



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 24057 OF 2025 (GM-ST/RN)

BETWEEN:

OMKARA ASSETS RECONSTRUCION PVT. LTD.
A COMPANY INCORPORATED UNDER PROVISIONS OF
THE COMPANIES ACT, 1956,
HAVING ITS REGISTERED OFFICE
AT NO.9, M.P. NAGAR, FIRST STREET,
KONGU NAGAR EXTENSION, TIRUPUR,
TAMIL NADU-641607.
REPRESENTED BY ITS
AUTHORISED REPRESENTATIVE,
MR. PIYUSH JAIN
AGED ABOUT 34 YEARS

...PETITIONER

(BY SRI. ROHAN KOTHARI., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH THE DEPUTY COMMISSIONER,
BANGALORE URBAN DISTRICT,
HAVING OFFICE AT, KEMPEGOWDA ROAD,
BEHIND KANDAYA BHAVANA,
BENGALURU- 560009
2. THE DISTRICT REGISTRAR,
SHIVAJINAGAR,
HAVING OFFICE AT, NO-122/22,
4TH FLOOR, MONARK CHAMBER,
INFANTRY ROAD, BANGALORE-560001



3. THE SENIOR DEPUTY REGISTRAR,
SENIOR SUB-REGISTRAR OFFICE,
K.R. PURAM, HAVING OFFICE AT,
SLV SUNRISE BUILDING,
OPPOSITE TO NEW POLICE QUARTERS OFFICE,
BANGALORE-560036
4. THE ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES,
AUDIT 4-3, DVO-IV, HAVING OFFICE AT
VTK 2, 'A' BLOCK, 1ST FLOOR,
KORAMANGALA
BANGALORE 560047.

...RESPONDENTS

(BY SMT. NAVYA SHEKHAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R-2 AND 3 TO FORTHWITH EFFECT DELETION FOR THE ENTRIES DTD 12.07.2017 RELATABLE TO THE R-4, THE ASST COMMISSIONER OF COMMERCIAL TAXES AUDI 4-3 DVO-4 IN THE ENCUMBRANCE CERTIFICATE ANNEX-P AND Q PERTAINING TO THE SCHEDULE PROPERTIES

THIS PETITION, COMING ON FOR DICTATING ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition is filed seeking issuance of a writ in the nature of mandamus directing respondents 2 and 3 to forthwith delete the encumbrance entry dated 12.07.2017 reflected in the Encumbrance Certificate (for



short, "EC") pertaining to the subject property, which came to be recorded at the instance of respondent No.4, on the premise that the very recovery proceedings culminating in such entry have been dismissed as withdrawn and therefore no longer subsist in the eye of law.

2. The facts of the case are as under:

The petitioner is a Company incorporated under the provisions of the Companies Act, 1956 and is engaged in the business of acquisition and resolution of Non-Performing Assets (NPAs) from financial institutions and banks. The petitioner asserts that it is a secured creditor, having stepped into the shoes of the original lender by virtue of a valid assignment.

3. The material on record would indicate that one M/s. Kristal Infrastructure (hereinafter referred to as "the borrower") had approached Dewan Housing Finance Corporation Limited (DHFL) in the year 2011 seeking



financial assistance to the tune of Rs.35,00,000/-. The said loan came to be sanctioned and a loan agreement dated 26.09.2011 was executed between the borrower and DHFL. The guarantors to the said transaction were one Sri K.K. Namboodiri, Smt. Latha K. Namboodiri, M.S. Govind and M/s. Kristal Projects(India) Private Limited.

4. As part of the said loan transaction, an equitable mortgage was created over two immovable properties belonging to M/s. Kristal Projects(India) Private Limited and its Director, namely Smt. Latha K. Namboodiri. The loan amount was thereafter disbursed on 28.11.2011.

5. Subsequently, in the year 2019, the Reserve Bank of India initiated proceedings before the National Company Law Tribunal seeking commencement of Corporate Insolvency Resolution Process (CIRP) against DHFL. The said proceedings culminated in approval of a resolution plan submitted by Piramal Capital and Housing



Finance Limited (PCHFL), which came to be approved by the NCLT by order dated 07.06.2021. Consequent thereto, DHFL stood merged with PCHFL.

