HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MRS. JUSTICE M G UMA

WRIT PETITION NO. 20310 OF 2025 (CS-RES)

BETWEEN:

MR. APPALAL CHAKOLI
S/O MR. J.A. CHAKOLI,
AGED ABOUT 64 YEARS,
R/AT NO.107, 4TH CROSS,
JAGAJYOTHI LAYOUT,
KENCHAPURA CROSS,
BANGALORE - 560056

...PETITIONER

(BY SRI. B KESHAVA MURTHY, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
DEPARTMENT OF CO-OPERATIVE
M.S.BUILDING, DR.AMBEDKAR
VEEDHI, BANGALORE - 560 001.

Digitally signed by NANDINI B G
Location: High Court of Karnataka

2. THE DY. REGISTRAR OF CO-OPERATIVE SOCIETIES
(RULE 441) SOUHARDA DISPUTES PANCHAYATHI
COURT KARNATAKA STATE SOUHARDA FEDERAL
CO-OPERATIVE LTD., SOUHARDA SAHAKARA
SOUDHA, NO.68, 1ST FLOOR, 17TH AND
18TH CROSS, MARGOSA ROAD, MALLESHWARAM,
BANGALORE-560 055.

3. MR. KUMARASWAMY,
S/O YERIYAPPA,
AGED ABOUT 59 YEARS,
R/AT NO. 183, 3RD 'A' MAIN,
4TH CROSS, R.R. LAYOUT,
NAGADEVANAHALLI,
BANGALORE - 560 056.

4. M/S. SIRIVAIBHAVA SOUHARDA PATHINA SAHAKARI NIYAMITHA (REGD.) A SOCIETY REGISTERED UNDER THE PROVISIONS OF KARNATAKA SOUHARDA SAHAKARI ACT. NO.18/19, 1ST FLOOR, MUNISWAMY BUILDING, UTTARAHALLI MAIN ROAD, CHIKKALASANDRA, BANGALORE - 560 061. NOW REP. BY ITS COMPETENT AUTHORITY JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, CO-OPERATIVE ELECTION AUTHORITY, FOR SIRIVAIBHAVA SOUDHARADA PATHINA SAHAKARI NIYAMITHA (REGD.) TTMC BUILDING, K.H.ROAD, SHANTHINAGAR, BANGALORE - 560 027.

5. MR. V.R. RAJESH,
S/O NOT KNOWN TO PETITIONER,
AGED ABOUT 50 YEARS,
C.E.O. M/S. SIRIVAIBHAVA SOUHARDA PATHINA SAHAKARI NIYAMITHA (REGD.)

6. MRS. B.S. NAGAVALLI
W/O MR. V.R. RAJESH,
AGED ABOUT 48 YEARS,
PRESIDENT OF M/S. SIRIVAIBHAVA SOUHARDA PATHINA SAHAKARI NIYAMITHA (REGD.)

BOTH ARE AT NO.397,
SRI LAKSHMIVENKATESHWARA NILAYA, 10TH CROSS, CHANDRASHEKAR NILAYA, R.R. NAGAR, BANGALORE-560098.

7. MR. NANJESH BABU,
BRANCH MANAGER,
S/O NOT KNOWN TO THE PETITIONER.
AGED ABOUT 45 YEARS,
R/AT NO. 317, 7TH MAIN,
NEAR RAJESH HOTEL,
VYALIKAVAL, BANGALORE -560003.

…RESPONDENTS

(BY SRI. YOGESH D. NAIK, AGA FOR R1 & 2
SRI. VEERESH BUDIHAL, ADVOCATE FOR R4
V/O DT. 3/11/25, NOTICE TO R5-7 ARE D/W

V/O DT. 16/12/25 - NOTICE TO R3 D/W)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I) CALL FOR THE ENTIRE RECORDS IN DISPUTE NO. JRD / KARA SOU. SAM. SA. NI/1604/2022-23, PENDING ON THE FILE OF RESPONDENT NO.2, DY. REGISTRAR OF CO-OPERATIVE SOCIETIES (RULE 441), KARNATAKA STATE SOUHARDA FEDERAL CO-OPERATIVE SOCIETIES LTD., BANGALORE. AND ETC.,

