

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

**TUESDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION NO: 22373 OF 2007

Between:

Mr.M.Ramakrishna, S/o. Late Sri M.M.Rao, Private Service, R/o. Plot No.355,
Shapoornagar, Jeedimetla, Hyderabad

...PETITIONER

AND

1. Indian Bank Branch Manager, ARM Branch,3-6-365, 4th Floor, Liberty Plaza,
Himayathnagar, Hyderabad-29, Rep.by its Branch Manager
2. The Authorized Officer under, Securitisation and Reconstruction of Financial
Assets and Enforcement of Security Interests Act, 2002, Indian Bank ARM
Branch, 3-6-365, 4th Floor, Liberty Plaza, Himayathnagar, Hyderabad-29

...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 grant an order, direction or writ, more in the nature of writ of Mandamus, declaring the actions of the respondents in seeking to recover monies under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002, by attaching and selling the agricultural land of the petitioner admeasuring Ac.7-20 in Rs No.590 of Chatanpally Village, Farooq Nagar Mandal, Mahaboobnagar Dist, is without jurisdiction, ultra vires of the provisions of Selection 31(i) of the above Act, violative of the proviso to section 19(1) of the Recovery Debts due to Banks and Financial Institutions Act,1993 and violative of article 14, 19 and 300-A of Constitution of India and consequently set aside the notices issued by the Second respondent

under Section 13(1) of the Act, dt.23-1-2007 and the possession notice under Rule 8(1) of the Securitisation Rules, dated 18-9-2007.

I.A. NO: 1 OF 2007(WPMP. NO: 29012 OF 2007)

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 stay all further proceedings pursuant to the notices under Section 13(1) of the Act, dt.23-1-2007 and the possession notice under Rule 8(1) of the Securitisation Rules, dt.18-9-2007.

I.A. NO: 2 OF 2007(WPMP. NO: 29013 OF 2007)

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 direct the respondents not to dispossess the petitioner from his agricultural land admeasuring Ac.7-20 Gts., in RS No. 590 of Chatanpally Village, Farooq Nagar Mandal, Mahboobnagar District pursuant to the notices under Section 13(1) of the Act, dated 23.1.2007 and also the possession notice under Rule 8(1) of the Securitisation Rules, dated 18.9.2007 .

**Counsel for the Petitioner: Ms. K. GAYATRI, REPRESENTING
SRI T. BALA MOHAN REDDY**

Counsel for the Respondents: SRI C. V. V. PRASAD

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.22373 of 2007

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

Ms. K.Gayatri, learned counsel representing Mr. T.Bala Mohan Reddy, learned counsel for the petitioner.

2. In this writ petition, the petitioner has assailed the validity of the impugned notices dated 23.01.2007 and 18.09.2007 issued under Section 13(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') and Rule 8(1) of the Security Interest (Enforcement) Rules, 2002.

3. The Supreme Court in **United Bank of India v. Satyawati Tondon**¹ has deprecated the practice of the High Courts in entertaining the writ petitions despite

¹ (2010) 8 SCC 110

availability of an alternative remedy. The aforesaid view has also been reiterated by the Supreme Court in **Varimadugu Obi Reddy v. B.Sreenivasulu**². 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 2nd proviso to Section 18 of the 2002 Act.”

4. 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.**

² (2023) 2 SCC 168

UCO Bank in Civil Appeal No.4845 of 2024, dated 10.04.2024.

5. In view of the aforesaid enunciation of law, learned counsel for the petitioner submits that the petitioner be granted the liberty to approach the Debts Recovery Tribunal by filing a petition under Section 17 of the SARFAESI Act.

6. In view of the aforesaid submission, liberty is granted to the petitioner to approach the Debts Recovery Tribunal within a period of six weeks. It is directed that for a period of six weeks, the interim order granted earlier by a Bench of this Court in this writ petition shall continue and in case the petitioner approaches the Debts Recovery Tribunal within the aforesaid period of six weeks from today, the Debts Recovery Tribunal shall extend the benefit of Section 14 of the Limitation Act, 1963, to the petitioner.

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

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

SD/-MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Branch Manager, Indian Bank Branch Manager, ARM Branch, 3-6-365, 4th Floor, Liberty Plaza, Himayathnagar, Hyderabad-29.
2. The Authorized Officer under, Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002, Indian Bank ARM Branch, 3-6-365, 4th Floor, Liberty Plaza, Himayathnagar, Hyderabad-29
3. One CC to SRI T. BALA MOHAN REDDY, Advocate [OPUC]
4. One CC to SRI C. V. V. PRASAD, Advocate [OPUC]
5. Two CD Copies

MP
GJP

~~V. S.~~

HIGH COURT

DATED:16/07/2024



ORDER

WP.No.22373 of 2007

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

⑦ VLV
21/9/24