

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

MONDAY, THE FOURTEENTH 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: 13103 OF 2021

Between:

1. Sri. K. Rajendra Kumar, S/o. Somaiah, aged- 68 years, Occ- Business, R/o. H.No.15-53, Sri Kodandaram Nagar, P and T Colony, Dilsukhnagar, Hyderabad
2. Sri. K. Suresh Kumar, S/o. K. Rajendra Kumar, aged- 45 years, Occ- Business R/o. H.No.15-53, Sri Kodandaram Nagar, P and T Colony, Dilsukhnagar, Hyderabad.
3. Smt. K. Bharathi Devi, W/o. Sri. K. Rajendra Kumar, aged- 64 Years, Occ- Business, R/o. H.No.15-53, Sri Kodandaram Nagar, P and T Colony, Dilsukhnagar, Hyderabad.
4. Ms. K. Pallavi, D/o. Sri. K. Rajendra Kumar, aged- 39 years, Occ- Business, R/o. H.No.15-53, Sri Kodandaram Nagar, P and T Colony, Dilsukhnagar, Hyderabad.

...PETITIONERS

AND

M/s. Indian Overseas Bank, Surabhi Arcade, Bank Street, Koti, Hyderabad, rep. by its Asst. General Manager and GPA Holder, Sri. B. Basappa, S/o Revanappal, ...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 a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, to declare the Order dt.04/03/2020 passed in O.A.No.311 of 2010 on the file of the Honble Debt Recovery Tribunal-1, Hyderabad, as illegal, arbitrary and contrary to the provisions of SARFAESI Act, 2002 and the Rules framed there under and against all the settled principles of law and consequently set aside the same

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 the operation of the impugned Order dt.04/03/2020 passed in O.A.No.311 of 2010 on the file of Honble Debt Recovery Tribunal-I, Hyderabad, pending disposal of the main writ petition

Counsel for the Petitioners: SRI AKKAM ESHWAR

**Counsel for Respondent: SRI M. V. K. VISWANADHAM
SC FOR INDIAN OVERSEAS BANK**

The Court made the following: ORDER

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

AND

HON'BLE DR. JUSTICE SHAMEEM AKTHER

Writ Petition No.13103 of 2021

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

This Writ Petition is filed against order dated 04.03.2020 passed in O.A.No.311 of 2010 by the Debt Recovery Tribunal-I, Hyderabad (for short 'the Tribunal') wherein and whereby the Tribunal decreed the O.A filed by the respondent Bank.

Heard Sri Akkam Eshwar, learned counsel for the petitioners and Sri M.V.K.Vishwanadham, learned Standing Counsel for the respondent Bank.

Learned counsel for the petitioners submits that though the petitioners have paid an amount of Rs.81,48,674/-, the same is not considered by the Tribunal in proper perspective and that the petitioners could not also defend their case before the Tribunal because of the pandemic situation, as such, even though the petitioners have efficacious alternate remedy, the writ petition needs to be entertained.

On the other hand, Sri M.V.K.Vishwanadham, learned Standing Counsel for the respondent Banks submits that the subject loan was granted in the year 2003 and the petitioners' account was declared as NPA on 13.06.2009 and O.A.was filed in the year 2010. He submits that when the petitioners were set exparte on 01.12.2015, they filed petition for setting side the same on 05.08.2018. Though the said petition was allowed, but except filing written statement, the petitioners have not participated in the proceedings. The Tribunal, after considering the documents filed by the respondent bank, decreed the OA and that no exception can be taken and no extraordinary

circumstances are brought to the notice of this Court for entertaining the writ petition bypassing the alternate remedy.

It is to be seen that all the contentions raised by both the parties can effectively be dealt with by the appellate Tribunal and there is no impediment for the petitioners to approach the Appellate Tribunal, which is functioning and filing is through online. There is no dispute that the petitioners obtained loan and that they were declared as NPA in which, even though the petitioners paid amounts, the same were not given credit to by the Tribunal, which is a purely question of fact, even if it is found to be correct.

In view of above facts and circumstances, we do not see any reason to entertaining the writ petition bypassing the alternate remedy available to the petitioners. It is also not the case of the petitioners that the impugned order is passed without jurisdiction and that the same is in violation of principles of natural justice. However, learned counsel for the petitioners submit that some third party buyers are ready to purchase the property for better price, they can approach the respondent Bank with the said arrangement and the respondent Bank will consider the same, as per the Scheme and Rules.

Accordingly, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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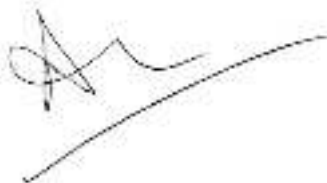
SD/- T.TIRUMALA DEVI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. Sri B. Basappa, GPA and Assistant General Manager, M/s. Indian Overseas Bank, Surabhi Arcade, Bank Street, Koti, Hyderabad.
2. One CC to Sri Akkam Eshwar Advocate [OPUC]
3. One CC to Sri M V K Viswanadham Advocate [OPUC]
4. Two CD Copies

MBC



HIGH COURT

DATED: 14/06/2021



ORDER

WP.No.13103 of 2021

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

Handwritten signature
23/6/2021