



CNR: KAHC010347532025

NC: 2026:KHC:47367-DB
WA No. 864 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO.864 OF 2025 (CS-RES)

BETWEEN:

MALNADU ARECA MARKETING
CO-OPERATIVE SOCIETY LIMITED,
POST BOX NO.13, A.P.M.C. YARD,
SHIMOGA, REPRESENTED BY ITS
MANAGING DIRECTOR.

...APPELLANT

(BY SRI. B.V. SHANKARA NARAYANA RAO, SENIOR COUNSEL A/W
SRI. KARAN GOWDA FOR SRI. DESHRAJ, ADVOCATES)

AND:

1. M/S. SIDDALINGESHWARA ARECANUT STORES,
ARECANUT TRADERS,
MARKET ROAD, SAGAR-577 401,
REPRESENTED BY ITS PROPRIETOR,
SRI. M. RAJASHEKHAR
S/O. VEERABADRAPPA.
2. SRI. M. RAJASHEKHAR
S/O. VEERABADRAPPA,
PROPRIETOR,
M/S. SIDDALINGESHWARA ARECANUT STORES
(SINCE DEAD BY LR's)
- 2(a) SMT. SUVARNA
AGED ABOUT 81 YEARS,
W/O. LATE M. RAJASHEKHAR,



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SRI. SIDDALINGESWARA NILAYA
HOUSE NO.C-3, S.N. NAGARA 1ST CROSS,
NEAR RAKTHESHWARA TEMPLE
SAGAR-577401.

2(b) SRI. M. SHIVABASAPPA
AGED ABOUT 45 YEARS,
S/O. LATE M. RAJASHEKAR,
SHIVABASAYYA TRADERS
MARKET ROAD,
SAGAR-577401
SHIMOGA DISTRICT.

2(c) SRI. SIDDALINGESHWARA
AGED ABOUT 50 YEARS,
S/O. LATE M. RAJASHEKAR
SRI. SIDDALINGESWARA NILAYA
HOUSE NO.C-3,
S.N. NAGARA 1ST CROSS,
NEAR RAKTHESHWARA TEMPLE SAGAR-577401
SHIMOGA DISTRICT.

3. THE ADDITIONAL REGISTRAR OF
CO-OPERATIVE SOCIETIES (C & M),
O/O. REGISTRAR OF CO-OPERATIVE
SOCIETIES, NO.1, ALI ASKER ROAD,
BENGALURU-560 052.

...RESPONDENTS

(BY SRI. S.R. KHAMROZ KHAN, AGA FOR R-3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1964, PRAYING TO CALL FOR THE RECORDS IN W.P.NO.56339/2017 (CS-RES) ON THE FILE OF THE LEARNED SINGLE JUDGE; SET ASIDE THE FINAL ORDER DATED 16.04.2025 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN W.P.NO.56339/2017 (CS-RES) AND ALLOW THE W.P.NO.56339/2017 (CS-RES) FILED BY THE APPELLANT SOCIETY.

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



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CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

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

1. The appellant [**society**] has filed the present appeal impugning the order dated 16.04.2025 passed by the learned Single Judge of this Court in W.P. No.56339/2017 (CS-RES). The appellant filed the said writ petition, impugning the order dated 22.09.2017 passed by the Karnataka Appellate Tribunal [**KAT**], Bengaluru in Appeal No.293/2011. The said appeal was preferred against an order dated 18.02.2011 passed by the Deputy Registrar of Co-operative Societies [**DRCS**] on a reference made by the Additional Registrar of Co-operative Societies [**ARCS**] under Section 71 (1) (b) of the Karnataka Co-operative Societies Act, 1959 [**Act**].

2. The controversy in the present appeal arises in the following context.

2.1 The appellant is a Co-operative society, having its branches in several Districts. It was established with the intention to facilitate areca-growing farmers to trade areca through the



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appellant society. The areca-growing farmers sell their produce through the auctions conducted by the appellant society.

2.2 In the course of its activities, the appellant issued a Tender Notification for the sale of areca nuts. Respondent No.1 participated in the auction held on 31.03.2002 and bid an amount of ₹6,54,931/- for 425 bags of areca nuts. The appellant states that, although the bulk of the quantity was lifted and the payment was made, respondent No.1 failed to lift 80 bags of areca nuts at the material time. Respondent No.1 subsequently lifted the said 80 bags, and the consideration was duly paid.

