



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF APRIL, 2026**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**WRIT PETITION NO. 14220 OF 2024 (GM-DRT)**

**BETWEEN:**

CANARA BANK,  
HOSKOTE BRANCH,  
WARD NO.6, KAVERI COMPLEX,  
COLLEGE MAIN ROAD, M.V. EXTENSION,  
HSAKOTE - 562 114.

...PETITIONER

(BY SRI. SHETTY VIGNESH SHIVARAM.,ADVOCATE)

**AND:**

1. STATE OF KARNATAKA,  
REPRESENTED BY PRINCIPAL SECRETARY,  
REVENUE DEPARTMENT,  
ROOM NO.627, 6<sup>TH</sup> FLOOR, GATE-1,  
M.S BUILDING , DR.B.R.AMBEDKAR VEEDHI,  
BENGALURU 560 001.
2. SUB REGISTRAR,  
HOSAKOTE SUB REGISTRAR OFFICE,  
HOSAKOTE, BENGALURU.
3. ASSISTANT COMMISSIONER AND  
COMPETENT AUTHORITY,  
VINIVINK ORGANIZATION INVESTOR  
CLAIMS ENQUIRY DIVISION, BENGALURU.  
5<sup>TH</sup> FLOOR, VISHVESHWARAYYA KENDRA,  
DR. AMBEDKAR VEEDHI, BENGALURU 560 001.





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4. UNDER SECRETARY TO GOVERNMENT  
REVENUE DEPARTMENT (SPECIAL CELL)  
VIDHANA SOUDHA, BENGALURU 560 001.
5. STATE OF KARNATAKA,  
THROUGH HOSKOTE POLICE STATION,  
HOSKOTE KARNATAKA,  
REP. BY GOVERNMENT PLEADER.
6. SMT. SARVAMANGALA,  
W/O SRI APPU RAO M.S.  
MAJOR IN AGE,  
R/A NO.22, SRI RAYARA NIVASA,  
ROY SINGH LAYOUT, HOSAKOTE,  
BENGALURU RURAL 562 114.

...RESPONDENTS

(BY SRI.MAHANTESH SHETTAR.,AGA FOR R1,R2,R4 & R5;  
SRI.VEERESH BUDIHAL., ADVOCATE FOR R3;  
SRI.SWAROOP S., ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO A) DIRECTION SETTING ASIDE THE GAZETTE NOTIFICATION DATED 15/03/2023 BEARING NO. E-RD 22 GRC 2022 ISSUED BY THE R4 IN SO FAR THE SCHEDULE PROPERTY IS CONCERNED (ANNEXURE-E) AND B) SETTING ASIDE THE DIRECTION DATED 12/06/2023 BEARING NO. NGR/CR/01/2023-24 ISSUED BY THE R3 TO THE R2 IN SO FAR THE SCHEDULE PROPERTY IS CONCERNED (ANNEXURE-F) AND C) DIRECTION ON THE R2 TO REGISTER THE SALE CERTIFICATE DATED 30/03/2024 BEARING REF. NO. RO/DEV/SC/SS/30032023 ISSUED BY THE PETITIONER IN FAVOUR OF R6 (ANNEXURE-B) AND D) DIRECTION ON THE JURISDICTIONAL POLICE TO ASSIST THE PETITIONER IN HANDOVER POSSESSION OF THE SCHEDULED PROPERTY TO THE AUCTION PURCHASER.

THIS WRIT PETITION, COMING ON FOR DICTATING JUDGMENT HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



## **ORAL ORDER**

The present writ petition is filed by the petitioner/Canara Bank seeking the following prayer:

### **"PRAYER**

***WHEREFORE the Petitioner prays that this Hon'ble court may be pleased to:***

***a) Issue a writ in the nature of certiorari or any other appropriate writ or direction setting aside the gazette notification dated 15.03.2023 bearing No. E-RD 22 GRC 2022 issued by the Respondent No.4 in so far the schedule property is concerned. (Annexure-E)***

***b) Issue a writ in the nature of certiorari or any other appropriate writ setting aside the direction dated 12.06.2023 bearing No. NGR/CR/01/2023-24 issued by the Respondent No.3 to the Respondent No.2 in so far as the Schedule Property is concerned. (Annexure-F)***

