

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

WEDNESDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND TWENTY ONE

PRESENT

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT PETITION NO: 7860 OF 2021

Between:

1. M/s. Rose Co, Proprietor Concern, 16-7-755/1 and 756, Azampura Chaderghat, Hyderabad, rep by its Proprietor Mr. Mohammed Yousuf Khan. Aged about 56 years, Occ. Business
2. Mohammed Yousuf Khan, Mohammed Yaseen Khan, Aged about 56 years, Occ. R/o 16-7-424, Azampura, Hyderabad

...PETITIONERS

AND

Canara Bank, Regional Office, Hyderabad -1, D.No.6-3-915, West Block 2nd Floor, HMWS and SB Building, Khairtabad, Hyderabad- 500 004.
Rep by its The Authorised Officer,

...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 an appropriate Writ more particularly a writ in the nature of Mandamus to declare the measures of the respondent bank under SARFAESI Act by Classifying the loan account of the 1st petitioner as NPA on 31/03/2010 as being illegal and erroneous and consequently set aside the Demand Notice dated 22/01/2021 under Section 13 (2) of the SARFAESI Act, 2002 and consequently to declare the action of respondent in Issuing Possession Notice dated 17/03/2021 u/s 13 (4) against the secured property i.e. House bearing M.No.16-7-755 and 756 admeasuring 315.15 Sq. yds., Chaderghat, Azampura, Hyderabad, taking possession on 10/03/2021 of the 2nd petitioner as being illegal, and erroneous.

IA NO: 1 OF 2021

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 under the provisions of the SARFAESI Act, 2002 pursuant to issue of Possession Notice dated 17/03/2021 in respect of the secured property i.e., House bearing M.No.16-7-755 and 756 admeasuring 315.15 Sq. yds., Chaderghat, Azampura, Hyderabad by taking Possession on 17/03/2021 belongs to the 2nd, pending disposal of the Main W.P.

Counsel for the Petitioner: SRI. V. V. RAMANA

Counsel for the Respondents: SRI M.V.K. SATYANARANA, SC FOR BANK

The Court made the following: ORDER

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

AND

HON'BLE DR. JUSTICE SHAMEEM AKTHER

Writ Petition No.7860 of 2021

ORDER: *(Per Hon'ble Sri Justice A.Rajasheker Reddy)*

Heard Sri V.V.Ramana, learned counsel for the petitioners and Sri M.V.K.Satyanarana, learned Standing Counsel for the respondent Bank.

Sri V.V.Ramana, learned counsel for the petitioners raised certain objections regarding demand notice under Section 13(2) of the Act and possession notice under Section 13(4) of the Act, which was issued on 17.03.2021.

Learned Standing Counsel for the respondent Bank fairly submits on instructions, that the respondent Bank is withdrawing the proceedings under the Act seeking liberty to initiate proceedings afresh in accordance with law.

Recording the submission of the learned Standing Counsel for the respondent Bank, the impugned demand notice dated 22.01.2021 under Section 13(2) and possession notice dated 17.03.2021 under Section 13(4) of the SARFAESI Act, 2002 are set aside. However, it is open for the respondent Bank to proceed further in accordance with law.

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Accordingly, this Writ Petition is allowed to the extent indicated above. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition shall stand allowed.

SD/- B.SATHYAVATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Authorised Officer, Canara Bank, Regional Office, Hyderabad -1, D.No.6-3-915, West Block 2nd Floor, HMWS and SB Building, Khairatabad, Hyderabad- 500 004.
2. One CC to Sri V. V. Ramana, Advocate [OPUC]
3. One CC to Sri M.V.K. Satyanarana, SC for Bank, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

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TP



HIGH COURT

DATED: 09/06/2021

ORDER

WP.No.7860 of 2021



ALLOWING THE WP
WITHOUT COSTS

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KEMA
09/6/2021