

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

MISCELLANEOUS FIRST APPEAL NO.3705 OF 2025 (KPIDFA)

BETWEEN:

SMT. YAMUNA BAI (DECEASED)
W/O BELOORAPPA BADAMI
No.150/73, 2ND WARD
NEAR DURGAMMA TEMPLE
SRIRAMANAGARA, GANGAVATHI TALUK
KOPPALA DISTRICT-583 282

1 . SRI. BELOORAPPA
AGED ABOUT 80 YEARS
SRIRAMANAGARA
GANGAVATHI TALUK
KOPPALA DISTRICT

2 . DHANALAKSHMI
D/O BELOORAPPA
AGED ABOUT 39 YEARS
SRIRAMANGARA
GANGAVATHI TALUK
KOPPALA DISTRICT

3 . BHIMAMBIKE
D/O BELOORAPPA
AGED ABOUT 42 YEARS
SRIRAMANAGARA
GANGAVATHI TALUK
KOPPALA DISTRICT

...APPELLANTS

(BY SRI. THIMMAIAH K.H, ADVOCATE)

Digitally
signed by
PAVITHRAN
Locatlon
High Court
of Karnataka



AND:

- 1 . THE COMPETENT AUTHORITY
FOR AHANA SOUHARDA CREDIT
CO-OPERATIVE SOCIETY LTD.,
3RD FLOOR, MINI V.V. TOWER
PODIUM BLOCK, DR. AMBEDKAR VEEDHI
BENGALURU-560 001
REPRESENTED BY ITS COMPETENT AUTHORITY
SRI. SUDARSHAN B.K.
ASSISTANT COMMISSIONER
AGED ABOUT 33 YEARS

- 2 . AHANA SOUHARDA CREDIT
CO-OPERATIVE SOCIETY LTD.,
HOSPETE, VIJAYANAGARA DISTRICT
REPRESENTED BY ITS CHAIRMAN
SRI. SATHISH S.M. S/O S.M. KOTRABASIAH
MAJOR, 5TH WARD, BEHIND VIVEKANANDA SCHOOL
RANIPETE, HOSPETE-583 201

...RESPONDENTS

(BY SRI. VEERESH RACHAPPA BUDIHAL, ADVOCATE FOR R1;
R2 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S.16 OF THE KARNATAKA PROTECTION OF INTEREST OF DEPOSITORS IN FINANCIAL ESTABLISHMENTS ACT, 2004 AGAINST THE ORDER DATED 15.11.2024 PASSED IN MISC. No.532/2024 ON THE FILE OF XCI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, SPECIAL JUDGE FOR KPIDFE CASES, BENGALURU (CCH-92), ALLOWING THE PETITIONS FILED U/S.5(2) OF THE KPIDFE ACT, 2004.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 01.07.2026 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 15.12.2024 passed by the XCI Additional City Civil and Sessions Judge, Bengaluru (CCH-92) ('Special Court' for short) in Misc.No.532/2024.

2. We have heard Shri. Thimmaiah K.H, learned counsel appearing for the appellants and Shri. Veeresh Rachappa Budihal, learned counsel appearing for respondent No.1.

3. The short facts as disclosed from the appeal are as follows:-

Late Smt. Yamuna Bai, had availed a mortgage loan from respondent No.2 - Ahana Souharda Credit Co-operative Society Limited ('Co-operative Society' for short) by mortgaging the property bearing No.203A, situated at 5th Ward, Gajendragada Taluk, Gadag District, under a registered Mortgage Deed dated 09.08.2018, for a loan amount of Rs.15,00,000/- with interest at the rate of 20%

per annum. On the basis of the records of the Co-operative Society, Late Smt. Yamuna Bai had availed a mortgage loan of Rs.10,00,000/- on 08.07.2018 and a sum of Rs.31,83,137/-, comprising the principal amount, interest and penal interest remained outstanding as on 18.02.2024.