***c) Issue a writ in the nature of mandamus or any other appropriate writ or direction on the Respondent No.2 to register the sale certificate dated 30.03.2024 bearing Ref.No.RO/DEV/SC/SS/30032023 issued by the Petitioner in favour of Respondent No.6. (Annexure-B)***

***d) Issue a writ in the nature of mandamus or any other appropriate writ or direction on the jurisdictional police to assist the Petitioner in handover possession of the scheduled property to the auction purchaser.***

***e) Grant any other order or direction as may deem fit in the circumstances of the case."***

2. The facts of the case are that one Late Shivakumar R had approached the petitioner/Bank for a housing loan in the year 2020 for an amount of Rs.2,32,00,000/- for construction of residential building. For the said housing loan, one Mr.Praveen Kumar S and one Smt. Varalakshmi S were the co-



borrowers and also Mr. Pawan Kumar, who is the co-borrower is also the legal heir of late Mr. Sivakumar. After considering the application of the borrowers, the petitioner/Bank sanctioned the housing loan facility of an amount of Rs.2,32,00,000/-. They have executed the housing loan agreement. The borrowers agreed to repay the said loan of Rs.2,32,00,000/- within 348 monthly instalments of Rs.1,83,015/-. The borrowers agreed to pay the interest on the loan amount at the rate of 8.70% p.a. compounded monthly interest from the date of grant of loan. On 27.03.2020, one Late Shivakumar R., created mortgage of the property bearing No.1, Hoskote Municipal Khata No.6808/5517/2841/1 and PID No.23-17-86 situated at Ramakrishna Road, 2<sup>nd</sup> cross, Sir M.V. Layout, Hosakote Town, Bangalore Rural District by executing Memorandum of Deposit of Title Deed, which was registered on 27.04.2020 in the Office of the Sub-Registrar, Hoskote.

3. After the borrowers executed the loan documents, the petitioner/Bank released the loan amount and permitted the borrowers to utilise the housing loan amount. When the borrowers failed to pay the amount, the account was classified



as Non-Performing Asset on 29.01.2022 in accordance with the directives/guidelines relating to asset classification issued by the Reserve Bank of India. The Bank issued notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') on 09.02.2022 and the same was received by the borrowers and guarantors. In spite of receipt of notices, they have neither liquidated their dues nor raised any objection. Then the Bank has issued a notice under Section 13(4) of the SARFAESI Act dated 06.05.2022 and took symbolic possession of the property.

4. Then the petitioner/Bank has filed a petition under Section 14 of the SARFAESI Act before the Chief Judicial Magistrate, Bangalore Rural and the Bank was allowed to take possession of the secured assets vide order dated 07.11.2022 in C.Misc.No.1139/2022. Pursuant thereto, the Bank took physical possession of the property on 21.11.2022. The petitioner has simultaneously proceeded by filing O.A.No.1146/2023 before the Debts Recovery Tribunal-II, Bangalore under Section 19 of the RDB Act, 1993 and the same



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is pending adjudication. Then the petitioner has issued the sale notices dated 21.07.2022, 04.11.2022, 30.11.2022, 20.01.2023 and 18.04.2023 by fixing the sale on 29.08.2022, 29.11.2022, 22.12.2022, 22.02.2023 and 24.05.2023 respectively. However, the respective sales did not take place due to want of bidders. Another sale notice was issued on 19.10.2023 fixing the sale on 23.11.2023. In the said sale, the scheduled property was sold on 23.11.2023 for an amount of Rs.7,10,66,000/- and the sale was confirmed.

5. The borrowers and guarantors had filed WP.No.27699/2023 before this Court. Initially, a conditional interim stay was granted on 22.01.2024 subject to payment of Rs.50 lakhs on or before 22.02.2024. However, they did not comply with the interim order and withdrew the writ petition vide order dated 20.02.2024. It is stated that after emerging as the successful bidder, respondent No.6 had deposited the entire consideration of an amount of Rs.7,10,66,000/-. Accordingly, the sale certificate was issued on 30.03.2024 executed by the authorized officer of the bank in favour of respondent No.6.



