

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD  
(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF JULY  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION Nos. 10333 and 2729 OF 2022

WRIT PETITION NO. 10333 of 2022

Between:

1. Ganji Mallaiah **Died per Lrs** as P 2 to 6, S/o.Ganji Sathaiah, Aged about 76 yrs, Occ. Weaver, R/o. Plot No.4, IDA, Arjabavi (village), Nalgonda (Mandal), Nalgonda District
2. Ganji Manemma, W/o: Late Ganji Mallaiah, Aged about 65 Yrs, Occ: Weaver, R/o Plot No.4-41, IDA, Arjabavi (Village), Nalgonda ( Mandal) Nalgonda District.
3. Meka Subhashini, W/o: M.Karunakar, D/o: Late Ganji Mallaiah Aged about 48 Yrs, Occ: Household, R/o Plot No.4-41, IDA, Arjabavi (Village),Nalgonda ( Mandal) Nalgonda District.
4. Ganji Srinivas, S/o:Late Ganji Mallaiah, Aged about 47 Yrs, Occ: Weaver, R/o Plot No.4-41, IDA, Arjabavi (Village), Nalgonda ( Mandal) Nalgonda District.
5. Ganji Sambaiah, S/o:Late Ganji Mallaiah, Aged about 43 Yrs, Occ: Weaver, R/o Plot No.4-41, IDA, Arjabavi (Village),Nalgonda ( Mandal) Nalgonda District.
6. Ganji Santhosh, S/o:Late Ganji Mallaiah, Aged about 41 Yrs, Occ: Weaver, R/o Plot No.4-41, IDA, Arjabavi (Village),Nalgonda ( Mandal) Nalgonda District.

**Petitioner Nos. 2 to 6 are brought on record as Irs of deceased Petitioner No.1 as per Court Order dated 14.06.2024 Vide IA No 1 of 2024 in WP No.10333 of 2022**

...PETITIONERS

AND

1. M/s. Axis Bank Limited, Rep by its CMD, Bombay Dyeing Mills Compound, Pandurang Budhkar Marg, Worli, Mumbai - 400 025
2. M/s. Axis Bank Ltd, Dilsukhnagar Branch, Rep by its Authorized Officer, Matruchaya Complex, Musarambagh, Hyderabad.
3. M/s. R.R.Marketing, Rep by its Proprietor M. Ramana Rao, S/o.Hanumantha Rao H.No. 455, Plot No. 12, 2nd Floor, Room No.1, Road No. 2, New Nagole, Hyderabad – 500035  
Or at

Plot No. 363, Hariharipuram, Near D.P. School, Vanasthalipuram, Hyderabad - 500060

Or at

Plot No. 154, FCI Colony, Phase II, Chintalkunta, Vanasthalipuram, Hyderabad -500060

4. The Debts Recovery Tribunal-1, 5<sup>th</sup> floor, Triveni Complex, Abids, Hyderabad.

## **..RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue any writ or order or direction, more particularly one in the nature of certiorari, the Honorable Court may be pleased to set aside the order of the Tribunal dt.20/10/2021 in SA 208/2019 to the extent of granting interest at the rate of 5 percentage simple interest on the amount withheld by the bank illegally, arbitrarily and unauthorizedly, unconstitutionally and consequently direct the Respondent Bank to pay interest or 24 percentage per annum on the refund amount of Rs. 45,00,000/- till the date of repayment and further direct the respondents to compensate the petitioner for the damages caused due to the negligent, arbitrary, illegal acts of the respondent bank and to direct the regulatory authorities to take stringent legal action against the respondent No. 1 and 2 by cancelling the license of banking business.

### **IA NO: 1 OF 2022**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.1 and 2 to refund the sale amount of Rs 45.00 lakhs to the petitioner as per the directions of the Debts Recovery Tribunal at Hyderabad passed in SA No. 208 of 202019 dt.20.10.2021 pending disposal of the writ petition.

**Counsel for the Petitioner: SRI GOPAL A RAO AMANCHARLA V**

**Counsel for the Respondent Nos.1 and 2: SRI Y. AUGUSTINE REUBENSON,  
REPRESENTING FOR SRI K. B. RAMANNA DORA, SC FOR AXIS BANK**

**Counsel for the Respondent Nos.3 and 4:---**

**WRIT PETITION NO: 2729 OF 2022**

**Between:**

1. M/s. Axis Bank Limited, Bombay Dyeing Mills Compound, Pandurang Budhkar Marg, Worli, Mumbai - 400025 represented by its authorised Officer.
2. M/s. Axis Bank Limited, Dilshukhnagar Branch Rep. by its Authorized Officer, Matruchaya Complex, Musarambagh, Hyderabad.

**...PETITIONERS**

**AND**

1. Ganji Mallaiah, S/o. Sattaiah, R/o. Flat No.4, Arja Bavi Village, Nalgonda Mandal, Nalgonda District.
2. M/s. R.R. Marketing, Rep. by its Proprietor M. Ramana Rao, S/o. Hanumantha Rao, R/o. H.No.455, Plot No. 12, 2nd Floor, Room No.1, Road No.2, New Nagole, Hyderabad - 500035. Or at Plot No. 363, Hariharipuram, Near D.P.School, Vanasthalipuram, Hyderabad - 500060. Or at Plot No. 154, FCI Colony, Phase II, Chintalkunta, Vanasthalipuram, Hyderabad - 500060.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or a direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned orders dated 20/10/2021 in S.A.No.208 of 2019 on the file of Hon'ble Debts Recovery Tribunal - I, Hyderabad as the said orders are passed under misconception and incorrect interpretations legal maxims as is where is and where ever there is and Caveat Venditor in violation of Caveat Emptor is untenable, unsustainable, arbitrary, devoid of merits and material facts on record and against law as well as principles of natural justice, consequentially set aside the impugned orders dated 20/10/2021 and dismiss S.A.No.208 of 2019 on the file of Hon'ble Debts Recovery Tribunal - I, Hyderabad.