2.3 There is no dispute that respondent No.1 had successfully bid for 425 bags of areca nuts and had paid the full consideration. The controversy in the present appeal relates to the levy of interest.

2.4 The appellant raised a dispute under Section 70 (2) of the Act, claiming interest at the rate of 17% per annum.



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According to the appellant, the said interest was payable in terms of a Letter of Undertaking dated 29.11.1989.

2.5 The dispute raised by the appellant was dismissed by the learned DRCS by an order dated 18.02.2011. The learned DRCS held that there is no specific agreement between the appellant and respondent No.1 regarding payment of interest and in the absence of such contract, respondent No.1 was not liable to pay interest.

2.6 Aggrieved by the said order, the appellant preferred the appeal before the learned KAT, Appeal No.293/2011, which came to be dismissed by an order dated 22.09.2017. The learned KAT referred to the documents relied upon by the appellant and found that none of the documents would assist the appellant in establishing that the interest was to be paid on account of the delay in lifting the products. The learned KAT found that the appellant had failed to establish that respondent No.1 was liable to pay any interest and accordingly, dismissed the appeal.



2.7 Aggrieved by the same, the appellant filed the writ petition being W.P. No.56339/2017 (CS-RES), which was dismissed by the impugned order.

3. It is material to note that, before the learned Single Judge the appellant predicated its claim for interest on a Letter of Undertaking dated 29.11.1989. It is the appellant's claim that, on the basis of the said letter, the respondent was liable to pay warehouse rent at the rate of 0.25 paise per bag per month, as well as interest at the rate of 17% per annum.

4. The appellant argued, in the alternative, that even if the said letter was held to be not applicable to the contract in question, the Arbitrator could have exercised powers under Section 34 of the Code of Civil Procedure, 1908 [**CPC**] and awarded interest.

5. The learned Single Judge found that the Letter of Undertaking relied upon by the appellant was not applicable to the contract in question, as it was in relation to another tender. Accordingly, the learned Single Judge rejected the said contention.

6. Insofar as the plea regarding award of interest under Section 34 of the CPC is concerned, the learned Single Judge held that no



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such plea had been raised at the appropriate time and held that the imposition of interest was a matter of discretion and the appellant could not claim interest as a matter of right.

7. The learned counsel for the appellant assailed the impugned order on two fronts. First, he submitted that the question as to whether interest is payable on delayed payments has a vital bearing on the functioning of the appellant society and the question as to whether interest is payable has not been concluded by virtue of the order dated 01.12.2023 passed by the Supreme Court in Special Leave Petition (Civil) Diary No.22167/2023 and remains *res integra*. He contended that the said questions have to be examined afresh in view of the said order.

8. Second, he submitted that the Letter of Undertaking dated 29.11.1989 is fully applicable to the contract in question and the learned DRCS, the learned KAT, and the learned Single Judge had all erred in proceeding on the basis that the said Letter of Undertaking is inapplicable.

9. In addition, he contended that, within a short span of time, the learned KAT had taken a different view on the same issue. He



referred to an Order dated 27.10.2016 passed in Appeal No.292/2011, whereby the appeal preferred by the appellant on a similar issue had been allowed. He submitted that the decision of the learned KAT, in the present case (order dated 22.09.2017 in Appeal No.293/2011), was contrary to its earlier decision. He earnestly contended that the question raised requires detailed examination.

10. As is apparent from the above, the principal question that falls for consideration is:

“Whether the learned Single Judge and the learned KAT erred in holding that the Letter of Undertaking dated 29.11.1989 was inapplicable to the contract in question?”

11. A copy of the said letter is produced on record.

12. The said Letter of Undertaking seeks permission to participate in an "auction," subject to the terms and conditions specified therein.

13. The learned Single Judge found that the said letter had been issued almost 13 years prior to the date of auction, which was held on 31.03.2002 and thus, the conditions specified in the said letter



could not be imputed as forming part of the terms of the sale that was consummated on 31.03.2002.

14. It is also material to note that the appellant had expressly specified the terms of the auction, which did not contain any provision for the levy of interest. In the aforesaid circumstances, the learned DRCS, the learned KAT as well as the learned Single Judge concurrently found that the terms of the said Letter of Undertaking were inapplicable to the contract of sale.

15. We find no grounds to differ from the concurrent findings of fact.

16. Insofar as the appellant's contention that the question requires to be examined afresh in view of the order dated 01.12.2023 passed by the Supreme Court in SLP (Civil) Diary No.22167/2023 is concerned, we find no merit in the said contention.