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6. The respondent No.6/auction purchaser gave a representation dated 05.04.2024 to respondent No.2 seeking registration of the sale certificate dated 30.03.2024. An endorsement dated 10.04.2024 was issued by respondent No.2, wherein the registration of the scheduled property was denied on the ground that respondent No.4 had issued a gazette notification dated 15.03.2023 *inter alia* prohibiting the registration of the scheduled property. Respondent No.3 on the basis of the said gazette notification had also issued a direction to respondent No.2 vide letter dated 12.06.2023 restricting the registration of the property. Subsequently, the petitioner tried to hand over the physical possession of the property to respondent No.6. However, the petitioner could not handover the possession due to the ruckus and commotion created by unruly elements/persons at the behest of the borrowers and guarantors at the scheduled property. The petitioner/Bank is aggrieved by the endorsement dated 10.04.2024, gazette notification dated 15.03.2023 and letter dated 12.06.2023. Assailing the same, the present writ petition is filed.



7. Learned counsel appearing for the petitioner/Bank submits that the charge of the Bank under SARFAESI Act overrides any other charge under any other enactment. The mortgage which existed much earlier to the proceedings under the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 (for short 'KPIDFE Act') takes precedence. In view of the same, the gazette notification dated 15.03.2023, letter dated 12.06.2023 and consequent endorsement dated 10.04.2024 restricting registration of the schedule property are unsustainable and liable to be set aside. It is submitted that the attachment under the KPIDFE Act would not have any priority over the actions of respondent No.3. Further, Section 26-E of the SARFAESI Act relates to the priority of secured creditors and stipulates that notwithstanding anything contained in any other law for the time being in force, after the restriction of a security interest, the debts due to any secured creditor shall be paid in priority over all other debts. The auction in favour of the auction purchaser by the secured creditor is free from all encumbrances. Hence, the Sub-registrar cannot refuse to register the sale certificate. It is stated that the SARFAESI Act being a Central Legislation has



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precedence over the State Legislation such as KPIDFE Act. It is submitted that SARFAESI Act contains overriding clause under Section 35 which is clear that it prevails over any law overriding its provisions. Hence, on the pretext of attachment under KPIDFE Act, registration of sale certificate of respondent No.6/auction purchaser cannot be curtailed.

8. It is submitted that this issue is fairly covered by the decisions of the Apex Court in case of ***Punjab National Bank Vs. Union of India and others***<sup>1</sup> and the learned counsel for the petitioner/Bank has also relied on the judgment in case of ***UCO Bank and another Vs. Dipak Debbarma and others*** arising out of ***SLP(Civil)Appeal No.11250/2016***. He has also relied on another judgment of this Court in case of ***Bank of India Vs. The Secretary to the Government, Revenue Department*** arising out of ***WP.No.12038/2017*** and held that the charge under SARFAESI Act overrides attachment under the KPIDFE Act. He had relied on the judgment of the High Court of Judicature at Bombay in case of ***SBICAP Ventures Ltd. Vs. Joint Director, Directorate of Enforcement (Bengaluru***

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<sup>1</sup> 2022 SCC OnLine SC 227



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**Zonal Office) & others** arising out of **WP.No.1360/2023**. He

had relied on paragraph No.24 which reads thus:

**"24. We are unable to see any provision of the PMLA that has, combined with the non obstante clause, an overriding charge that would defeat, efface or render subservient the rights of a secured creditor. It is even unclear whether the attachment by the PMLA constitutes a sovereign debt in a case like this. Even if it did, it would not prevail over the rights of a secured creditor claiming security under a contract. We are unable to see from the impugned order a single finding rendered after the due process of law that there is anything remotely untoward let alone illegal within the meaning of the PMLA in the Petitioner's acquisition of rights over the flats in question, the project or the receivables. It is no argument to say that the PMLA proceedings are in the public interest. Every statute is in the public interest. But is it being suggested that the SWAMIH fund is not in the public interest, despite all that is known? SBICAP is not even made a party to the PMLA proceedings."**

9. Learned counsel for the petitioner/Bank had relied on the judgment of the Apex Court in case of **Solidaire India Ltd. Vs. Fairgrowth Financial Services Ltd. and others**<sup>2</sup>. He had relied on paragraph No.11 which reads as follows:

**"11. We are in agreement with the aforesaid decision or the case, more so when we find that whenever the Legislature wishes to do so it makes appropriate provisions in the Act in that behalf. Mrs. Shiraz Rustomjee has drawn our attention to Section 34 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 wherein after giving an overriding effect to the 1993 Act it is specifically**

