



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF MAY, 2024

PRESENT

THE HON'BLE MR JUSTICE R DEVDAS

AND

THE HON'BLE MS JUSTICE J.M.KHAZI

MISCELLANEOUS FIRST APPEAL NO.2982 OF 2024 (KPIDFA)

BETWEEN:

SRI SRIKANTH M N
S/O SRI NAGARAJ
AGED ABOUT 33 YEARS
R/O NO.2135, 6TH CROSS
6TH MAIN, NEAR BALAMURI
GANAPATHI TEMPLE
KUMARASWAMY LAYOUT
BENGALURU -560 078

(WRONGLY SHOWN IN THE
TRIAL COURT ORDER AS
R/O NO. S-5, #5
SRIVARI MANSION
3RD MAIN, 1ST CROSS
MANIVILAS GARDEN
KAMALANAGAR
BENGALURU-560 079

...APPELLANT

(BY SRI. PAVAN KUMAR G., ADVOCATE)

AND:

1. THE COMPETENT AUTHORITY
FOR SRI GURUSARVABHAUMA SOUHARDA CREDIT
CO OPERATIVE LIMITED, BENGALURU AND
ADDITIONAL REGIONAL COMMISSIONER





OFFICE OF THE REGIONAL COMMISSIONER
BENGALURU DIVISION, B M T C BUILDING
2ND FLOOR, K G ROAD, SHANTHINAGAR
BENGALURU-560 027

2. SRI GURUSARVABHAUMA SOUHARDA CREDIT
CO OPERATIVE LIMITED
REPRESENTED BY ITS ADMINISTRATOR
SRI SHYAM PRASAD
SHANKARPURAM NO.28
SHANKAR MUTTA ROAD
BENGALURU-560 004

...RESPONDENTS

(BY SRI.VEERESH BUDIHAL, ADVOCATE FOR R1)

THIS MFA IS FILED UNDER SECTION 16 OF THE KARNATAKA PROTECTION OF INTEREST OF DEPOSITORS IN FINANCIAL ESTABLISHMENTS ACT, 2004 PRAYING TO SET ASIDE THE ORDER DATED 27.02.2024 PASSED BY THE XCI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AND SPL. JUDGE FOR KPIDFE CASES, BENGALURU IN MISC. NO.1299/2023 IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, **R. DEVDAS J.**, DELIVERED THE FOLLOWING:

JUDGMENT

Learned counsel Sri.Veeresh Budihal submits through video conferencing that he is authorized to appear on behalf of respondent No.1-The Competent Authority.

2. Learned counsel for respondent No.1 submits that the contention of the learned counsel for the appellant that the impugned order is an *ex parte* order and therefore,



it is liable to be set aside may not be correct since it is clear from the impugned order itself that notices were issued to the appellant herein and on failure of the appellant to appear before the trial Court, a paper publication was also issued and despite the publication of the notice in newspapers, the appellant failed to appear before the trial Court and consequently, the impugned order has been passed.

3. Nevertheless, having regard to the admitted fact that the allegation against the appellant is that he being the employee of respondent No.2- Sri.Gurusarvabhauma Souharda Credit Co-operative Limited, a fictitious transaction has been made by respondent No.2 and the subject immovable property has been purchased by respondent No.2 in the name of the appellant only to defraud the depositors of the Bank, in our considered opinion, if this is the allegation that is made against the appellant, the appellant should be given an opportunity to substantiate his contention that he is not



a benami purchaser of the immovable property and he had his own sources to purchase the property. We are therefore of the opinion that an opportunity of hearing should be given to the appellant. For that purpose, we are also of the opinion that the impugned order requires to be set aside while remanding the matter back to the XCI Additional City Civil and Sessions Judge and Special Judge for KPIDFE cases, Bengaluru to reconsider the matter, while the appellant herein is also permitted to place on record any material to substantiate his contention that he has purchased the subject immovable property out of his own funds and such transaction has nothing to do with respondent No.2 herein.

4. Accordingly, the appeal is allowed. The impugned order dated 27.02.2024 in Miscellaneous No.1299/2023 is hereby quashed and set aside while remanding the matter back to the XCI Additional City Civil and Sessions Judge and Special Judge for KPIDFE cases, Bengaluru to afford an opportunity of hearing to the



appellant herein and thereafter, proceed in accordance with law. Since appellant is before this Court, the appellant is directed to appear before the XCI Additional City Civil and Sessions Judge and Special Judge for KPIDFE cases, Bengaluru on 04.06.2024 without awaiting further notice. The matter shall be taken up on 04.06.2024 and proceeded with and endeavor shall be made by the Special Court to consider and dispose of the matter as expeditiously as possible and at any rate within a period of sixty days from 04.06.2024.

Ordered accordingly.

In view of disposal of the main appeal, I.A.No.2/2024 does not survive for consideration. Accordingly, the same is disposed of.

**(Sd/-)
JUDGE**

**(Sd/-)
JUDGE**