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

CORAM: HON'BLE MRS. JUSTICE M G UMA

ORAL ORDER

The petitioner is before this Court seeking for issuance of writ in the nature of certiorari to quash the order dated 31.01.2025 passed by respondent No.2 - Deputy Registrar of Co-operative Societies (Rule 441), Souharda Disputes Panchayathi Court Karnataka State Souharda Federal Co-operative Societies Ltd., Bangalore, in dispute No.ಜಿ.ಆರ್.ಡಿ./ಕ.ರಾ.ಸೌ.ಸಂ.ಸ.ನಿ/1604/2022-23, produced as per Annexure-A and to call for the entire records in dispute No.ಜಿ.ಆರ್.ಡಿ./ಕ.ರಾ.ಸೌ.ಸಂ.ಸ.ನಿ/1604/2022-23 pending on the file of respondent No.2.

2. Respondent No.4 is the Society registered under the provisions of Karnataka Souharda Sahakari Act, 1997 (for short

'Souharda Act, 1997'). Respondent No.5 is the Chief Executive Officer, respondent No.6 is the President and respondent No.7 is the Branch Manager. Respondent No.3 being a member of respondent No.4 had deposited certain sums of money in the form of fixed deposit with respondent No.4. Respondent No.3 before this Court has raised separate dispute before respondent No.2 under Section 39 of Souharda Act, 1997, for refund of the unpaid fixed deposit amount and interest accrued there on.

3. The petitioner contends that the State Government vide Notification dated 15.09.2023, by invoking Section 5(1) of the Karnataka Protection of Interest of Depositors in Financial Establishment Act, 2004 (for short 'the KPIDFE Act, 2004'), appointed the Joint Registrar of Co-operative Societies as the competent authority.

4. After receipt of notice from respondent No.2, concerning the dispute raised by respondent No.3 under Section 39 of Souharda Act, 1997, the petitioner and other office bearers appeared and filed an application under Section 8(2) of the Banning of Unregulated Deposits and Schemes Act, 2019, for rejection of the petition on the ground that

respondent No.2 lacks jurisdiction. This application was contested by respondent No.3. Later, the petitioner filed a memo dated 03.02.2024 along with the Notification dated 15.09.2023 referred supra and requested respondent No.2 to reject the dispute.

5. Respondent No.3 filed objections to the memo. Respondent No.2 in terms of the impugned order dismissed the memo as well as the application filed by the petitioner and proceeded for further adjudication of the claim made by respondent No.3. Therefore, the petitioner is before this Court challenging the order passed by respondent No.2.

6. The petitioner contends that Section 10 of the KPIDFE Act, 2004, prohibits the exercise of jurisdiction by any authority other than the Special Court. Therefore, it is contended that respondent No.2 has no jurisdiction to proceed with the adjudication of the dispute before him.

7. It is also contended that, in view of the appointment of competent authority, all the assets of respondent No.4 were taken over, and the depositors were called upon to make claims. Thus, he contends that respondent

No.3 is bound to make a claim before the competent authority. Nonetheless, he contends that respondent No.2 is proceeding in the matter. He also contends that the provisions of KPIDFE Act, 2004 has an overriding effect over all other Acts, including the Souharda Act, 1997. Therefore, respondent No.2 is not having jurisdiction to adjudicate upon the claim made by respondent No.3.

8. *Per contra*, learned counsel for respondent No.4 contends that, respondent No.4 is shown to be represented by the competent authority i.e., Joint Registrar of Co-operative Societies, Co-operative Election Authority, for Srivaibhava Soudharda Pathina Sahakari Niyamitha. He contends that the competent authority is a creation of KPIDFE Act, 2004 and therefore is an independent authority, which does not represent respondent No.4.

9. Learned counsel for respondent No.4 contended that in view of the constitution of competent authority under Section 5(1) of KPIDFE Act, 2004, it is deemed to have taken over all assets of respondent No.4 so as to preferentially liquidate the claim of all depositors. He submits that Soudharda

(Amendment) Act, 2004 has an overriding effect and therefore, the proceedings before respondent No.2 is valid. He contends that if respondent No.3 is desirous of making a claim to recover the amounts deposited, he may file an appropriate application in the prescribed form and the competent authority would take steps in accordance with KPIDFE Act, 2004. In support of his contentions, he relied upon the judgment of the Division Bench of this Court in ***Sri N Nanjudaiah V.S The Competent Authority***[1].

