

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

THURSDAY, THE TWENTY SEVENTH DAY OF JUNE  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND**

**THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION NO: 13367 OF 2024**

**Between:**

Sri. D. Ramesh, S/o laiah, Aged about 57 Years, Occ ; Business, R/o 4-1-298,  
Subhash Nagar, Reddy Colony, Opp.S.T.Joseph Church, Hanamkonda, Warangal  
District.

.....PETITIONER

**AND**

Union Bank of India, Nayeem Nagar Branch, Warangal, Represented by Its  
Authorized Officer.

.....RESPONDENT

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 pass order or orders direction more particularly in the nature of Writ of Mandamus or any other appropriate writ, order direction to the respondent bank to consider the petitioners representation dated 02.05.2024 and consequently set aside the order dated 01.05.2024 passed by the Hon'ble Debts Recovery Tribunal -I, Hyderabad in I.A.No.1095 of 2024 in S.A.No.111 of 2023 by staying the proceedings initiated by the respondent bank, in trying to take physical possession of the properties through advocate commissioner, in pursuance of the warrant in CrI MP No 18 of 2023 on the file of Chief Judicial Magistrate, Hanumakonda, in pursuance of the Possession notice dated 15.12.2022, U/s 14 of the SARFAESI Act is without following the procedure contemplated under the Act as illegal, null and void without following due process of law, and

consequently direct Debt's Recovery Tribunal - I, Hyderabad to dispose the case S.A.No.111 of 2023 on merits.

**I.A.NO:1 OF 2024**

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 grant stay of all further proceedings including taking physical possession of the residential properties through advocate commissioner, in pursuance of the warrant in CrI MP No 18 of 2023 on the file of the Hon'ble Chief Judicial Magistrate, Hanumakonda, U/s 14 of the SARFAESI Act.

**Counsel for the Petitioner : Ms. HAMSA DURGA PONNAM**

**Counsel for the Respondents : SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERAL OF INDIA**

**The Court made the following ORDER**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION No.13367 of 2024**

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

Ms. Hamsa Durga Ponnamm, learned counsel for the petitioner.

2. In this writ petition, the petitioner has assailed the validity of the order dated 01.05.2024 passed by the Debts Recovery Tribunal-I at Hyderabad in I.A.No.1095 of 2024 in S.A.No.111 of 2023.

3. In this writ petition, no interim order has been granted.

4. Admittedly, against the aforesaid order, an appeal lies before the Debts Recovery Appellate Tribunal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

5. 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 **Varimadugu Obi Reddy v. B.Sreenivasulu**<sup>2</sup>. The relevant extract of para 36 reads as under:

“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.”

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

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

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

Court in **PHR Invent Educational Society v. UCO Bank** in  
Civil Appeal No.4845 of 2024, dated 10.04.2024.

7. In view of aforesaid enunciation of law, we are not inclined to entertain the writ petition. However, liberty is reserved to the petitioner to take recourse to the remedy of appeal and in case the petitioner files an appeal within a period of eight weeks from today, the Debts Recovery Appellate Tribunal shall extend the benefit of Section 14 of the Limitation Act, 1963, to the petitioner.

8. With the aforesaid liberty, the Writ Petition is disposed of.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

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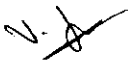
SD/-N. SRINARI  
ASSISTANT REGISTRAR

SECTION OFFICER

To

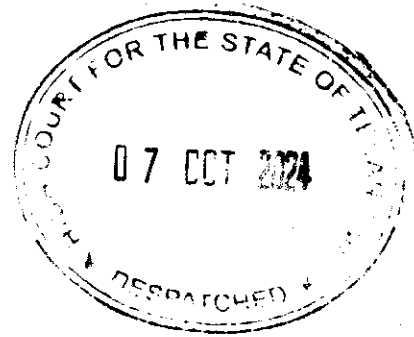
1. The Authorized Officer, Union Bank of India, Nayeem Nagar Branch, Warangal.
2. One CC to Ms. Hamsa Durga Ponnamp, Advocate [OPUC]
3. Two CD Copies

SA  
GJP



**HIGH COURT**

**DATED:27/06/2024**



**ORDER**

**WP.No.13367 of 2024**

**DISPOSING OF THE W.P**

**WITHOUT COSTS.**

⑥ JLV  
11/9/24