

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

WEDNESDAY, THE THIRTEENTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

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

**WRIT PETITION NO: 31633 OF 2024**

**Between:**

Mohd. Aijaz Ahmed, S/o Ekhtyar Ahmed, Aged about. 60 yrs, Occupation. Retired, R/o 8-6-2-686/2/6/1, Rd.No. 12, Banjara Hills, Hyderabad - 500 034. Telangana State

**...PETITIONER**

**AND**

1. Joint Managing Director APSFC, (Presently Telangana State Financial corporation), Chirag Ali Lane, Abids, Hyderabad.500001.
2. Branch Manager, Mahabub Nagar branch, Andhra Pradesh State Financial Corporation (Presently Telangana State Financial Corporation) Mettuguda, Mahabub Nagar 509002.
3. Zain Minerals, Rep. by Azghar Ahryled, aged about 55 years, Occu. Business, Factory at Sy.No.47/7 and 50/7, Talakonda pally (V and M) R.R.DIST.
4. Azghar Ahmed, S/o. Ekhtyar Ahmed, Aged about. 55 Yrs., Occ. Business, R/o. Flat No.2, Studio Sycmore Apartment, Road No. 4 Banjara Hills, Hyderabad.
5. Asmathunnisa, W/o Azghar Ahmed, Aged about. 52 Yrs., Occ. Business, R/o. Flat No.2, Studio Sycmore Apartment, Road No. 4 Banjara Hills, Hyderabad.
6. G. Subba Rao, S/o. G. Ramulu, Aged about. 50 yrs., Occup. Business, R/o.2-24, Bahar Sahara Estaes, L.B.Nagar, 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 a writ, order or direction more particularly one in the nature of a writ of Mandamus to Respondent 1 & 2 to conduct the auction to sell the unit of Respondent No.3 and 4 i.e., M/s. Zain minerals belongs to principal borrower as per the order of DRT in SA.No. 141/2022 dated. 13/09/2024 on the file of Debts

Recovery Tribunal - Hyderabad. Further it is prayed that this honorable court please to direct the Respondent 1 and 2 to release the collateral property of petitioner on presenting a bank guarantee for Rs. 94,00,000/- lacs with a condition to return the petitioners bank guarantee after the sale proceeds of auctioned unit of M/s zain Minerals.

**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 direct the Respondents No.1 and 2 to release the collateral property of petitioner on presenting a bank guarantee for Rs. 94,00,000/- lakhs with a condition to return the petitioner's bank guarantee after the sale proceeds of auctioned unit of M/s zain Minerals.

**Counsel for the Petitioner : SRI MOHD. SHAHABUDDIN**

**Counsel for the Respondents No.1 & 2 : SRI M.HAMSA RAJ, S.C. FOR APSFC**

**Counsel for the Respondents No.3 to 6 : --**

**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.31633 of 2024**

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

Mr. Mohd. Shahabuddin, learned counsel for the petitioner.

Mr. M.Hamsa Raj, learned Standing Counsel for the respondents No.1 and 2.

2. Heard on the question of admission.

3. In this writ petition, the petitioner, *inter alia*, seeks a direction to the Andhra Pradesh State Financial Corporation (now known as, "the Telangana State Financial Corporation") (hereinafter referred to as, "the Corporation") to auction and sell the unit belonging to the respondents No.3 and 4, namely M/s. Zain Minerals, in compliance of the order dated 13.09.2024 passed by the Debts Recovery Tribunal -1 at Hyderabad (hereinafter referred to as, "the DRT") in S.A.No.141 of 2022. The petitioner has further

prayed for a direction to the Corporation to release the collateral property of the petitioner on furnishing a bank guarantee for Rs.94,00,000/- with the condition to return the bank guarantee which may be furnished by the petitioner after the sale amount due to the Corporation is realised in the sale.

4. Facts giving rise to filing of this petition briefly stated are that the petitioner claims to be absolute owner and in possession of the property bearing D.No.8-6-2-686/2/6/1, M.B.T.Nagar, Road No.12, Banjara Hills, Hyderabad - 500 034 (hereinafter referred to as, "the subject property"). The respondent No.4 along with the respondent No.6 intended to start a manufacturing unit in the name and style of M/s. Zain Minerals. The aforesaid respondents approached the Corporation and availed the financial assistance to the tune of Rs.2.00 crores. The petitioner created a mortgage in respect of the subject property.

5. The respondents No.4 and 6 did not repay the amount of loan. Thereafter, the Corporation invoked the provisions of the Securitisation and Reconstruction of

Financial Assets and Enforcement of Securities Interest Act, 2002 (hereinafter referred to as, "the SARFAESI Act") and issued a sale notice on 12.09.2019 in respect of the property of the petitioner. However, the petitioner filed W.P.No.925 of 2020 in which an *ad interim* order was granted on 21.01.2020. It is not in dispute that the aforesaid *ad interim* order is still in force and the writ petition is pending.

6. Thereafter, M/s. Zain Minerals, the principal borrower, filed Securitisation Application, namely S.A.No.141 of 2022, which has been dismissed by the DRT by an order dated 13.09.2024. Thereafter, the petitioner filed this writ petition seeking the relief as stated supra.

7. Learned counsel for the petitioner submits that the officers of the Corporation are acting in collusion with the principal borrower and are not taking any steps to recover the dues. It is further submitted that the property which has been mortgaged by the petitioner be released.

8. On the other hand, learned Standing Counsel for the Corporation has submitted that after dismissal of the Securitisation Application filed by the principal borrower, suitable action in accordance with law for recovery of the amount due to the Corporation shall be taken.
9. The amount due to the Corporation is yet to be recovered. The amount due to the Corporation is public money. Therefore, pending recovery of the amount due to the Corporation, the property mortgaged by the petitioner, who is a guarantor to the transaction in question, cannot be released, as it is trite law that the liability of a borrower and a guarantor is coextensive. However, the submission made on behalf of the Corporation that action for recovery of the amount due to the Corporation shall be taken in accordance with law, is taken on record.
10. In view of the aforesaid submission, no further order is required to be passed in the writ petition.
11. The writ petition is accordingly disposed of.

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

Sd/- K. SREE RAMA MURTHY  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Joint Managing Director APSFC, (Presently Telangana State Financial corporation), Chirag Ali Lane, Abids, Hyderabad.500001.
2. The Branch Manager, Mahabub Nagar branch, Andhra Pradesh State Financial Corporation (Presently Telangana State Financial Corporation) Mettuguda, Mahabub Nagar 509002.
3. One CC to SRI MOHAMMAD SHAHA BUDDIN, Advocate. [OPUC]
4. One CC to SRI M.HAMSA RAJ, S.C. for APSFC [OPUC]
5. Two CD Copies.

BSK



HIGH COURT

HCJ &  
JSR,J

DATED:13/11/2024



ORDER

WP.No.31633 of 2024

DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS

⑦

2/2/24  
LWS