Pursuant to registration of FIR No.26/2021 dated 03.04.2021 at Hospet Rural Police Station against the directors of Co-operative Society for offences punishable under Sections 406, 415, 417, 419, 420, 465, 467, 470, 471, 477-A and 149 of the Indian Penal Code, 1860 and Section 9 of the KPIDFE Act, the Government of Karnataka, by Notification dated 18.01.2024 under Section 3(2) of the KPIDFE Act passed an interim order of attachment attaching the properties of Co-operative Society, its group entities, directors, members and employees, including the petition schedule property belonging to Late Smt. Yamuna Bai. The order of interim attachment was published in the Official Gazette on 18.01.2024 and in two newspapers on 22.01.2024. The Competent Authority initiated proceedings under Section 5(2) of the KPIDFE Act against Late Smt.

Yamuna Bai on 18.04.2024 and that there was a delay of 58 days in filing the petition before the Special Court. Though, Smt. Yamuna Bai had expired prior to the institution of the petition, the said fact came to the knowledge of the Competent Authority only after the petition was filed, whereupon the appellants herein were brought on record by order dated 05.09.2024 as the legal representatives of the deceased Smt. Yamuna Bai.

4. The Special Court considering the petition filed by the Competent Authority under Section 5(2) of the KPIDFE Act condoned the delay of 58 days in filing the application and made the order of attachment absolute in respect of the appellants property. It was found that Section 3(2) Notification of provisional attachment ordered on 18.01.2024 was published in 'Vijayavani' and 'Times of India' Newspapers and was also affixed on a conspicuous part of the mortgaged property. The Mortgage Deed and Encumbrance Certificate were examined and it was found that the loan was not discharged. It was further found that the properties of the Financial Establishment are insufficient

to meet the claim of the depositors and the mortgaged properties are liable to be auctioned and sold to satisfy the outstanding loan amount and interest.

5. The learned counsel appearing for the appellants contends that the Special Court erred in proceeding on the premise that Late Smt. Yamuna Bai was a member of the Co-operative Society, despite the absence of any material on record to substantiate such a finding. Late Smt. Yamuna Bai was only a borrower who had availed a mortgage loan from the Co-operative Society. It is further contended that the Government of Karnataka had already attached the properties of the Co-operative Society, its group entities, directors, members and employees, which were sufficient to meet the claims of the depositors. In such circumstances, there was no justification for attaching the mortgaged property belonging to Late Smt. Yamuna Bai.

6. It is further contended that the Special Court also erred in condoning the delay of 58 days in filing the petition by the Competent Authority, despite the fact that Section 5(2) of the KPIDFE Act prescribes a specific period of

limitation and empowers only the Secretary to the Government, Revenue Department, to extend the period by a further 30 days on sufficient cause being shown. In the absence of any extension granted by the Competent Authority under the statute, and in the absence of any application under Section 5 of the Limitation Act supported by an affidavit, the Special Court had no jurisdiction to condone the delay.

7. It is further contended that the Special Court failed to appreciate that the Competent Authority had not established any nexus whatsoever between Late Smt. Yamuna Bai and the affairs or management of the Co-operative Society. Under the scheme of the KPIDFE Act, mere membership of a Financial Establishment, much less the status of a borrower, is insufficient to justify attachment of property. Attachment can be sustained only when there exists a clear nexus between the person concerned and the Management, control, or fraudulent activities of the Financial Establishment. The Special Court failed to consider this fundamental requirement while making the interim

attachment absolute. Furthermore, Section 3(2) read with Explanation (i) thereto do not contemplate attachment of the property of a mere borrower who had mortgaged the property to obtain the loan.

8. The learned counsel appearing for the appellants has relied on the decision of the High Court of Madras in the case of ***P. Palanisamy v. District Revenue Officer*** passed in ***Civil Miscellaneous Appeal No.966/2023 and CMP No.8812/2023*** by order ***dated 06.10.2023***.

9. The learned counsel appearing for respondent No.1 contends that the question with regard to the applicability of the Limitation Act, 1963 to proceedings of a Special Court has already been decided by this Court in the case of ***Smt. Yashoda and others v. The Competent Authority and another*** passed in ***MFA No.380/2025 (KPIDFA)*** by order ***dated 20.01.2026*** and it has been held that the power of the Special Court to condone the delay, applying Section 5 of the Limitation Act is unaffected by the timeline as provided in Section 5(2) of the KPIDFE Act. It is further contended that the petition could not be

filed within 30 days due to various administrative reasons and that he received the interim order of attachment Notification on 22.01.2024 and the affixture of the Mahazar report on 21.02.2024 and immediately after receiving the said affixture report, steps were taken to file the petition.