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<sup>2</sup> (2001) 3 SCC 71



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***provided that the said Act will be in addition to and not in derogation of a number of other Acts including the 1985 Act. Similarly under Section 32 of the 1985 Act the applicability of the Foreign Exchange Regulation Act and the Urban Land (Ceiling and Regulation) Act is not excluded. It is clear that in the instant case there was no intention of the legislature to permit the 1985 Act to apply, notwithstanding the fact that proceedings in respect of a company may be going on before the BIFR. The 1992 Act is to have an overriding effect notwithstanding any provision to the contrary in another Act."***

10. Learned counsel had relied on the judgment of the High Court of Madras in case of ***Assistant Commissioner (CT) Vs. Indian Overseas Bank and Another***<sup>3</sup>. He had relied on paragraph No.3 which reads thus:

***"3. There is, thus, no doubt that the rights of a secured creditor to realise secured debts due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority. This section introduced in the Central Act is with "notwithstanding" clause and has come into force from September 1, 2016."***

11. He had relied on the judgment of the Co-ordinate Bench of this Court in case of ***Sri.T.Bharathgowda Vs. State of Karnataka and Others*** arising out of ***WP.No.7872/2024 dated 28.05.2024***. He had relied on paragraph No.14 which reads thus:

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<sup>3</sup> 2016 SCC OnLine Mad 10030



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**"14. Scores and scores of cases are filed before this Court where the Sub-Registrars refuse to register the documents - the documents could be sale certificates or documents creating charge over the property. The Sub-Registrars, on grounds that are not available to them, refuse to register the documents, sometimes on the score that the software in the Registration Department or the Sub-Registrar's office is not made to be in tune with the necessities of registration of documents of the Banks and therefore, it is not registered and in certain cases, it is the statutory dues by the borrower or the holder of the document, which are not cleared and therefore, would not be registered. All these are reasons beyond the statute. Unless the Sub-Registrar notices any violation as obtaining under Rule 171 of the Rules, the Sub-Registrar does not have jurisdiction to refuse registration of a document. Therefore, it is necessary for the State Government to issue necessary circular in terms of Rule 171 of the Rules and the law laid down by the Apex Court in the judgment supra, so that every person who goes for registration of documents should not be denied registration except in accordance with the observations supra as acts of Sub-Registrars are driving every person who is denied registration to the doors of this Court unnecessarily and if the Sub-Registrar would not register a document, if it is found to be in tune with law, the delay in registration would be attributable only to those Sub-Registrars, who will be saddled with exemplary costs when such cases are brought before this Court seeking a direction for registration of a document."**

12. Relying on these judgments, learned counsel for the petitioner/Bank submits that the secured creditor has first charge over the property and the provisions of the KPIDFE Act cannot have an overriding effect on the SARFAESI Act. Hence, it is submitted that the writ petition may be allowed and the Sub-registrar may be directed to register the sale certificate.



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13. Learned counsel appearing for respondent No.3/competent authority submits that the dispute that is raised by the petitioner/Bank in the instant case is essentially regarding the two enactments i.e., SARFAESI Act and the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 (for short 'KPIDFE Act'). It is stated that the respondent No.3 is a competent authority appointed by the Government of Karnataka by exercising the powers conferred on it under the KPIDFE Act. The competent authority is entrusted with the function of curbing the unscrupulous activities of fraudulent financial establishment including its promoters, partners, directors, manager or employee responsible for the management of or the conduct of the business or affairs of the financial establishment which has fraudulently defaulted in the repayment of the deposits and has also been vested with a statutory duty of attaching the properties of the defaulters and realizing the money to disburse the same to the depositors. It is submitted that the KPIDFE Act is remedial and beneficial statute, intended to protect the depositors and preserve assets derived from, or connected with, defaulting financial establishments. The ad-interim



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attachment by the competent authority operates to maintain the *status quo* and prevent alienation or creation of third party interests that would frustrate eventual recovery. A purposive interpretation therefore be adopted to give efficacy to these protective steps.