**IA NO: 1 OF 2022**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass

order or orders to stay off all further proceedings pursuant to orders dated 20/10/2021 in S.A.No.208 of 2019 on the file of Hon'ble Debts Recovery Tribunal - I, Hyderabad.

**Counsel for the Petitioners: SRI Y. AUGUSTINE REUBENSCN,  
REPRESENTING FOR SRI K. B. RAMANNA DORA, SC FOR AXIS BANK**

**Counsel for the Respondent No.1: SRI GOPALA RAO AMANCHARLA V**

**Counsel for the Respondent No.2:---**

**The Court made the following: COMMON ORDER**

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

Writ Petition Nos.10333 and 2729 of 2022

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Amancharla V. Gopala Rao, learned counsel for the petitioners in W.P.No.10333 of 2022 and respondent No.1 in W.P.No.2729 of 2022 (hereinafter referred to as 'the petitioners').

Mr. . Y. Augustine Reubenson, learned counsel representing Mr. K.B.Ramanna Dora, learned Standing Counsel for Axis Bank appears for respondents No.1 and 2 in W.P.No.10333 of 2022 and the petitioners in W.P.No.2729 of 2022 (hereinafter referred to as 'the Bank').

2. W.P.No.10333 of 2022 has been filed by petitioner No.1 *viz.*, Ganji Mallaiah (since died) against the order dated 20.10.2021, passed by the Debts Recovery Tribunal-I at Hyderabad (hereinafter referred to as 'the DRT') in so far as it grants interest @ 5% on the principle amount.

3. The Bank has filed the writ petition *viz.*, 'WP.No.2729 of 2022 in which the aforesaid order of the DRT has been challenged.

4. Therefore, both the writ petitions were heard together and are being decided by this common order.

5. We have heard learned counsel for the parties at length.

6. The Supreme Court in **United Bank of India v. Satyawati Tondon**<sup>1</sup> has deprecated the practice of the High Courts in entertaining the writ petitions despite availability of an alternative remedy. The aforesaid view has also been reiterated by the Supreme Court in **Varinadugu Obi Reddy v. B.Sreenivasulu**<sup>2</sup>. The relevant extract of para 36 reads as under:

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<sup>1</sup> (2010) 8 SCC 110

<sup>2</sup> (2023) 2 SCC 168

“36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2<sup>nd</sup> proviso to Section 18 of the 2002 Act.”

7. The view taken in **Satyawati Tondon** (supra) has been reaffirmed by a three-Judge Bench of the Supreme Court in

**PHR Invent Educational Society v. UCO Bank and others<sup>3</sup>.**

8. Admittedly, the legal representatives of the deceased petitioner No.1 *i.e.*, petitioners No.2 to 6 as well the Bank have an alternative efficacious remedy of appeal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Reconstruction of Security Interest Act, 2002 (for short 'the SARFAESI Act').

9. In view of efficacious alternative remedy, the Writ Petitions are disposed of with liberty to the petitioners and the Bank to file an appeal under Section 18 of the SARFAESI Act within a period of six (06) weeks from the date of receipt of a copy of this order. In case such an appeal is filed, the petitioners as well as the Bank shall be entitled to the benefit of Section 14 of the Limitation

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<sup>3</sup> 2024 SCC Online SC 528



Act, 1963. The petitioners and the Bank can urge the contentions raised in these writ petitions before the DRT.

As a sequel, miscellaneous petitions, pending if any, stand closed. There shall be no order as to costs.

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SD/-V.KAVITHA  
ASSISTANT REGISTRAR

  
SECTION OFFICER

- To,
1. The CMD, M/s. Axis Bank Limited, Bombay Dyeing Mills Compound, Pandurang Budhkar Marg, Worli, Mumbai - 400 025
  2. The Authorized Officer, M/s. Axis Bank Ltd, Dilsukhnagar Branch, Matruchaya Complex, Musarambagh, Hyderabad.
  3. The Proprietor M/s. R.R.Marketing, M. Ramana Rao, S/o.Hanumantha Rao H.No. 455, Plot No. 12, 2nd Floor, Room No.1, Road No. 2, New Nagole, Hyderabad - 500035 Or at Plot No. 363, Hariharipuram, Near D.P. School, Vanasthalipuram, Hyderabad - 500060 Or at Plot No. 154, FCI Colony, Phase II, Chintalkunta, Vanasthalipuram, Hyderabad -500060
  4. The Debts Recovery Tribunal-1, 5th floor, Triveni Complex, Abids, Hyderabad.
  5. One CC to Sri Gopala Rao Amancharla V, Advocate [OPUC]
  6. One CC to Sri K. B. Ramanna Dora, Advocate [OPUC]
  7. Two CD Copies

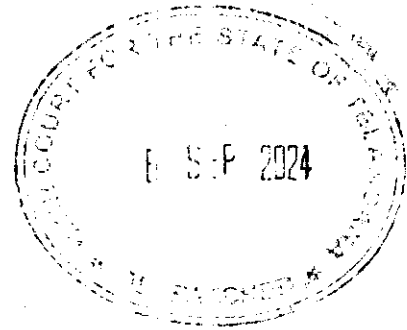
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**HIGH COURT**

**DATED:03/07/2024**



**COMMON ORDER**

**WRIT PETITION Nos. 10333 and 2729 OF 2022**

**DISPOSING OF THE WRIT PETITIONS  
WITHOUT COSTS**

⑨ pma  
01/8/24.