10. It is further contended that Late Smt. Yamuna Bai being a person who had availed a loan from the Co-operative Society was legally liable to repay the amount with interest as agreed between the parties. In view of the admitted position that the said loan was not repaid with the agreed interest, the loan amount was the property of the Co-operative Society in the hands of Late Smt. Yamuna Bai. In the circumstances, unless the loan amounts with interest upto date is cleared by the appellants, all property of the appellants would be liable to attachment under the provisions of the KPIDFE Act.

11. We have considered the contentions advanced. Section 3(2) of the KPIDFE Act provides for issuance of an order by publishing in the Official Gazette, attaching the

money or property believed to have been acquired by the Financial Establishment in its own name, or in the name of any other person from and out of deposits collected by the Financial Establishment. Where such property is not sufficient for repayment of the deposits, such other property of the Financial Establishment or the personal assets of promoters, partners, or other persons related to the establishment can also be attached. It is clear that what is contemplated under Section 3(2) of the KPIDFE Act is only an order of interim attachment of money or property which is "believed to have been acquired" by the Financial Establishment or the personal assets of its Directors etc. The said provisional attachment can be made absolute only after following the procedure under Section 5 of the KPIDFE Act.

12. Further, Section 5 of the KPIDFE Act contemplates an application to be made by the competent authority under the Act before the Special Court to make the order of attachment, absolute. It also contemplates a consideration of objections by any person having an interest in the property. Section 11 of the KPIDFE Act provides for

the powers of the Special Court regarding realisation of assets and payment to depositors. Section 12 of the KPIDFE Act provides for consideration of objections by persons claiming an interest in the attached property.

13. Further, Section 12(3) of the KPIDFE Act specifically provides that any person claiming an interest in the property attached or any portion thereof may, notwithstanding that no notice has been served upon him under this Section, make an objection, as aforesaid, to the Special Court at any time before an order is passed under sub-Section (4) or sub-Section (6).

14. It is clear that the KPIDFE Act is an enactment intended to provide for protection of interest of gullible depositors in Financial Establishments. It is a regulatory and penal statute and has to be construed specifically as such, so that the purpose of the enactment can be given effect to.

15. Section 5(2) of the KPIDFE Act provides a period of 30 days from the date of the order made under Section 3 of the KPIDFE Act for the competent authority to apply to

the Special Court for making the order of attachment absolute. A proviso has been added to sub Section 5(2) by the Karnataka Act No.06 of 2021, providing as follows:-

"Provided that, the Secretary to Government, Revenue Department, may on the request of the Competent Authority, extend this period by another fifteen days in cases having valid reasons and based on the merits of the case."

16. The contention urged by the learned counsel appearing for the appellants is that the petition filed by the Competent Authority under Section 5(2) of the KPIDFE Act was barred by limitation and that the Special Court lacked jurisdiction to condone the delay of 58 days. It is contended that the proviso to Section 5(2) specifically empowers only the Secretary to the Government, Revenue Department, to extend the period of limitation by a further period of 30 days and, therefore, the provisions of Section 5 of the Limitation Act, stand excluded.

17. The question as to whether the Special Court constituted under Section 10 of the KPIDFE Act possesses the power to condone delay by applying Section 5 of the

Limitation Act is no longer *res integra*. This Court in **Smt. Yashoda's** case (supra), after considering the provisions of the KPIDFE Act and the Limitation Act, has categorically held that the Special Court constituted under Section 10 of the KPIDFE Act is a Court for the purposes of the Limitation Act and that, in the absence of an express exclusion, the power of the Special Court to condone delay under Section 5 of the Limitation Act remains unaffected by the period prescribed under Section 5(2) of the KPIDFE Act. It was further held that the power conferred on the Government to extend the period of limitation does not, by itself, exclude the jurisdiction of the Special Court to condone the delay.

