Special Court by the impugned order dated 24.04.2017, confirmed the order of attachment as absolute in respect of the subject property. The Special Court held that the appellant had entered into the Agreement of Sale individually with respondent No.3 at a point when the property was already attached, that the appellant being aware of the attachment, could not have entered into the Agreement of Sale. It was further held that the appellant was in the nature of an investor who was required to stand

in queue with the other depositors in the matter of recovery of his money. Aggrieved by the said order insofar as it relates to the property in question, the appellant is before this Court in the present Miscellaneous First Appeal.

9. The learned counsel appearing for the appellant contends that the notification of attachment dated 16.09.2009 issued under Section 3(2) of the KPIDFE Act does not disclose any reason recorded by the Government while passing the ad-interim order of attachment, as is mandated by the said provision. It is also contended that the Government is required to record reasons as to how the property in question was acquired by the Financial Establishment out of the deposits of the investors and as to how the impugned attachment amounts to a case of deprivation of the rights of the depositors. On this ground alone, the ad-interim attachment could not have been made absolute.

10. It is further contended that under Section 5(2) of the KPIDFE Act, the Competent Authority is required to apply to the Special Court for further orders of attachment

to be made absolute within thirty days from the receipt of the order of attachment. In the instant case, though the petition came to be filed on 20.10.2009, the same was not accompanied by an affidavit stating the ground on which the order under Section 3 of the KPIDFE Act was made, and the amount of money or other property believed to have been acquired out of the deposits, and no details as required under Section 5(3) of the KPIDFE Act were furnished. The supporting affidavit, containing certain particulars, is stated to have been filed only on 04.03.2010, which is much beyond the period of thirty days prescribed under the KPIDFE Act.

11. On the merits of the case, it is contended that the primary ground on which the Special Court has confirmed the attachment absolute, namely, that the appellant had entered into the Agreement of Sale after the property was attached by the Government and with knowledge of such attachment, is contrary to the record. It is further contended that the Agreement of Sale between the appellant and respondents No.3 to 5 was entered into on 12.02.2005, that

a sum of Rs.1,71,30,000/- was adjusted against the amount already invested by the appellant with the concern, that the balance sale consideration was paid on different dates during the year 2005, and that a sum of Rs.77,75,000/- was paid towards the cost of construction during February and March 2005 by cheque, in respect of which an endorsement was duly made in the Agreement of Sale. The suit for specific performance in O.S.No.1777/2006 was filed on 01.03.2006. The Competent Authority under the KPIDFE Act came to be appointed only on 17.05.2006, and the ad-interim order of attachment under Section 3(2) under the KPIDFE came to be passed only on 16.09.2009, that is, long after the entire consideration had been paid by the appellant and long after the institution of the suit for specific performance.

12. It is further contended that the property in question is the individual property of respondents No.3 to 5 and not the property of the Company, that the sale consideration was accepted by respondents No.3 to 5 in their individual capacity. It is further contended that the

appellant had not disclosed the attachment in the suit for specific performance and that the decree could not therefore be taken note of. It is submitted that the suit was instituted in the year 2006 and came to be decreed on 11.06.2012, and that the settled position of law is that a transaction is affected by an attachment only if the attachment took place before the transaction, which is not the case here. It is further contended that the observation of the Special Court that the appellant ought to have issued a paper publication informing the public of his intention to purchase the property, and that his failure to do so justifies confirmation of the attachment, is also challenged on the ground that there is no requirement in law to issue such a publication, and that in any event, on the date of the Agreement of Sale, no proceedings under the KPIDFE Act were in existence.

13. The learned counsel appearing for the appellant places reliance on the following judgments:-

- ***Vannarakkal Kallalathil Sreedharan v. Chandramaath Balakrishnan and Another*** reported in **(1990) 3 SCC 291.**

- ***Paparaju Veeraraghavayya v. Killaru Kamala Devi*** reported in **1935 Mad 193;**
- ***Seema Garg and Others v. Deputy Director, Directorate of Enforcement*** reported in **2020 SCC OnLine P&H 738;**
- ***Barium Chemicals Ltd. and Another v. Company Law Board and Others*** reported in **1966 SCC OnLine SC 53;**
- ***Alka Shrirang Chavan and Another v. Hemachandra Rajaram Bhonsale and Others*** reported in **2026 SCC OnLine SC 55;**
- ***Jayaram Mudalair v. Ayyawami and Others*** reported in **AIR 1973 SC 569;**
- ***S.N. Mukherjee v. Union of India*** reported in **(1990) 4 SCC 594;**
- ***Sidamsetty Infra Projects Pvt. Ltd. v. Katta Sujatha Reddy and Others*** reported in **2024 SCC OnLine SC 3609;**
- ***Seethalakshmi K.S v. The Assistant Commissioner Office of the Special Officer and Competent Authority***
Order dated **17.03.2026** passed in **W.P.No.21521/2025.**