6. It is further borne out from the records that an Assignment Agreement dated 10.01.2023 was entered into between PCHFL and the present petitioner, whereby all rights, title and interest in respect of certain loan accounts, including that of the borrower, stood assigned in favour of the petitioner. Thus, the petitioner claims to have acquired the status of a secured creditor in respect of the mortgaged properties.

7. The borrower having defaulted in repayment, the loan account was classified as a Non-Performing Asset. The petitioner, in exercise of its statutory rights under the SARFAESI Act, 2002 issued a demand notice dated 07.06.2024 under Section 13(2) read with Section 13(3) calling upon the borrower to discharge the outstanding



dues. In the absence of compliance, a possession notice dated 17.10.2024 also came to be issued.

8. It is at this juncture that the petitioner, upon verification of the title documents, noticed an encumbrance entry in the EC dated 12.07.2017, which was traceable to proceedings in C.Misc. No.83/2016 instituted by respondent No.4 before the jurisdictional JMFC Court seeking recovery/refund of VAT dues against M/s. Kristal Projects(India) Private Limited.

9. The petitioner, apprehending that the said entry would cloud its security interest and adversely affect enforcement proceedings under the SARFAESI Act, 2002 addressed a representation dated 17.01.2025 to respondent No.4 requesting acknowledgment of its mortgage rights and seeking restraint against coercive measures.

10. Upon securing a certified copy of the order sheet in C.Misc.No.83/2016, the petitioner found that the



said proceedings had been dismissed as withdrawn, in view of settlement/payment of the dues. Armed with this material, the petitioner submitted a representation dated 05.03.2025 to respondent/authorities seeking deletion of the encumbrance entry.

11. Respondent No.2, on consideration of the said representation, issued a communication directing respondent No.3 to examine the request. However, respondent No.3, by communication, declined to act upon the request by placing reliance on Rule 17(3) of the Karnataka Registration Rules, 1965 (for short "Rules, 1965") stating that deletion of entries could be effected only upon receipt of specific directions from the competent Court or the concerned Department.

12. The extract of the communication (Annexure-Y) would clearly indicate that the authority has, in substance, accepted the correctness of the petitioner's



request, but has declined to act solely on the ground of absence of a formal direction from a competent authority.

13. In the light of the aforesaid factual matrix, the short question that arises for consideration is:

"Whether respondent Nos.2 and 3 are justified in refusing to delete the encumbrance entry dated 12.07.2017 in the EC, despite the admitted position that the underlying proceedings in C.Misc. No.83/2016 have been dismissed as withdrawn?"

Finding on point for consideration:

14. This Court has given anxious consideration to the submissions made by the learned counsel appearing for the petitioner and has perused the material on record.

It would be apposite to advert to Annexure- Y (letter dated: 25.03.2025), the same is extracted below which reads as under:



"ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖ (1) ಮತ್ತು (2) ರ ಪತ್ರಗಳನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ಬೆಂಗಳೂರು ಪೂರ್ವ ತಾಲ್ಲೂಕು, ಕೆ.ಆರ್.ಪುರ ಹೋಬಳಿ, ಹೂಡಿ ಗ್ರಾಮದಲ್ಲಿರುವ ಸರ್ವೆ ನಂ. 97 ರ ಎಕರೆ 26 ಗುಂಟೆ ಮತ್ತು ಸರ್ವೆ ನಂ. 98 ರ 2 ಎಕರೆ 14 ಗುಂಟೆ ಸ್ವತ್ತಿನ ಸಂಬಂಧವಾಗಿ ಋಣಭಾರ ಪ್ರಮಾಣ ಪತ್ರದಲ್ಲಿ ನಮೂದಾಗಿರುವ KRI-I-Part-III(a)-00001-2017-18 ರ ಎಂಟ್ರಿ ಡಿಲೀಟ್ ಮಾಡಲು ಕೋರಿರುವುದು ಸರಿಯಷ್ಟೆ, ಆದರೆ ಕರ್ನಾಟಕ ನೋಂದಣಿ ನಿಯಮಾವಳಿ 1965 ರ ನಿಯಮ 17 (3) "A Separate file shall also be maintained for communications received from officers of other departments intimating the cancellation, modification or rectification of transactions evidenced by papers previously filed or registered" ರಂತೆ ಕ್ರಮವಹಿಸಬೇಕಾಗಿರುವ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟ ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳಿಗೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯದಿಂದ/ ಸಂಬಂಧಪಟ್ಟ ಅಧಿಕಾರಿ/ ಇಲಾಖೆಯಿಂದ ನಿರ್ದಿಷ್ಟ ನಿರ್ದೇಶನ ಪತ್ರವನ್ನು ಕಳುಹಿಸಿದ್ದಲ್ಲಿ ಕ್ರಮವಹಿಸಬಹುದಾಗಿರುತ್ತದೆ ಎಂಬ ಮಾಹಿತಿಯನ್ನು ಈ ಮೂಲಕ ತಿಳಿಯಪಡಿಸಲಾಗಿದೆ."

(Emphasis supplied)

15. It is not in dispute that the encumbrance entry in question emanates from proceedings initiated by respondent No.4 in C.Misc. No.83/2016. It is equally not in dispute that the said proceedings have been dismissed as



withdrawn, evidently on account of settlement of the claim.

16. Once the very foundation for creation of an encumbrance entry ceases to exist, the continuation of such entry in public records would amount to perpetuating an incorrect and misleading record, which in turn would cloud the title and adversely affect third-party rights, more particularly that of a secured creditor.

17. The stand taken by respondent No.3, placing reliance on Rule 17(3) of the Rules, 1965, is hyper-technical and cannot be sustained in the peculiar facts of the present case. Rule 17(3) of the Rules, 1965, is procedural in nature and cannot be interpreted in a manner so as to defeat substantive justice or to compel a party to obtain a redundant direction when the cessation of the underlying proceedings is borne out by official court records.



18. When the competent Court itself has recorded withdrawal of the proceedings, such an order, when produced before the registering authority, constitutes sufficient basis to act upon and carry out necessary corrections in the encumbrance records. Insistence on a separate "direction" would amount to elevating form over substance.

19. It is also relevant to note that the petitioner, being a secured creditor, is entitled to enforce its security interest under the provisions of the SARFAESI Act, 2002. Section 35 of the SARFAESI Act, 2002 gives overriding effect to its provisions. Therefore, any administrative impediment which unjustifiably clouds the secured asset cannot be countenanced.

20. In the considered view of this Court, once the respondents themselves, as reflected in Annexure-Y, have acknowledged that the petitioner's request is otherwise



justified, the refusal to act merely on technical grounds is arbitrary and unsustainable.

21. For the reasons stated supra, this Court is of the considered view that the petitioner has made out a case for interference. The continuation of the encumbrance entry dated 12.07.2017, despite withdrawal of the underlying proceedings, is illegal and liable to be set aside. Accordingly point formulated is answered in **Negative.**

22. For the forgoing reasons, this Court proceeds to pass the following;

ORDER

(i) The writ petition is ***allowed***;

(ii) A writ in the nature of mandamus is issued directing respondent Nos.2 and 3 to forthwith delete the encumbrance entry dated 12.07.2017 reflected in the Encumbrance Certificate pertaining to the subject



property, which originated from proceedings in
C.Misc. No.83/2016;

(iii) Respondent Nos.2 and 3 shall carry out the
aforesaid exercise within a period of four (4) weeks
from the date of receipt of a certified copy of this
order;

(iv) It is made clear that the respondents shall not
insist upon any further or separate direction from
any Court or Department once the certified copy of
the order evidencing withdrawal of proceedings is
produced;

(v) All consequential entries in the registration
records shall be suitably corrected so as to reflect the
true and correct legal position.

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

ALB
List No.: 1 Sl No.: 52