

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

**TUESDAY, THE TWENTIETH DAY OF AUGUST  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

**WRIT PETITION NO: 8497 OF 2005**

**Between:**

Dr. Lily Rodrigues, W/o. E.V. Prasad, Aged about 47 years, R/o. Plot No.217,  
KPHB Main Road, Hyderabad.

**...PETITIONER**

**AND**

1. Indian Overseas Bank, Kalyan Nagar Branch, Hyderabad, rep. by its  
Authorised Officer.
2. Asst. Recovery Management Yard (P) Ltd., H.NO. 3-4-529/2/6, Near Reddy  
Women's College, Hyderabad by its AVP Sri Venkata Ramachander Rao.
3. Sri A. Krishna Kumar, C/o. Asst. Recovery Management Yard (P) Ltd.,  
Advocate Commissioner, H.No.3-4-529/2/6, Near Reddy Women's College,  
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 an appropriate Writ, Order or direction preferably one in the  
nature of Writ of Mandamus declaring the action of the respondents herein in not  
following the provisions of Section 13 (4) of Securitisation and Reconstruction of  
Financial Assets and Enforcement of Security Interest Act, 2002 by invoking  
Section 14 of the said Act as arbitrary, illegal and contrary to law and  
consequently direct the respondents herein not to dispossess the petitioner from  
the House Property bearing No. Flat No.202 in Plot No. 51, Sri Nilayam  
Apartments, Vivenkananda Nagar, Kukkatpally, Hyderabad.

**Counsel for the Petitioner: SRI K. ANIL, REPRESENTING FOR  
SRI J. KANAKAIAH**

**Counsel for the Respondents: ----**

**The Court made the following: ORDER**

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

**AND**

**THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

**WRIT PETITION No.8497 of 2005**

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

Mr. K.Anil, learned counsel representing Mr. J.Kanakaiah, learned counsel for the petitioner.

2. In this writ petition, the grievance of the petitioner is that the respondents are not following the procedure prescribed under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') and have invoked Section 14 of the SARFAESI Act in an arbitrary manner in respect of house property bearing Flat No.202 in Plot No.51, Sri Nilayam Apartments, Vivekananda Nagar, Kukkatpally, Hyderabad.

3. The writ petition is pending before this Court since 2005 in which no interim order has been passed.

4. 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

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

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

have been adopted to avoid the condition of pre-deposit contemplated under 2<sup>nd</sup> proviso to Section 18 of the 2002 Act.”

5. 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**<sup>3</sup>.

6. Against an action under Section 14 of the SARFAESI Act, the remedy of appeal under Section 17 of the SARFAESI Act is available to the petitioner.

7. In view of the aforesaid enunciation of law, no useful purpose would be served by keeping this writ petition pending.

8. Therefore, the Writ Petition is disposed of with the liberty to the petitioner to take recourse to such remedy as may be available to her in law with regard to her grievance, if the same still subsists.

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

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

//TRUE COPY//

SD/-K. AMMAJI  
ASSISTANT REGISTRAR

  
SECTION OFFICER

To,

1. The Authorised Officer Indian Overseas Bank, Kalyan Nagar Branch,, Hyderabad.
2. Asst. Recovery Management Yard (P) Ltd.,, H.NO. 3-4-529/2/6, Near Reddy Women's College, Hyderabad The AVP Sri Venkata Ramachander Rao.
3. Sri A. Krishna Kumar., C/o. Asst. Recovery Management Yard (P) Ltd., Advocate Commissioner, H.No.3-4-529/2/6, Near Reddy Womens College, Hyderabad.
4. One CC to Sri J. Kanakaiah, Advocate [OPUC]
5. Two CD Copies

TJ  
KKS



**HIGH COURT**

**DATED:20/08/2024**

**ORDER**

**WP.No.8497 of 2005**



**DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS**

⑦  
27/10/24  
B.K.