14. It is submitted that the Government of Karnataka issued an order of ad-interim attachment by exercising its powers under Section 3(2) of the KPIDFE Act on 15.03.2023 and in terms of Section 3(4) of the KPIDFE Act, the property stood vested in competent authority. The competent authority directed the jurisdictional Sub-registrar to restrain registration by virtue of communication dated 12.06.2023. It is submitted that the Apex Court in the case of ***National Spot Exchange Ltd. Vs. Union of India and others***<sup>4</sup>, has upheld the proposition that secured creditors cannot claim priority over properties attached under a depositor-protection statute, holding that MPID Act overrides any such claim of priority in respect of properties attached thereunder. It is submitted that the Apex Court is dealing with Maharashtra Protection of

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<sup>4</sup> 2025 INSC 694



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Interest of Depositors Act and it is in *pari materia* with the KPIDFE Act in object and mechanism, depositor protection, attachment and vesting in the competent authority, supervision by the Special Court and equitable realization and distribution. It is submitted that in view of the same, attachment proceedings under the KPIDFE Act are not rendered void or inoperative merely because the security interest is created by the Bank.

15. It is submitted that under Article 246 and the doctrine of pith and substance, the KPIDFE Act is referable to entries 64, 65 of List II and entry 2, 11A, 13 and 46 of List III of the Seventh Schedule to the Constitution of India and is a valid exercise of State Legislative competence to curb fraudulent financial establishment and protect depositors. It is submitted that the SARFAESI Act enables expeditious recovery of Bank dues through enforcement of security interests, whereas KPIDFE is a public interest restitution regime for fraudulently mobilized deposits, treating SARFAESI as automatically overriding would enable encumbrances to become a ready



device to defeat depositor protection statutes, contrary to the Supreme Court's recognition of their protective purpose.

16. It is submitted that in the light of the judgment of the Hon'ble Supreme Court in **National Spot Exchange Ltd.**'s case referred supra, the said issue is no more *res integra* and the provisions of the KPIDFE Act which are *pari materia* with that of the MPID Act has an overriding effect on the SARFAESI Act. It is submitted that Section 26-E of the SARFAESI Act is considered in the above referred judgment and that argument is no more available to the petitioner. The judgment that is relied on by the petitioner/Bank in **Punjab National Bank's** case referred supra will not apply to the facts of this case. It is submitted that in **National Spot Exchange Ltd.**'s case referred supra, the Apex Court had examined the statute i.e., MPID which is *pari materia* with the KPIDFE Act. This judgment is a direct judgment and other judgments which are relied on by the petitioner do not apply to this case.

17. It is submitted that though a review petition is filed challenging the judgment in **National Spot Exchange Ltd.**'s case referred supra, mere filing and pendency of a review



petition cannot be a ground and still it has the binding force under Article 141 of the Constitution of India. Unless and until the Hon'ble Supreme Court stays the operation of the judgment or modifies/recalls it in review, the judgment continues to hold the field and must be given full effect. It is submitted that the Apex Court in case of ***Union Territory of Ladakh & Ors. Vs. Jammu and Kashmir National Conference & Ors.***<sup>5</sup> had held that pendency of a review cannot be treated as a good ground at the current stage to withhold implementation or to keep subordinate proceedings in abeyance. It is submitted that the writ petition is liable to be dismissed.

18. In response to that, learned counsel appearing for the petitioner/Bank submits that as the review petition is pending against the judgement passed in ***National Spot Exchange Ltd.***'s case referred supra, the same cannot be applied at this point of time and in the light of the other judgments, the SARFAESI Act has an overriding effect on all other Acts and the writ petition has to be allowed.

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<sup>5</sup> 2023 INSC 804



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19. Learned counsel appearing for respondent No.6/ auction purchaser submits that respondent No.6 has already filed another writ petition and sought for refund of the amount.

20. Having heard the learned counsels on either side, perused the entire material on record. The admitted facts in this case are that the petitioner/Bank has initiated the SARFAESI proceedings and sold the property in favour of respondent No.6 and the Sub-registrar refused to register the sale certificate in view of the notification issued by the competent authority under the KPIDFE Act which made the petitioner to come before the Court. According to the learned counsel for the petitioner/Bank, the SARFAESI Act has an overriding effect and relied on certain judgments referred supra.

