

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

MISCELLANEOUS FIRST APPEAL NO.6747 OF 2025 (KPIDFA)

BETWEEN:

CANARA BANK
SPECIALIZED ARM BRANCH PANAJI
FIRST FLOOR, MATHIAS PLAZA
18TH JUNE ROAD, PANAJI
GOA - 403 001
REPRESENTED BY ITS MANAGER
MR. SAHIK VIJAY TABHANE

...APPELLANT

(BY SRI. B. S. JEEVAN KUMAR, ADVOCATE)

AND:

1 . THE COMPETENT AUTHORITY
FOR M/S. THE KRANTIVEERA SANGOLLI
RAYANNA URBAN CO-OPERATIVE SOCIETY
OFFICE AT 3RD FLOOR
MINI V V TOWER
PODIUM BLOCK
DR. AMBEDKAR VEEDHI
BENGALURU - 560 001

REPRESENTED BY ITS COMPETENT AUTHORITY
SUDARSHAN B. K.
ASSISTANT COMMISSIONER

2 . SMT. PREMA ANAND APPUGOL
W/O ANAND BALAKRISHNA APPUGOL
(DIRECTOR, M/S. THE KRANTHIVEERA SANGOLLI
RAYANNA URBAN CO-OPERATIVE SOCIETY LTD.,)

PLOT NO.23, 2ND MAIN, 2ND CROSS
HANUMAN NAGAR
BELAGAVI - 590 019

- 3 . M/S. THE KRANTIVEERA SANGOLLI RAYANNA
URBAN CO-OPERATIVE SOCIETY LIMITED
REGISTERED OFFICE NO.3528
SHRI SHAKTHI BUILDING
RESALDARA GALLI, VIVEKANANDA MARGA BELAGAVI

REPRESENTED BY ITS PRESIDENT ANAND
BALAKRISHNA APPUGOL
SON OF BALAKRISHNA APPUGOL
AGED MAJOR
NOW IN DISTRICT PRISON
MANGALORE DISTRICT PRISON
MANGALORE

...RESPONDENTS

(BY SRI. VEERESH R. BUDIHAL, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 16 OF THE KARNATAKA PROTECTION OF INTEREST OF DEPOSITORS IN FINANCIAL ESTABLISHMENTS ACT, 2004, AGAINST THE ORDER DATED 20.07.2024 PASSED IN MISC. PETITION NO.202/2024 ON THE FILE OF THE XCI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, SPECIAL JUDGE FOR KPIDFE CASES, BENGALURU (CCH-92), ALLOWING THE PETITIONS FILED U/S.5(2) OF THE KPIDFE ACT, 2004 WITH COST.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 02.06.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This Miscellaneous First Appeal is preferred against the Order dated 20.07.2024 passed by the XCI Additional City Civil and Sessions Judge, Bengaluru (CCH-92) ('Special Court' for short) in Misc.No.202/2024.

2. We have heard Shri. B.S. Jeevan Kumar, learned counsel appearing for the appellant and Shri. Veeresh R. Budihal, learned counsel appearing for the respondents.

3. The Canara Bank, which is the appellant herein seeks to file this appeal challenging the order of the Special Court under the Karnataka Protection of Interest of Depositors in Financial Establishment Act, 2004 ('KPIDFE Act' for short) on the ground that the property which was subject matter of the application under Section 5(2) of the KPIDFE Act was mortgaged with the appellant - Bank. It is contended that respondent No.3 - M/s. Krantiveera Sangolli Rayanna Urban Co-operative Society Limited ('Society' for short), which is the Financial Establishment in the instant case had created a registered mortgage in favour of the

appellant - Bank, as security for working capital and term loan availed by respondent No.2 and other borrowers. The loan had become a Non-Performing Asset as on 16.10.2018 and Notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act' for short), was issued by the Bank on 10.09.2019. When the borrowers failed to comply, a possession notice was also issued on 05.03.2020 and symbolic possession of the secured property was taken.

4. In the meanwhile, the Government of Karnataka issued an interim order of attachment dated 03.11.2023 under Section 3(2) of KPIDFE Act in respect of the schedule properties in proceedings against the Society. It is further submitted that respondent No.1 - Competent Authority had filed an application under Section 5(2) of the KPIDFE Act before the Special Court with a delay of 63 days, seeking making of the interim order of attachment absolute. The Society as well as the Directors did not oppose the application under Section 5(2) of the KPIDFE Act. The

Special Court condoned the delay of 63 days in filing the application, allowed the same and made the attachment absolute.

5. It was found by the Special Court that by Sale Deeds dated 30.03.2010, 18.08.2015 and 27.01.2020, respondent No.2, being a Director of the Financial Establishment had purchased the properties out of the deposits in the Financial Establishment. Further, it was found that since the assets standing in the name of the Society were insufficient to meet the claim of the depositors, the personal properties of the Directors was also liable to be attached.

