

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

**THURSDAY, THE THIRD 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: 27507 OF 2024

Between:

1. Seettipally Gandhi, S/o. Late S.Papa Rao, Aged about . 42 years, Occ. Business, R/o. Flat No.201, 2nd Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.
2. Seettipally Lakshmi, W/o. Setupally Gandhi, Aged about . 38 years, Occ. Housewife, R/o. Flat No.201, 2nd Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.
3. D.Suresh, S/o. D. Somaiah, Aged about . 29 years, Occ. Business, R/o. Flat No.301, 3rd Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.
4. Nandika Suman, S/o. N.Vijaya Krishna Rao, Aged about . 38 years, Occ. Self Employee, R/o. Flat No.302, 3rd Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.
5. Pasumarthi Ashok, S/o. P. Hanumanth Rao, Aged about . 36 years, Occ. Software Employee, R/o. Flat No.402, 4th Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.
6. Pasumarthi Anusha, W/o. P.Ashok, Aged about . 32 years, Occ. Housewife, R/o. Flat No.401, 4th Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.
7. Narsing Ramulu, S/o. Narsing Buchaiah, Aged about . 37 years, Occ. Service, R/o. Flat No.202, 2nd Floor, Gnapika Pearl Apartments, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, Ranga Reddy District.

...PETITIONERS

AND

1. The Union of India, Rep. by its Principal Secretary, Ministry of Finance, Shashtri Bhawan, Dr. Rajendra Prasad Road, New Delhi.
2. M/s. Shriram Finance Limited, Branch at Secunderabad rep by its GPA Holder and working as a Senior Manager, Mr. Arraram Jagadaiah, S/o. A.Bhoomaiah, Aged about. 39 Years, Occ. Senior Manager, Administrative

office at 3-6-478,4th floor, Anand Estates, Liberty Road, Himayathnagar, Hyderabad.

3. P.Jalandhar Rao, S/o. Venkateshwar Rao, Aged about. 45 years, Occ.Business, R/o. H.No.6-114, Durga Estates, Deepthisrinagar, Miyapur, Hyderabad.
4. P. Raghu Babu, S/o. P.Raja Rao, Aged about. 53 years, Occ. Business, R/o. Flat No.401, 1-Block, Sai's Nandanam, Opp. C.B. R Estates, Deepthisrinagar, Madinaguda, Miyapur, 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 or more in the nature of a writ of Mandamus or any other appropriate writ order or direction declaring the action of respondent no.2 in issuing notice U/s.13(2) notice No.SECU5TF1204020005 dt.06.03.2024 of the Securitization and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002 and the same is fixed on the petitioners Gnapika Apartment, Deepthisrinagar, Hafeezpet Village, Serilingampally Mandal, R.R.District on 04.05.2024 on the name of Respondent no.3/P.Jalander Rao in respect of finance loan agreement No. SECU5TF1204020005 availed by respondent no.3 and the same is shifting on the petitioners who are bonafide purchasers of Flat Nos. 201, 301, 302, 402, 401 and 202 in Gnapika Apartments which is illegal, arbitrary against to the principles of natural justice and consequently direct the respondent no.2 to issue further notices i.e. 13(4) notices and recover the loan amount from respondent no.3 and respondent no.4 under SARFAESI Act, by attaching the respondent nos.2 and 3 flats and other valuable properties of respondent no.3, but not petitioners flats vide Flat Nos. 201, 301, 302, 402, 401 and 202 in Gnapika Apartments as the petitioners are not parties to Arbitration case no.500 of 2013 before Arbitration Tribunal cum Sole Arbitrator Award dt.08.07.2014

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 on the Notices issued by respondent no.2 U/s.13(2) notice No.SECU5TF1204020005 dt.06.03.2024 of the Securitization and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002 in respect of petitioners f Flat Nos.201, 301, 302, 402, 401 and 202 in Gnapika Apartments, Hafeezpet Village, Ranga Reddy District.

Counsel for the Petitioners: SRI B. SHANKER FOR SRI. PADALA PRAVIN KUMAR

Counsel for the Respondent No.1: SRI GADI PRAVEEN KUMAR Dy. SOLICITOR GEN. OF INDIA

Counsel for the Respondent NOs.2 to 4: ---

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.27507 of 2024

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

Mr. B.Shanker, learned counsel representing Mr. Padala Pravin Kumar, learned counsel for the petitioners.

Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for respondent No.1.

2. In this writ petition under Article 226 of the Constitution of India, the petitioners have assailed the validity of the notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') issued to the petitioners on 06.03.2024.

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 availability of

¹ (2010) 8 SCC 110

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. UCO Bank**³.

² (2023) 2 SCC 168

³ 2024 SCC OnLine SC 528

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5. In view of the aforesaid enunciation of law, learned counsel for the petitioners submits that the petitioners be granted the liberty to take recourse to the remedy provided under Section 17 of the SARFAESI Act.

6. In view of the aforesaid submission, liberty is granted to the petitioners to take recourse to the remedy provided under Section 17 of the SARFAESI Act.

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/- V. KAVITHA
ASSISTANT REGISTRAR**


SECTION OFFICER

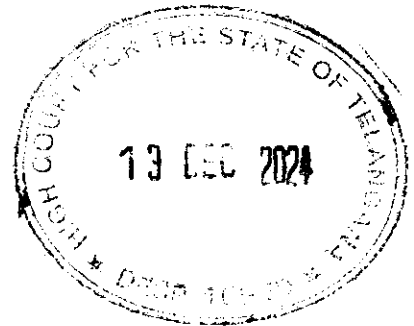
To,

1. The Principal Secretary, Ministry of Finance, Shashtri Bhawan, Dr. Rajendra Prasad Road, New Delhi.
2. One CC to SRI. PADALA PRAVIN KUMAR Advocate [OPUC]
3. One CC to SRI. GADI PRAVEEN KUMAR Dy. SOLICITOR GEN. OF INDIA [OPUC]
4. Two CD Copies

KKS
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HIGH COURT

DATED:03/10/2024



ORDER

WP.No.27507 of 2024

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

8
Copies
LB
25/10/24