14. The learned counsel appearing for respondent No.1- Competent Authority contended that the Government in exercise of the powers conferred by Section 3(2) of the Act, issued Notification No.RD/52/AQB/2009(II) dated 16.09.2009, thereby attaching, on an ad-interim basis, eight immovable properties. It is further contended that the Competent Authority received the said attachment order on 22.09.2009, that the notification came to be duly published in the Karnataka Gazette on 08.10.2009, that a copy thereof was affixed on the conspicuous places of the attached properties on 16.10.2009 and mahazars drawn to that effect and public notices under Section 7(2) of the KPIDFE Act were issued on 20.10.2009. It is also contended that the said public notices came to be published in the Kannada daily "Vijaya Karnataka" and the English daily "Times of India", as also in "Indian Express" and "Udayavani" dated 22.10.2009.

15. On the question of limitation, it is contended that under Section 5(2) of the KPIDFE Act, the Competent Authority is required to apply to the Special Court within

thirty days from the date of receipt of the order made under Section 3 of the KPIDFE Act, that the interim attachment order was received by the Competent Authority on 22.09.2009, and that the Misc. Petition No.721/2009 was filed on 22.10.2009, that is, on the last day of the thirty-day period. As regards the appellant, it is contended that the it is on account of the investment of the appellant that a sum of Rs.1,71,31,000/- came to be adjusted against the sale consideration under the Agreement of Sale dated 12.02.2005, that the appellant himself has admitted in the course of cross-examination that after the KPIDFE Act came into force he had made a claim before the Competent Authority for return of the amount invested, and that on his own showing, the transaction has the character of an investor-establishment relationship. Therefore, the appellant being one of the many investors of the Company, is required to stand in queue with the other depositors, and cannot claim any preferential right to the property to the exclusion of the general body of depositors.

16. It is further contended that the appellant has not brought to the notice of the City Civil Court, either at the time of filing of O.S. No.1777/2006 or at any point thereafter, the fact of the interim attachment dated 16.09.2009 or the pendency of Misc. Petition No.721/2009 before the Special Court. It is submitted that the decree of specific performance dated 11.06.2012, obtained by the appellant in a suit prosecuted without disclosure of the parallel statutory proceedings, cannot be permitted to defeat the attachment.

17. Having considered the contentions advanced, the question which requires consideration in this appeal is whether the findings of the Special Court require interference in this appeal on the facts and circumstances of the case.

18. We notice that the property in question stands in the name of Shri. Suresh Krishnamurthy, who is admittedly, the Director of the Financial Establishment and against whom the allegations are raised in criminal proceedings. The

contentions raised by the appellant is that the appellant had invested money in the Financial Establishment and that the subject property was agreed to be sold to the appellant as in partial settlement of the amount so invested by the appellant. However, it is an admitted fact that as on the date of the Notification issued by the Government under Section 3(2) of the KPIDFE Act, and as on the date of the filing of the application by the Competent Authority under Section 5(2) of the KPIDFE Act, the title of the property stood in the names of respondents No.3 to 5 herein. If that be so, the contention of the appellant that there is no finding that the properties of the Financial Establishment are not sufficient to meet its liabilities and that the other properties of the persons connected with the Financial Establishment are liable to be attached cannot be said to be the correct proposition, since the property still stands in the name of respondents No.3 to 5. Section 3(2) of the KPIDFE Act reads as follows:

"3. Attachment of properties on default of return of deposits. —

(1) x x x x x

(2) Notwithstanding anything contained in any other law for the time being in force,—

(i) where, upon complaint received from any depositors or otherwise, the Government is satisfied that any Financial Establishment has failed—

(a) to return the deposit after maturity or on demand by depositor: or

(b) to pay interest or other assured benefit: or

(c) to provide the service against such deposit; or:

(ii) Where the Government has reason to believe that any Financial Establishment is acting in and detrimental to the interest of the depositors with an intention to defraud them; or

(iii) Where the Government is satisfied that such Financial Establishment is not likely to return the deposits or make payment of interest or other benefits assured or to provide the services against which the deposit is received, the Government may, in order to protect the interests of the depositors of such Financial Establishments, after recording reasons in writing, issue an order by publishing it in the official gazette, attaching the money or property believed to have been acquired by such financial establishment either in its own name or in the name of any other person from and out of the deposits collected by the financial establishments, and where it transpires that such money or other property is not available for attachment or not sufficient for the repayment of the deposits, such other property of the said financial establishments, or the personal assets of the promoters, partners, directors, managers or members or any other person of the said Financial Establishments."

