

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

THURSDAY, THE TWENTY EIGHTH DAY OF JULY TWO
THOUSAND AND SIXTEEN
(28.07.2016)

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.25121 OF 2016

M/s. Vasavi Agro Oil Products Private Limited,
O/o.1-2-183/1, MG Road (K.K. Road),
Back side 2nd lane to Ganduri Brothers Cloth Shop,
Suryapet, Nalgonda,
Rep. by its Managing Director Sri Polishetty Srinivas,
S/o. Late P. Venkateswarlu
and two others. --- Petitioners.

And

The State of Telangana
Rep. by its Principal Secretary,
Finance Department, Secretariat,
Hyderabad and another. --- Respondents.

Counsel for the petitioners : Mrs. S. Nanda.

Counsel for the respondent No.1 : Government Pleader for
Finance and Planning (T.S.)

Counsel for the respondent No.2 : Mr. M. Srikanth Reddy.

This Court made the following:

ORDER: (*Per Hon'ble Sri Justice C.V. Nagarjuna Reddy*)

Assailing e-Auction notice dated 24.06.2016 issued by respondent No.2, scheduling the sale of mortgaged properties on 29.07.2016, the borrowers of the loan from respondent No.2 have filed this Writ Petition.

After hearing the learned counsel for both the parties, we are of the opinion that, as the proposed auction is one of the measures envisaged under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), the petitioners are entitled to avail the remedy of approaching the Debts Recovery Tribunal by making appropriate application under Section 17 of the SARFAESI Act. Indeed, the Supreme Court in ***United Bank of India***

Vs. Satyawati Tondon and others^[1] held as under:

"In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

.....

It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to

ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

In the light of the above legal position, we are unable to entertain this Writ Petition, for adjudication, on merits. Accordingly, the Writ Petition is dismissed with liberty to the petitioners to avail the aforementioned remedy.

As a sequel to dismissal of the Writ Petition, W.P.M.P. No.31009 of 2016, filed by the petitioners for the *interim* relief, shall stand dismissed as infructuous.

REDDY, J

C.V. NAGARJUNA

G. SHYAM PRASAD, J

Date: 28-07-2016
DSH

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WRIT PETITION No.25121 OF 2016

(Order of the Division Bench delivered by
Hon'ble Sri Justice C.V. Nagarjuna Reddy)

Date. 28-07-2016

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[\[1\]](#) (2010) 8 SCC 110