18. Further, in **Sri. N. Shivprasad v. The Competent Authority and Another** passed in **MFA No.2959/2023 (KPIDFA)** by order dated **09.03.2026**, this Court has held as follows:-

"17. The Special Court is constituted under Section 10 of the KPIDFE Act. Such Court is clearly a "Court" for the application of the Limitation Act. As such, the Special Court exercises its power under Section 5 of the KPIDFE Act by virtue of its status as a Court. The time period provided under the Act and the power

provided to the Government to extend the time for a period of 15 days thereafter cannot therefore, be construed as limiting the powers of the Special Court under Section 5 of the Limitation Act. In the instant case, the delay in filing the application under Section 5(2) of the KPIDFE Act had been condoned by a separate order which is not under challenge before us. In any view of the matter, the contention that a delay cannot be condoned cannot be accepted by this Court."

19. In the said circumstances, we are of the considered view that the Special Court was justified in condoning the delay of 58 days in filing the petition under Section 5(2) of the KPIDFE Act.

20. The next question to be considered is, whether the petition schedule property belonging to Late Smt. Yamuna Bai, who was admittedly a borrower of the Co-operative Society, was liable to be attached under Section 3(2) of the KPIDFE Act and whether the impugned order dated 15.12.2024 passed by the Special Court making the interim order of attachment absolute calls for interference by this Court?

21. The other contention urged is that Late Smt. Yamuna Bai was merely a borrower of the Co-operative Society and that, in the absence of any material establishing her involvement in the Management or affairs of the Co-operative Society, the petition schedule property could not have been subjected to attachment under the provisions of the KPIDFE Act. It is also contended that the properties already attached belonging to the Co-operative Society, its group entities, directors, members and employees were sufficient to satisfy the claims of the depositors and, therefore, the attachment of the petition schedule property was unwarranted.

22. The facts disclose that Late Smt. Yamuna Bai had availed a mortgage loan from the Co-operative Society by mortgaging the petition schedule property under a registered Mortgage Deed. The records produced before the Special Court further disclose that the loan amount remained unpaid and that, as on 18.02.2024, a substantial sum comprising the principal amount, interest and penal interest remained outstanding.

23. The object of the KPIDFE Act is to protect the interests of innocent depositors and to secure and realise the assets available to the Financial Establishment for the purpose of satisfying the claims of such depositors. In the present case, the petition schedule property had been specifically mortgaged to the Co-operative Society as security for the loan availed by Late Smt. Yamuna Bai. In view of the admitted position that the loan amount was not repaid together with the agreed interest, the amount due from Late Smt. Yamuna Bai secured by the mortgage created over the petition schedule property, constituted a recoverable asset of the Co-operative Society and thereby formed part of the assets available for satisfaction of the claims of the depositors.

24. The Government, in exercise of powers under Section 3(2) of the KPIDFE Act, had passed the order of interim attachment after arriving at a satisfaction that the assets of the Financial Establishment were insufficient to meet the claims of the depositors. The Special Court, upon consideration of the material placed before it, including the

Mortgage Deed, Encumbrance Certificate and the records relating to the outstanding loan amount, has recorded a finding that the petition schedule property was liable to be proceeded against. It is also specifically pleaded in the petition that as per the reports of the Investigating Officer, there are no assets in the name of the Co-operative Society and the loans that are given to various individuals by the Co-operative Society need to be recovered by the Competent Authority in order to recover the amount for repaying back to the depositors.

25. The contention that Late Smt. Yamuna Bai was merely a borrower and not a member of the Co-operative Society would not, in the facts of the present case, advance the case of the appellants. The petition schedule property was not attached on account of her alleged membership of the Co-operative Society, but on account of the subsisting liability due to the Financial Establishment secured by the mortgage created over the said property. The existence of such liability and the subsistence of the mortgage are not in dispute.

26. In the above circumstances, we are of the considered opinion that the Special Court was justified in making the interim order of attachment absolute in respect of the petition schedule property and that no grounds are made out for interference with the impugned order.

27. The 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**

cp*