21. Learned counsel appearing for respondent No.3/competent authority submits that in the light of the law laid by the Apex Court in case of **National Spot Exchange Ltd.**'s case referred supra, the KPIDFE Act has an overriding effect on the SARFAESI Act. There is no dispute that the first charge is created by the Bank. In case of **National Spot**



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**Exchange Ltd.**'s case referred supra, the question that fell for consideration before the Apex Court is, whether the secured creditors would have priority of interest over the assets attached under the provisions of Prevention of Money Laundering Act, 2002, (PMLA) and Maharashtra Protection of Investors and Depositors Act, 1999 (MPID Act), by virtue of the provisions of SARFAESI Act and RDB Act, 1993? The Apex Court had referred to the objects and reasons of the relevant provisions of the statute. When it comes to the MPID Act, it is observed that the Act was enacted by the State of Maharashtra to protect the interests of depositors of the financial establishments and matters relating thereto. The Apex Court had considered Section 2(c) which defines "deposit", Section 2(d) which defines "Financial Establishments", Section 3 pertaining to "fraudulent default by a financial establishment", Section 4 pertaining to "attachment of properties on default of return of deposits", Section 7 pertaining to "powers of designated court regarding attachment" and Section 14 of the MPID Act for "overriding effect of the Act". Then the Apex Court had considered various judgments and observed as follows:



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**"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.**

**41. It is true that sometimes the overlapping of legislations enacted with regard to the matters relatable to different Entries in List-I and List-II in Seventh Schedule may occur, however in that case also as held by the Constitution Bench in State of West Bengal vs. Kesoram Industries Limited and Others<sup>13</sup>, though, the List-I has priority over List-III and List-II, and List-III has priority over List-II, the predominance of Union List would not prevent the State Legislature from dealing with any matter within List-II, even if it may incidentally affect any item in List-I. In the case at hand, the SARFAESI Act and RDB Act having been enacted by the Parliament for the subject matter falling in List-I and the MPID Act having been enacted by the State Legislature for the subject matter falling in List-II in the Seventh Schedule, the latter would prevail in the State of Maharashtra in respect of the specific subject matter for which the said Act was enacted, in view of Clause (3) of Article 246.**

**42. It was next sought to be submitted by learned counsels appearing for the Secured Creditors that in view of Section 26E of the SARFAESI Act, the debts due to the Secured Creditor have to be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority, and therefore, the security interest of the Secured Creditors in respect of**



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***the properties attached under MPID Act should be given priority. We do not find any merit in the said submission. Apart from the fact that Section 26E has come into force with effect from 1<sup>st</sup> September, 2016, it gives right to the Secured Creditor, after the registration of security interest, to be paid in priority over all other debts and revenues, taxes etc. payable to the Central Government or State Government or local authority.***

***43. In the instant case, the attachment of the properties over which the Secured Creditors is said to have security interest, have been attached under Section 4 of the MPID Act. Such properties are believed to have been acquired by the Financial Establishment i.e. NSEL either in its own name or in the name of other persons from out of deposits collected by the Financial Establishment. All such properties and assets of the Financial Establishment and the persons mentioned in the said provision, vest in the Competent Authority appointed by the Government, pending further orders from the Designated Court. Such monies or deposits of depositors/ investors, who have been allegedly defrauded by the Financial Establishment, and for the recovery of which the MPID Act has been enacted, could not be said to be a "debt" contemplated in Section 26E of the SARFAESI Act, and hence also the provisions of Section 26E could not be said to have been attracted to the facts of the case.***

***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.***

22. In the light of the authoritative pronouncement of the judgment of the Apex Court in the above case, the MPID Act which is *pari materia* with that of the KPIDFE Act, the issue is no more *res integra* and the KPIDFE Act will have the priority over the SARFAESI Act. The second submission that the



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judgment in ***National Spot Exchange Ltd.***'s case referred supra, a review petition is filed and the same cannot be considered has also no legs to stand. In that view of the matter, there cannot be any direction to the Sub-registrar to register the document. As far as respondent No.6/auction purchaser is concerned, he has already filed another writ petition. In that view of the matter, this Court is passing the following order:

**ORDER**

- i. Accordingly, the writ petition is ***dismissed***.
- ii. All I.As. in this petition shall stand closed.

**SD/-**  
**(LALITHA KANNEGANTI)**  
**JUDGE**

MEG  
List No.: 1 Sl No.: 9