10. Learned Additional Government Advocate re-iterating the above contentions submitted that KPIDFE Act, 2004 has overriding effect over all other Acts including the Soudharda Act, 1997 and therefore, all proceedings before any other authority stand abated. In support of his contentions, he relied upon the judgment of the Hon'ble Apex Court in ***National Spot Exchange limited vs. Union of India and others***[2]***,*** where the Hon'ble Apex Court has considered whether the provisions of Prevention of Money Laundering Act, 2002, Recovery of Debts and Bankruptcy Act, 1993, and the

[1] MFA No.1218/2023 DD
[2] 2025 INSC 694

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, have an overriding effect over the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. The Hon'ble Apex Court answering the said question, held at paragraph 40 as under:

> *"40. In view of the above position of law settled by the Constitution Bench, it is held that considering the pith and substance of the State and the Central Legislations in question, the Central Legislations i.e., SARFAESI Act or RDB Act cannot be permitted to prevail over the State Legislation i.e., MPID Act, merely because the Central Legislations are enacted by the Parliament. Since all these Acts have separate field of operations, provisions of SARFAESI Act or RDB Act cannot be permitted to override the provisions of MPID Act, which is a validly enacted State Legislation, otherwise it would tantamount to violation of federal structure doctrine envisaged in the Constitution. The respective legislative powers of the Union and the States are traceable to Articles 245 to 254 of the Constitution, The State qua the Constitution is Federal in structure, and independent in its exercise of legislative and executive power. Therefore, if provisions of SARFAESI Act or RDB Act are permitted to override the provisions of MPID Act. then the legislative powers of the State Legislature would be denuded which would tantamount to subverting the law enacted by the State Legislature."*

11. Respondent No.3 represented by the learned counsel submitted that respondent No.3 is interested in getting back the deposits made. Therefore, he will be willing to participate in proceedings before any authority.

12. I have considered the submissions of learned counsel for the petitioner, learned Additional Government Advocate for respondent Nos.1 and 2, learned counsel for respondent No.3 and learned counsel for respondent No.4.

13. The KPIDFE Act, 2004, is enacted to provide for protection of interest of depositors in financial establishments. The Act has an overriding effect over all other enactments. Section 3(2) of the KPIDFE Act, 2004 reads as under:

> ***"3. Attachment of properties on default of return of deposits.*** *-*
>
> *(1) xxxxx*
>
> *(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."

14. It is not in dispute that the State Government, in exercise of its power under Section 5(1) of the KPIDFE Act, 2004, has appointed the competent authority vide Notification dated 15.09.2023. Therefore, it is deemed that all assets of respondent No.4 have came into the hands of the competent authority. Once the authority is appointed under Section 5(3) of the KPIDFE Act, 2004, it is for the competent authority to apply to the Special Court to make an order of attachment. Once an attachment is passed under Section 3(2) of the KPIDFE Act, 2004 and an application is made under sub-section 2 of Section 5 of the KPIDFE Act, 2004, before the Special Court for making

the attachment absolute, it is for the person who claims that the property is not liable to be attached to show-cause as to why such attachment should not be made absolute. Therefore, as rightly contended by learned counsel for the petitioner in this writ petition, the proceedings before respondent No.2 under the provisions of Souharda Act, 1997 is not maintainable. Respondent No.2 instead of considering the memo filed by the petitioner, has perfunctorily held that there is no prohibition under Souharda Act, 1997 to adjudicate the claim of respondent No.3.

15. In view of the above, the impugned order passed by respondent No.2 rejecting the memo filed by the petitioner to terminate the proceedings warrants interference.

16. Accordingly, I proceed to pass the following:

ORDER

i. The writ petition is ***allowed***.

ii. The order dated 31.01.2025 passed by respondent No.2 rejecting the memo filed by the petitioner to terminate the proceedings is set aside.

iii. The proceedings before respondent No.2 shall stand terminated.

iv. It is open for respondent No.3 to file appropriate claims before the competent authority, who shall consider them in accordance with law.

v. In order to expedite the process, respondent No.3 in this petition is granted a month's time to file appropriate claim petition before the competent authority from the date of receipt of copy of this order.

SD/-
(M G UMA)
JUDGE

PNV
CT:VS
List No.: 1 Sl No.: 3