19. It is therefore clear that money or property "believed to have been" acquired by the financial establishment in its own name or in the name of any other person out of the deposits, or if sufficient property is not available to repay the depositors, the other property of the establishment or the personal assets of its Promoters, Partners, Directors, Managers or Members or any other person connected to the financial establishment are also liable for attachment. In the instant case, the property in question belongs to respondents No.3 to 5. The further contention raised by the appellant that the property could not be notified unless the Government entered a satisfaction that the properties standing in the name of the financial establishment are not sufficient to repay the depositors is not borne out by the statutory provisions. Section 3(2) of the KPIDFE Act provides for a provisional attachment, where the Government is satisfied that the financial establishment has failed to return deposits and is unlikely to do so. The provisional attachment can be of the property of the financial establishment acquired from the deposits in its own

name or in the name of any other person. The words "believed to have been" employed in Section 3(2) of the KPIDFE Act would make it clear that, what is contemplated is a *prima facie* satisfaction that the properties are those that have been acquired by the Financial Establishment out of the deposits collected by it. There is no requirement for adjudication on the sufficiency of the properties at the stage of Section 3(2) Notification under the KPIDFE Act. The further provisions of the KPIDFE Act would make it clear that the Competent Authority has to collect materials and furnish a report before the Special Court with regard to the assessment of deposits and liabilities. Sections 7 and 8 of the KPIDFE Act specifically provides for such an assessment and report to be furnished by the Competent Authority. Thereafter, the Competent Authority is empowered under Section 5(2) of the KPIDFE Act to file an application before the Special Court to make the order of attachment passed under Section 3(2) of the KPIDFE Act absolute, in respect of the properties for the repayment to the depositors. Any person interested in the properties so attached, has an

opportunity to approach the Special Court and to show cause why the order of attachment shall not be made absolute.

20. The Special Court considering the application under Section 5(2) of the KPIDFE Act has to decide whether the Order of attachment is to be made absolute taking note of all relevant circumstances. In the instant case, the appellant could not place anything on record to show that there was any change in the title to the property as on the date of the Notification of the attachment under Section 3(2) of the KPIDFE Act. The contention appears to be that the appellant had entered into an agreement for sale dated 12.02.2005 with respondents No.3 to 5, who are the owners of the property and that money had changed hands long before then. If that be so, it is for the appellant to work out his remedies against respondent owners in a manner known to law. However, once Section 3(2) Notification under the KPIDFE Act is issued in respect of a property, title to which stands in the name of the respondents, it is not open for the appellant to contend that such attachment shall not be made

absolute because the appellant had paid money towards purchase of that property. Moreover, the contention of the appellant is that he had made deposits in the Company and that the Agreement of Sale was entered into in consideration of such investments, which were liable to be returned to the appellant by the Financial Establishment. This contention also is not tenable, in view of the fact that the appellant who claims to be an Investor in the Company can at best be only in the status of a Depositor and would have to wait for his turn for the return of the deposits made by him on the assets of the Company and the Directors being liquidated. An Investor or a Depositor cannot, by reason of a better acquaintance with the officials of the Financial Establishment make a better claim over return of the investment as against similarly situated persons.

21. In the above circumstances, we are of the opinion that the contentions raised in this appeal are devoid of merits. The decisions relied upon also cannot help the appellant in view of the fact that the decisions are with regard to attachments under Order XXXVIII in the normal

course of litigation under the Code of Civil Procedure, 1908 and do not refer to an attachment under a special enactment, which stands upheld by the Apex Court in ***K.K. Baskaran v. State of Tamil Nadu*** reported in ***(2011) 3 SCC 793***.

This Miscellaneous First Appeal therefore fails and the same is accordingly ***dismissed***.

All pending Interlocutory Applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

PN*