HC-KAR

NC: 2026:KHC:55499
WP No. 6271 of 2024

CNR: KAHC010122062024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO.6271 OF 2024 (GM-RES)

BETWEEN:

1. M/S. LANVIN EXPORTS
#15, 1ST PHASE, 2ND MAIN,
RAJAJINAGAR,
BENGALURU - 560 010.
A PROPRIETORSHIP CONCERN,
REP. BY ITS PROPRIETOR
SRI. M. SAGEER AHMED.

2. SRI. M. SAGEER AHMED
S/O S.A. KHADAR,
AGED ABOUT 60 YEARS,
#15, 1ST PHASE, 2ND MAIN,
RAJAJINAGAR,
BENGALURU - 560 010.

...PETITIONERS

(BY SRI. RAJU S., ADVOCATE)

AND:

CANARA BANK,
(EARLIER SYNDICATE BANK)
NO.47, 1ST FLOOR, GOPAL COMPLEX,
YESHWANTHPUR,
BANGALORE – 560022.
BY CHIEF MANAGER.

...RESPONDENT

(BY SMT. PREETHU R., ADVOCATE FOR
SRI. VIGNESH SHETTY, ADVOCATE)

HC-KAR

CNR: KAHC010122062024

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENT TO APPROPRIATE PAYMENTS IN EXTENT OF RS.1,25,00,000/- AS PER ANNEXURE-F TO LOAN ACCOUNT UNDER OTS SCHEME AND REGULARIZE THE SAME OR DIRECT THE RESPONDENT TO CONSIDER THE REPRESENTATION DATED 27.01.2024 OF THE PETITIONER AS PER ANNEXURE-F.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL ORDER

1. The petitioners have approached this Court seeking a writ of mandamus directing the respondent-Canara Bank [**the Bank**] to appropriate a sum of ₹1,25,00,000/- towards the loan account under the One Time Settlement [**OTS**] scheme and regularize the account. The petitioners have also sought a direction to the respondent-Bank to consider their representation dated 27.10.2024.

2. Petitioner No.2 availed a loan on behalf of petitioner No.1-M/s. Lanvin Exports [**the Concern**] from respondent-Bank on 31.01.2001, by offering as security the residential building bearing Nos.79 and 80, and also the residential building bearing No.17, 2nd

Main, 1st Phase, West of Chord Road, Bengaluru, and two LIC policies for a sum of ₹9,00,000/-.

3. On account of default in repayment of the loan, the account was classified as a Non-Performing Asset [**NPA**], with an outstanding liability of ₹5,72,33,033/-. Consequently, a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [**the SARFAESI Act**] was issued on 19.11.2007, followed by a notice under Section 13(4) of the SARFAESI Act dated 08.02.2008.

4. The petitioners sought settlement of the outstanding dues under the OTS scheme for a sum of ₹3,28,76,296/- by way of representation dated 18.02.2008. As the Bank did not consider the said representation, the petitioners preferred an appeal before the Debt Recovery Tribunal [**the DRT**] in ASA No.57/2008.

5. The DRT, by its order dated 16.10.2009, dismissed the appeal in ASA No.57/2008, stating that the petitioners were unable to prove their case and that the documents submitted by both parties did not show any material irregularities that were said to be committed by the respondent-Bank while starting the proceedings

under the SARFAESI Act. Aggrieved by the order of the DRT, the petitioners approached this Court in W.P.No.34511/2009.

6. This Court, by order dated 14.02.2017, disposed of W.P.No.34511/2009, relegating the petitioners to appeal before the Debt Recovery Appellate Tribunal [**the DRAT**] within 31 days. Subsequently, the petitioners filed an application for waiver of pre-deposit and condonation of delay dated 15.03.2017. The petitioners' application for condonation of delay was dismissed by the DRAT, Chennai on 20.07.2018. Aggrieved, the petitioners filed W.P.No.33975/2018 before this Court.

7. This Court, by order dated 22.10.2019, allowed W.P.No.33975/2018, condoning the delay, and remanded the matter to the DRAT for consideration of the pre-deposit. The DRAT, Chennai, by order dated 10.01.2020, dismissed the application preferred by the petitioners seeking waiver of the pre-deposit of the amount and directed the petitioners to make the payment of 50% pre-deposit i.e. ₹2.86 crores. Aggrieved by the order dated 10.01.2020, the petitioners approached this Court in W.P.No.2495/2020.

