

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

MONDAY, THE TWENTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

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

WRIT PETITION NO: 28891 OF 2024

Between:

1. Bollu Venkatesh, S/o. Kanappa, Aged about 36 years, Occ. Business (Civil Contractor), R/o. H.No.42-494/34, Gayathrinagar, Moulali, Malkajgiri, Hyderabad.
2. Gurralli Rajeswari, S/o. Bollu Venkatesh, R/o. Sy.No. 489P. 33P, 34, 35P, F.No. 402, Ragannaguda, Sri Sai Heights, Turkayamjal, Hyderabad-501510.
3. Kay Construction, Represented by Its Proprietor, Rio. Sy.No. 489P, 33P, 34, 35P, F.No. 402, Ragannaguda, Sri Sai Heights, Turkayamjal, Hyderabad-501510.

...PETITIONERS

AND

1. The Union of India, Ministry of Finance Represented by It's Under Secretary, Office at New Delhi.
2. The Central Registry of Securitization Asset, Re-construction and Security Interest of India Represented by It's Authorized Officer, Office at . Tower 1, Office Block, 4th Floor, Place-A, Adjacent to Ring Road, NBCC, Kidwainagar (East), New Delhi.
3. The Debts Recovery Tribunal-II, Hyderabad, Represented by It's Presiding Officer.
4. M/s. IIFL Home Finance Limited., Formerly Known as M/s. India Infoline Housing Finance Limited, Registered Office Situated at IIFL House, Sun Infotech Park Road No. 16V, Plot No. B-23, Thane Industries Area, Wagle Estate, Thane-400064
5. M/s. IIFL, Home Finance Limited, Represented by Its, Authorized Officer, Office At 5th and 6th Floors, My Home Sarovar Plaza, Secretariat Road, Hyderabad-500004.

...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 writ more particularly one in the nature of a writ of MANDAMUS under Article 226 of Constitution of India or any other appropriate Writ or order or direction to call for the records of Loan Agreement between petitioner and respondent Nos.4 and 5 is arbitrary, bad in eyes of section 2 (g), 9,10, 13 and 14 of Indian Contract Act and the section 67-A, 68 of the Indian Evidence Act and the respondents including 3rd respondent not consider the said plea in S.A. No. 8 of 2024 Judgment is violating the article 14 of the constitution of India consequently set a side the Loan Agreement between petitioners and respondent Nos.4 and 5, Judgment of S.A. No. 8 of 2024 on the file of Debts Recovery Tribunal-II, Hyderabad, direct the 2nd respondent to delete the petitioner name from defaulter list maintained by 2nd respondent.

IA 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 STAY all further proceedings of 4th and 5th respondents actions pertain to Schedule property of Judgment of S.A. No. 8 of 2024 on the file of Debts Recovery Tribunal-II, Hyderabad pending disposal of the present writ petition.

**Counsel for the Petitioner : SRI BASKULA ATHIK, rep.,
SRI V.RAGHUNANDAN GOUD**

**Counsel for the Respondents No.1to3 : SRI GADI PRAVEEN KUMAR,
Dy. SOLICITOR GEN. OF INDIA**

Counsel for the Respondents No.4to6 : --

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.28891 of 2024

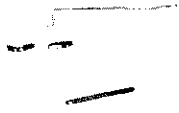
ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Baskula Athik, learned counsel representing Mr. V.Raghunandan Goud, learned counsel for the petitioners.

2. In this writ petition, the petitioners have assailed the validity of the order dated 13.09.2024 passed by the Debts Recovery Tribunal-II at Hyderabad in S.A.No.08 of 2024.

3. We have heard learned counsel for the petitioners at length.

4. Admittedly, against the aforesaid order, an appeal lies before the Debts Recovery Appellate Tribunal.



5. 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 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.”

¹ (2010) 8 SCC 110

² (2023) 2 SCC 168

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6. 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** 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. Same is disposed of with the liberty to the petitioners to take recourse to such remedy as may be available to them in law.

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

SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Under Secretary, Union of India, Ministry of Finance Office at New Delhi.
2. The Authorized Officer, Central Registry of Securitization Asset, Reconstruction and Security Interest of India Office at . Tower 1, Office Block, 4th Floor, Place-A, Adjacent to Ring Road, NBCC, Kidwainagar (East), New Delhi.
3. The Presiding Officer, Debts Recovery Tribunal-II, Hyderabad.
4. One CC to SRI V.RAGHUNANDAN GOUD, Advocate. [OPUC]
5. One CC to SRI GADI PRAVEEN KUMAR, (Deputy Solicitor General of India), High Court for the State of Telangana at Hyderabad. [OPUC]
6. Two CD Copies.

BSK
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DX

HIGH COURT

DATED:21/10/2024



ORDER

WP.No.28891 of 2024

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

PA

29/10/24

8 copies.