6. The said order is assailed by the appellant - Bank on the ground that it had a prior charge on the properties and that since the possession of the properties had been taken by the Bank under the SARFAESI Act, the attachment and the order making it absolute under the provisions of the KPIDFE Act are incompetent.

7. It is contended that since the mortgage was created by a registered document, the competent authority ought to have made the appellant a party to the proceedings and that the order passed without hearing the appellant and without considering its contentions is *non-est* in law. It is further contended that the application under Section 5(2) of the KPIDFE Act having been filed beyond the time provided therein, the delay could not have been condoned.

8. The learned counsel appearing for the appellant has relied on the following decisions:-

- ***Punjab National Bank v. Union of India and others*** reported in ***(2022) 7 SCC 260***;
- ***UCO Bank and another v. Dipak Debbarma and others*** arising out of ***SLP (Civil) Appeal No.11250/2016***, and
- ***Bank of India v. The Secretary to the Government and another*** passed in ***Writ Petition No.12038/2017 (GM-RES)*** by order ***dated 06.07.2022***.

9. The learned counsel appearing for respondent No.1 - competent authority, on the other hand, contends that the questions raised in the appeal are no longer *res*

integra. It is contended that the question with regard to the applicability of the Limitation Act, 1963 to proceedings of a Special Court has already been decided by this Court in the case of **Smt. Yashoda and others v. The Competent Authority and another** passed in **MFA No.380/2025 (KPIDFA)** by order **dated 20.01.2026** and it has been held that the power of the Special Court to condone the delay, applying Section 5 of the Limitation Act is unaffected by the timeline as provided in Section 5(2) of the KPIDFE Act. Further, it is contended that the question with regard to primacy of the KPIDFE Act over proceedings under the SARFAESI Act stands answered in the affirmative by the decision of the Apex Court in **National Spot Exchange Limited v. Union of India and others** reported in **2025 INSC 694**. It is submitted that the learned Single Judge of this Court had considered the said judgments in Writ Petition No.14220/2024 (GM-DRT) in a writ petition filed by the appellant itself and had held that the KPIDFE Act has an overriding effect and an attachment under the said Act will

have primacy over the provisions of the SARFAESI Act as well.

10. The learned counsel appearing for respondent No.1-Competent Authority has relied on the decision of this Court in the case of ***Canara Bank v. State of Karnataka and others*** passed in ***Writ Petition No.14220/2024 (GM-DRT)*** by Order ***dated 10.04.2026***.

11. We have considered the contentions advanced. The preliminary contention of the appellant is to the effect that the mortgage created by respondent No.2 is earlier in point of time to the Notification under Section 3(2) of the KPIDFE Act. It is therefore contended that relying on the various decisions of the Apex Court that a charge under the SARFAESI Act overrides all other attachments. However, the learned counsel for respondent No.1 - Competent Authority has placed reliance on the decision of the Apex Court in the case of ***National Spot Exchange Limited's*** case (supra), wherein, it was clearly held that secured creditors cannot claim priority over properties attached

under a Depositor Protection Statute. Considering the provisions of the Maharashtra Protection of Interest of Depositors Act, 1999 ('MPID Act' for short), which is in *pari materia* with the KPIDFE Act, it was held as follows:-

"44. In that view of the matter, it is held that no priority of interest can be claimed by the Secured Creditors against the properties attached under the MPID Act and that the provisions of MPID Act would override any claim for priority of interest by the Secured Creditors in respect of the properties which have been attached under the MPID Act."

12. Though the learned counsel for the appellant contends that a review petition has been filed as against the judgment of the Apex Court in ***National Spot Exchange Limited's*** case (supra), it is clear that mere filing of a review petition will not detract from the binding force of the precedent under Article 141 of the Constitution of India.

13. In the above circumstances, we are unable to accept the contention that the order of the Special Court was bad in law. Further, since the initial order of attachment under Section 3(2) of the KPIDFE Act was published in the manner known to law and notice of the attachment was

affixed prominently in the property in question, we are of the opinion that the contention that the appellant - Bank ought to have been made a party to the petition under Section 5(2) of the KPIDFE Act cannot be countenanced. The Bank on knowing that there is an attachment of the property was free to have approached the Special Court and gotten itself included as is clear from Section 12(3) of the KPIDIFE Act. Having constructive notice of the attachment and not having chosen to do so, the Bank cannot seek to challenge an order of the Special Court duly passed under Section 5(2) of the KPIDFE on this ground.

14. The further contention is that the delay of 63 days in filing the application under Section 5(2) of the KPIDFE Act could not have been condoned by the Special Court, also cannot be countenanced, since it is clear that the provisions of Section 5(2) of the KPIDFE Act do not amount to a specific exclusion of the provisions of the Limitation Act which have been held to be applicable to the Special Court as well.

15. In the above view of the matter, we are of the opinion that the appellant has not made out any case for an interference with the order of the Special Court. The appeal fails and the same is accordingly ***dismissed***.

All pending interlocutory applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

cp*