17. The appellant had preferred the said SLP against the order dated 10.04.2019 passed by the Co-ordinate Bench of this Court in W.A. No.6488/2017 and 6765-6766/2017 (CS-RES). The appellant had preferred the said appeals impugning the order dated



07.10.2017 passed by the learned Single Judge in W.P. Nos.2934-2936/2017 (CS-RES), whereby the said petitions were allowed.

18. It is material to note that the said petitions had been preferred by the purchaser against the order dated 27.10.2016 passed by the learned KAT in Appeal No.292/2011. As noted earlier, the said order of the learned KAT, according to the appellant, is in conflict with the order dated 22.09.2017 passed by the learned KAT in the present matter.

19. We note that a similar contention was advanced before the Co-ordinate Bench in the said appeals. In the said case, the appellant had relied upon a letter issued in the year 1990 and contended that in terms of the Letter of Undertaking, the said letter would govern the terms of the auction sales conducted during the period from 11.01.2003 to 01.03.2003.

20. The learned Single Judge had rejected the said contention on the ground that a letter issued more than a decade prior to the date of auction could not govern the terms of the contract between the parties.



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21. The Co-ordinate Bench of this Court had, in the case of **Malnad Areca Marketing Vs M/s. U Basappa & Sons and others**¹ dismissed the appeal from the decision of the learned Single Judge observing as under:

"5. In the absence of any material or contract or provision to claim interest by the second respondent, when there is delay in lifting the auctioned areca nut, the second respondent is not entitled to claim interest. The order of the learned Single Judge is neither perverse nor erroneous in the facts and circumstances of the case. No ground is made out by the appellant to interfere with the order of the learned Single Judge. There is no merit in the appeal. Hence, the appeal is dismissed being devoid of merits."

22. The appellant thereafter preferred a Special Leave Petition against the said order, after an inordinate delay of 1367 days. In the aforesaid context, the Supreme Court passed the following order:

- "1. There is a delay of 1367 days in filing the Special Leave Petition.
2. We decline to condone the delay and dismiss the Special Leave Petition on that ground.
3. Hence, the issue of law which was sought to be raised would not arise for determination in these proceedings and is kept open to be agitated in an appropriate proceeding."

¹ W.A. Nos.6488/2017 & 6765-6766/2017 (CS-RES) D.D. 10.04.2019



23. A plain reading of the aforesaid order makes it abundantly clear that the Supreme Court declined to entertain the Special Leave Petition on the ground of delay. The Court also clarified that in view of dismissal on the ground of delay, the question of law sought to be raised would not arise. The observation that the question of law was kept open to be agitated in an appropriate proceeding clarifies that the dismissal of the SLP could not be construed as an expression of opinion on merits by the Supreme Court.

24. The learned counsel's contention misconstrues the said order to mean that the decision of the Co-ordinate Bench of this Court in **Malnad Areca Marketing Vs. M/s. U Basappa & Sons and others** has no precedential value.

25. Concededly, the questions involved in W.A. Nos.6488/2017 and 6765-6766/2017 (CS-RES) are similar to the issues raised in the present appeal. The order dated 10.04.2019 also covers the question raised in the present appeal. We find no ground to take a different view from the findings recorded by the Co-ordinate Bench.



26. Insofar as the appellant's alternative plea that the learned DRCS ought to have awarded interest under Section 34 of the CPC is concerned, a plain reading of Section 34 of CPC indicates that it is an enabling provision, which empowers the Court to award interests where a decree is for payment of money.

27. Section 34 (1) of the CPC is set out below:

34. Interest.— (1) Where and insofar as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate not exceeding six per cent per annum as the Court deems reasonable on such principal sum, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit:

Provided that where the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of such further interest may exceed six per cent per annum, but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalised banks in relation to commercial transactions.”

28. In the present case, there is no dispute that the principal amount had already been paid. The dispute essentially related to the claim for interest. Thus, there is no decree for payment of



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money on which interest under Section 34 of the CPC could be considered.

29. We also find no error in the learned Single Judge's decision that the award of interest under Section 34 of CPC is at the discretion of the Court. More importantly, the appellant had not raised this issue either before the learned DRCS or before the learned KAT.

30. In the aforesaid view, we find no infirmity with the decision of the learned Single Judge rejecting the appellant's alternative plea for award of interest under Section 34 of the CPC.

31. The appeal is accordingly dismissed.

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

**Sd/-
(K.S. HEMALEKHA)
JUDGE**