HC-KAR

NC: 2026:KHC:64114
WP No. 18454 of 2024

CNR: KAHC010379812024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

WRIT PETITION NO.18454 OF 2024 (GM-DRT)

BETWEEN:

1. SRI. H K SRIKANTASHETTY
   S/O LATE KADASHETTY,
   AGED ABOUT 69 YEARS,
   NO.K-133, 1ST MAIN,
   DR. RAJKUMAR ROAD,
   RAJAJINAGAR,
   BANGALORE-10.

2. SMT. S JAYALAXMI
   W/O H K SRIKANTHSHETTY,
   AGED ABOUT 65 YEARS,
   SENIOR HEALTH ASSISTANT,
   HEALTH DEPARTMENT
   PRIMARY HEALTH CENTRE, KOPPAL,
   MALAVALLI TALUK,
   MANDYA DISTRICT.

...PETITIONERS

(BY SRI. RAJENDRA M A, ADVOCATE)

Digitally signed by PAVITHRA B
Location: HIGH COURT OF KARNATAKA

AND:

1. BANK OF BARODA,
   REPRESENTED BY ITS
   AUTHORIZED OFFICER,
   INFANTRY ROAD BRANCH,
   23/24, INFANTRY ROAD,
   BANGALORE - 560 001

2. SRI. M S RAGHU
   S/O M SUBBARAJU,

AGED MAJOR,
NO.61, AGS LAYOUT,
NEW BEL ROAD,
BANGALORE - 560 054.

3. SMT. GEETHA NAGESH
W/O S NAGESH,
AGED MAJOR,
NO.139, CQLA LAYOUT,
II PHASE, SAHAKARNAGAR,
BANGALORE - 560 092.

4. SRI. S A SRINIVAS
S/O ANANTHARAME GOWDA,
AGED MAJOR,
GSW STEEL, VIDYANAGAR TONWSHIP
HOUSE NO.G-2/4, THORANGALLU,
BELLARY - 583 275.

…RESPONDENTS

(BY SRI. T P MUTHANNA, ADVOCATE FOR R1;
R2 & R4 ARE SERVED BUT UNREPRESENTED;
VIDE ORDER DATED 11.09.2026, NOTICE TO R3 IS HELD SUFFICIENT)

THIS W.P IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH / SET ASIDE THE ENTIRE MEASURES-INITIATED U/S 13(4) READ WITH RULE-8 & 9 OF SECURITY INTEREST (ENFORCEMENT) ACT, 2002, IN RESPECT OF SCHEDULE PROPERTY, WHEN THE ACCOUNT WAS UPGRADED TO A "STANDARD ACCOUNT" AS THE SAID MEASURE IS AB-INITIO VOID AND SALE CERTIFICATE ISSUED IN FAVOUR OF THE AUCTION PURCHASER ON 26.06.2010 BY RESPONDENT NO.1 (ANNEXURE-J) AND SUBSEQUENT SALE DATED 30.12.2010, 21.10.2015 (ANNEXURE-K & L) ARE ALSO NON-EST IN THE EYES OF LAW.

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

CORAM: HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL ORDER

1. Petitioners are before this Court challenging the action initiated by the respondent-Bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') read with Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002 insofar as classifying the loan account of the petitioners as a Non-Performing Asset, contending that the same is in violation of the aforesaid provisions.

2. The averments made in the writ petition disclose that, invoking the provisions of the SARFAESI Act, possession of the secured asset was taken on 25.10.2008 and the secured asset was brought to sale pursuant to the sale notice dated 22.12.2008. Aggrieved by the action of the respondent-Bank in bringing the secured asset for sale, petitioner No.1 had approached the Debts Recovery Tribunal ('DRT'), Bengaluru in A.S.A.No.40/2009 and the same was disposed of. Simultaneously, the wife of petitioner No.1 had also preferred an appeal under Section 17(1) of the SARFAESI Act before the

DRT, Bengaluru in S.A.No.553/2009, challenging the sale notice issued by the respondent-Bank and the same came to be dismissed. Pursuant to the sale notice issued on 22.12.2008, the sale could not be concluded. The respondent-Bank thereafter issued another sale notice notifying the auction sale on 25.05.2010. The sale was confirmed on 11.06.2010. The said sale proceedings were again challenged by the petitioners before the DRT, Bengaluru in S.A.No.433 of 2012, which was also dismissed on 06.03.2013. The order passed by the DRT was challenged before the Debts Recovery Appellate Tribunal, Chennai in RA(SA) No.110/2014 and the same came to be dismissed by order dated 04.03.2020. The order passed by the DRAT, Chennai was challenged before this Court in W.P. No.8466/2020. The said writ petition also came to be dismissed on 26.03.2021. Challenging the same, the petitioners had approached the Hon'ble Apex Court in SLP (Civil) No.17931/2021. The said petition also came to be dismissed on 26.11.2021. The review petition in RP (Civil) No.418/2022 filed by petitioner No.1 seeking review of the said order, also came to be dismissed by an order dated 12.04.2022. The

Curative Petition (Civil) No.219 of 2023 was filed by the petitioners, which was also dismissed on 10.10.2023.

3. After exhausting the aforesaid remedies, the petitioners are before this Court in the instant writ petition, contending that there is a serious infraction in the initiation of the proceedings by the respondent-Bank under the SARFAESI Act, and therefore, notwithstanding the orders passed, which are referred to supra, they are entitled to challenge the very measure taken by the respondent-Bank under the SARFAESI Act.

4. When queried the learned counsel for the petitioners as to whether the grounds urged in the instant writ petition were also urged in the earlier writ proceedings, learned counsel submitted that, though the grounds were available, the same were not urged in the earlier proceedings. If the grounds and contentions now urged by the petitioners were available to them when they challenged the action of the respondent-Bank in taking possession of the secured asset and bringing the property for sale in the earlier proceedings, but were not urged therein, the petitioners cannot be permitted to seek reopening

of the concluded proceedings at this distance of time by entertaining the instant writ petition. It is well established that the provisions of Order II Rule 2 of CPC are equally applicable to writ proceedings. Therefore, the grounds and contentions that were available to the petitioners at the earliest point of time, but were not urged when the earlier proceedings were initiated, cannot be permitted to be urged in a separate proceedings after more than a decade.

5. Without going into the merits of the contentions urged, this Court is of the considered opinion that the prayer made in the writ petition cannot be considered in the instant writ petition. Accordingly, the writ petition being devoid of merits is hereby ***dismissed as not maintainable***.

In view of dismissal of the petition, I.A.Nos.1 and 2/2025 also stand dismissed.

Sd/-
(T.P.VIVEKANANDA)
JUDGE

hkh.
List No.: 1 Sl No.: 19