8. This Court, by order dated 06.02.2020, disposed of W.P.No.2495/2020 and quashed the order of the DRAT dated 10.01.2020 and directed the DRAT to pass a speaking order afresh, in view of rival submissions made by the parties, within a period of three weeks from the date of receipt of the certified copy of that order.

9. The DRAT, by order dated 26.03.2021, directed the pre-deposit of 25% of the notice amount of ₹5,72 crores, i.e. ₹1.43 crores, in two installments. Four weeks were allotted for depositing the first installment of ₹71.50 lakhs, and the next four weeks were allotted for depositing the second installment of ₹71.50 lakhs. The DRAT further stated that the appeal would be dismissed without reference to the Tribunal if the required deposit was not made. Aggrieved, the petitioners approached this Court in W.P.No.7491/2021, challenging the DRAT order dated 26.03.2021.

10. This Court, by order dated 21.03.2022, dismissed W.P.No.7491/2021, holding that the DRAT rightly passed the order dated 26.03.2021, having fully exercised its discretion and directing the petitioners to deposit 25% of the amount claimed in the notice,

payable in two installments, taking into account the amount so claimed by the secured creditor as the debt due from the borrower. Accordingly, this Court found no reason to interfere with the order of the DRAT and declined to interfere with it.

11. Aggrieved by the order dated 21.03.2022 in W.P.No.7491/2021, the petitioners approached the Supreme Court in SLP (C) No.11113/2022. The Supreme Court, by order dated 13.10.2022, dismissed the Special Leave petition holding that the DRAT has not committed any error in directing the petitioners to deposit 25% of the notice amount of ₹5,72 crores. The Supreme Court noted that the DRAT has afforded the petitioners the opportunity to deposit the amount as pre-deposit in two installments and held that no interference was called for while granting the petitioners eight weeks to comply with the order of the DRAT.

12. Having unsuccessfully pursued the proceedings before the DRT, DRAT, this Court and before the Supreme Court in the several rounds of litigation, the petitioners now seek to close the

loan account by approaching the respondent-Bank for settlement under the OTS scheme.

13. The present writ petition is, in substance, an attempt to reopen and challenge the SARFAESI proceedings, which have attained finality.

14. In **G.K. Granites, Represented by its Managing Partner v. Board of Directors of South Indian Bank Ltd., and Others**[1], the Keral High Court dismissed the petition challenging the SARFAESI proceedings as barred by *res judicata*, since the petitioner's earlier petition and subsequent SLP had already failed, and held that entertaining such petition would amount to an abuse of process of law with no ground for Article 226 relief. The relevant paragraph reads as under:

> "27. As regards the challenges made against the SARFAESI proceedings, it is well established that the petitioners have already instituted a writ petition before this Court, which was dismissed, against which an SLP was preferred, which also came to be dismissed, therefore, the contentions and reliefs sought by them in the present writ petition is expressly barred by res judicata and constructive res judicata owing to the similarity in facts and prayers finding place in the earlier litigations. Therefore, it is only to be held that the present petition is devoid of any merits and is nothing but an abuse of process of law as this Court finds

[1] 2026 SCC OnLine Ker 5903

no valid grounds to invoke the jurisdiction of Article 226 of the Constitution of India. Hence, the petitioners are not entitled to any reliefs from this Court.

Since the petitioner has already approached the DRT – II, Ernakulam by S.A. No. 577 of 2025, which is pending consideration, this W.P. stands dismissed with the above observations granting liberty to the petitioner to raise all contentions in the pending S.A."

Emphasis supplied

15. The petitioners have already availed the efficacious statutory remedy and have pursued the matter before the DRT, DRAT, this Court and Supreme Court. No grounds are made out warranting any interference by this Court under Articles 226 and 227 of the Constitution of India. Accordingly, the writ petition is ***dismissed***.

Sd/-

JUSTICE K.S. HEMALEKHA

AT
List No.: 1 Sl No.: 13