HC-KAR

NC: 2026:KHC:23166
WP No. 5144 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 5144 OF 2023 (GM-DRT)

BETWEEN:

SMT MEENA RAGHAVENDRA
AGED ABOUT 48 YEARS,
W/O SRI RAGHAVENDRA N.,
RESIDING AT NO.77 AECS LAYOUT,
III STAGE, NAGASHETTIHALLI,
BENGALURU - 560 094

...PETITIONER

(BY SRI. SEETHA RAMA RAO B.C., ADVOCATE AND
SRI. ANUP SEETHARAM RAO, ADVOCATE)

AND:

1. NYAMAITHRA SAHAKARA BANK NIYAMITHA
A BANKING COMPANY CONSTITUTED UNDER
BANKING COMPANIES
(ACQUISTION AND TRANSFER OF UNDERTAKINGS),
ACT OF 1980
REP BY ITS PRESIDENT

2. THE MANAGER
NYAYAMITHRA SAHAKARA BANK NIYAMITHA,
BOTH ARE AT HIGH COURT OF KARNATAKA BRANCH,
BASEMENT FLOOR,
HIGH COURT OF KARNATAKA BUILDING,
BENGALURU - 560 001

Digitally signed by SUVARNA T
Location: HIGH COURT OF KARNATAKA

3. THE PRESIDING OFFICER
DEBT RECOVERY TRIBUNAL,
BENGALURU
BSNL HOUSE, RAJ BHAVAN ROAD,
BENGALURU - 560 001

…RESPONDENTS

(BY SRI. PRADEEP NAIK K., ADVOCATE FOR R2
SRI. BHASKAR Y., ADVOCATE FO R1)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI THE ORDER DATED 15.02.2023 MADE IN S.A.NO.46/2023 BY THE HONBLE PRESIDING OFFICER, DEBTS RECOVERY TRIBUNAL, BENGALURU A PER ANNX-B AND ETC.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed seeking the following prayers:

> ***"i) to issue a writ of certiorari the Order dated 15-02-2023 made in S.A.No.46/2023 by the Hon'ble Presiding Officer, Debts Recovery Tribunal, Bengaluru as per ANNEXURE-B,***
>
> ***ii) to issue a writ of mandamus directing the Hon'ble Presiding Officer, Debts Recovery***

Tribunal, Bengaluru to restore S.A.No.46/2023 to file and to consider the same on merits,

iii) to grant such other writ, order or direction as this Hon'ble Court may be deem fit to grant to the petitioner under the circumstances of the case including award of costs in the interest of justice."

2. It is the case of the petitioner that she is a third party an she is neither a borrower nor a guarantor. The respondent-Bank has initiated the proceedings with respect to the property belonging to the petitioner and issued a auction notification. Aggrieved by the same, she filed S.A.No.46/2023 before the Debt Recovery Tribunal (for short 'DRT'). Initially, on 20.01.2023, an order was passed noting that the sale of immovable property was fixed on 23.01.2023 at 03.30 p.m. Pursuant to the public auction sale notice dated 23.12.2022, shall gone, however, confirmation of such sale was stayed, till the next date of hearing. Subsequently, another order came to be passed on 15.02.2023, wherein the DRT has observed that since the sale did not materialize on the scheduled date, as stated by the counsel for the Bank, the prayer that is sought in the S.A. is to set aside the auction sale, hence the petition has

become infructuous. Accordingly, the S.A. was disposed of as infructuous. Aggrieved by the said order, the petitioner, who was the applicant before the DRT, has approached this Court.

3. Learned counsel appearing for the petitioner submits that, in fact, the petitioner had sought several prayers before the DRT, one of it was auction sale notice. It is further submitted that the DRT was required to consider all aspects with regard to the mortgage and all the measures initiated by the Bank. But without going into the merits of the matter, the DRT dismissed the application as infructuous, and the same is liable to be set aside.

4. Learned counsel appearing for Respondent No. 2–Bank submits that the auction could not be materialized, therefore, the Tribunal has rightly dismissed the S.A. as infructuous and nothing remains to be considered in the said S.A.

5. Having heard learned counsels on either side, perused the materials on record.

6. The petitioner has approached the DRT questioning the SARFAESI proceedings initiated by the Bank in respect of her property, which is not mortgaged to the Bank. She has raised several grounds, including the contention that the sale notice is bad in law. If the sale has not been concluded, the S.A. does not become infructuous. The DRT is required to consider all the grounds raised by the petitioner, as well as the reliefs that were sought in the application before the DRT. In the considered opinion of this Court, the dismissal of the S.A. as infructuous by the DRT is bad and the same is liable to be set aside. Accordingly, this Court is passing the following:

ORDER

i. The order dated 15.02.2023 passed by the DRT in SA.No.46/2023 is ***set aside*** and the matter is remanded back to the DRT for fresh consideration

ii. Considering the fact that this is an S.A. is of the year 2023, the DRT is requested to dispose of the same as expeditiously as possible, but not later than 8 months.

iii. All contentions are left open to the parties.

iv. The parties shall appear before the DRT on 14.05.2026, without further notice.

v. Pending IAs., if any, shall stand closed.

Sd/-
(LALITHA KANNEGANTI)
JUDGE

SMC
List No.: 1 Sl No.: 4