

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

TUESDAY, THE ELEVENTH 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: 12068 OF 2014

**Between:**

1. M/s. BRG Energy Limited, a Company registered under the Companies Act, 1956, having its Registered Office at Plot No.838, Vivekananda Nagar Colony, Kukatpally, Hyderabad-500 072, represented by its Chairman and Managing Director Smt.G.V.Mary, W/o. G.Bala Reddy, aged about 40 years, R/o. Plot No.838, Vivekananda Nagar Colony, Kukatpally, Hyderabad - 500 072.
2. Sri G.Bala Reddy, S/o. G.Inna Reddy, Occ Director, M/s BRG Energy Limited, R/o.Plot No.838, Vivekananda Nagar Colony, Kukatpally, Hyderabad- 500 072.

...PETITIONERS

**AND**

Union Bank of India, Khairtabad Branch, Pavani Plaza, Commercial Complex, GHMC Road, Hyderabad, represented by its Authorised 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 issue an order or direction, more in the nature of Writ of Mandamus, declaring the action of the respondent-bank in issuing Possession Notice in Ref.No.ADV-426, dated 11.04.2014 when the application of the petitioner is registered under Section 15(2) of the Sick Industrial Companies (Special Provision) Act, 1985 before the BIFR in Case No.4/2014 for revival as wholly arbitrary, highly illegal, unjust and unconstitutional and contrary to the provisions of Section 22(2) of the Sick Industrial Companies (Special Provisions) Act, 1985 and the rules made there under.

**I.A. NO: 2 OF 2014(WPMP. NO: 15160 OF 2014)**

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 including the possession of the Secured Assets as reflected in Possession Notice dated 11.04.2014, pursuant to the Possession Notice in Ref.No.ADV 426, dated 11.04.2011 issued by the respondent-bank.

**I.A. NO: 1 OF 2014(WVMP. NO: 1755 OF 2014)**

**Between:**

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 vacate the order dated 21-04-2014 passed in W.P.No.12060 of 2014

**Counsel for the Petitioners: SRI. S S.NAGESWARAREDDY**

**Counsel for the Respondents: SESHADRI GOALLA**

**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.12068 of 2014**

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

None for the petitioners even when the matter is called in second round.

2. In this writ petition, the petitioners have assailed the validity of the notice dated 11.04.2014 issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. 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:

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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.”

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. UCO Bank**<sup>3</sup>.

5. In view of the aforesaid enunciation of law, learned counsel for the petitioners submits that the petitioners be granted the liberty to approach the Debts Recovery Tribunal by filing a petition under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

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

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

7. 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/-MOHD. ISMAIL  
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Authorised Officer, Union Bank of India, Khairtabad Branch, Pavani Plaza, Commercial Complex, GHMC Road, Hyderabad.
2. One CC to Sri S. S. Nageswarareddy, Advocate [OPUC]
3. One CC to Sri Seshadri Goalla, Advocate [OPUC]
4. Two CD Copies

TJ  
BS

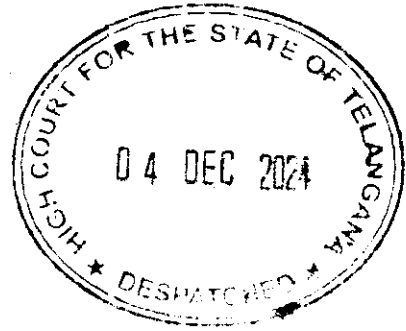
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**HIGH COURT**

**DATED:11/06/2024**

**ORDER**

**WP.No.12068 of 2014**



**DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS.**

PA  
4/11/24  
GCORUS.