

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

**FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE SMT JUSTICE P.MADHAVI DEVI

WRIT PETITION NO: 37410 OF 2021

Between:

1. Smt.Y.M.S.Vijaya Lakshmi, W/o.Late Sri Gaddam Joshi Babu, Hindu, Aged about 53 years, Occ.Housewife,R/o.Flat No.301, 3rd Floor, Samyuktha Nilayam,H.No.15-21-83/1/301, Balaji Nagar, Kukatpally, Hyderabad.
2. Sri.Gaddam Prabhath Joshi, S/o.Late Sri Gaddam Joshi Babu, Hindu, Aged about 20 years, Occ.Student, R/o.Flat No.301, 3rd Floor, Samyuktha Nilayam, H.No.15-21-83/1/301, Balaji Nagar, Kukatpally, Hyderabad.

...PETITIONER'S

AND

1. State Bank of India, Represented by its Authorized Officer, R/o.RACPC, Dr.No.5-1-63/3, 2nd Floor, KKR Arge Complex, Kukatpally, Hyderabad.
2. State Bank of India, Represented by its Branch Manager, R/o.PBB Temple Branch, Near Temple Bus Stand, Kukatpally Housing Board Colony, Hyderabad.
3. SBI Life Insurance Company Limited, Represented by its Authorised officer, R/o.Regd.Office at Natraj, M.V.Road Et Western Express Highway Junction,Andheri (E), Mumbai-400069.

...RESPONDENT'S

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 order/direction or any appropriate writ, more particularly one in the nature of WRIT OF MANDAMUS to declare the action of the respondents in initiating proceedings by issuing notice under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, dated 28/10/2021 together with its letter dt.05/11/2021, despite opening SBI Suraksha loan account No.3769155261 for Rs.1,16,518/- for Insurance coverage of House Property bearing Flat No.301, in 3rd Floor, bearing Municipal No.15-21/83/1/301 of Samyuktha Nilayam, situated at Balaji Nagar, Kukatpally Village, Balanagar Mandal, under GHMC Kukatpally circle, Ranga Reddy District, is illegal, arbitrary, violative of principles of natural justice and contrary to the provisions of SARFAESI Act and RBI guidelines, and consequently command the respondents not to interfere with possession and enjoyment of petitioners Flat No.301, in 3rd Floor, bearing Municipal No.15-21/83/1/301 of Samyuktha Nilayam, situated at Balaji Nagar, Kukatpally Village, Balanagar Mandal, under GHMC Kukatpally circle, Ranga Reddy District, in any manner.

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 direct

the respondents to Stay of all further proceedings in pursuance of the notice under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, dated 28/10/2021, including dispossession of petitioners housing property bearing Flat No.301, in 3rd Floor, bearing Municipal No.15-21/83/1/301 of Samyuktha Nilayam, situated at Balaji Nagar, Kukatpally Village, Balanagar Mandal, under GHMC Kukatpally circle, Ranga Reddy District, in any manner, pending the above Writ Petition, in the interest of justice.

Counsel for the Petitioner's: SRI. HARI KISHAN KUDIKALA

Counsel for the Respondent's: PEARL LAW ASSOCIATES

The Court made the following: ORDER

**HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
HONOURABLE SMT. JUSTICE P. MADHAVI DEVI**

W.P.No.37410 OF 2021

ORDER: *(Per Hon ble Sri Justice Ujjal Bhuyan)*

Heard Mr.Harikishan Kudikala, learned counsel for the petitioners.

2. Petitioners are aggrieved by rejection of their objection by respondent Nos.1 and 2 to the notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly, 'the SARFAESI Act' hereinafter).
3. Be it stated that respondent Nos.1 and 2 had issued notice to the petitioners on 28.10.2021 under Section 13(2) of the SARFAESI Act calling upon them to discharge the liability in full amounting to Rs.19,04,747.00 as on 27.10.2021.
4. In response to the above notice, petitioner No.1 submitted objection dated 02.11.2021 stating that the housing loan account was covered under the Suraksha Scheme. Therefore, respondent Nos.1 and 2 were requested to recover the liabilities from the Suraksha Scheme.

5. By the correspondence dated 05.11.2021, respondent Nos.1 and 2 informed petitioner No.1 that the housing loan account No.35797682407 of the husband of petitioner No.1 is not covered under the State Bank of India Suraksha Scheme. Aggrieved, present writ petition has been filed.

6. The proviso to sub-section (3A) of Section 13 of the SARFAESI Act clarifies that the reasons so communicated while rejecting an objection filed by the borrower to a notice under sub-section (2) of Section 13 or the likely action of the secured creditor at the stage of communication of reasons, would not confer any right upon the borrower to prefer an application to the jurisdictional Debts Recovery Tribunal under Section 17 or to the court of District Judge under Section 17A. By way of further clarification, it is provided in the Explanation below the proviso to sub-section (1) of Section 17 that communication of the reasons to the borrower by the secured creditor of having not accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower, shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under sub-section (1) of Section 17.

7. If that be the legal position, there can be no cause for institution of the present writ petition.

8. That being the position, writ petition is dismissed. However, dismissal of the writ petition would not preclude the petitioners from availing their legal remedies as and when cause of action arises.

9. Miscellaneous applications, if any pending, shall stand closed.

10. No costs.

SD/- N. CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI. HARI KISHAN KUDIKALA Advocate [OPUC]
2. One CC to PEARL LAW ASSOCIATES Advocate [OPUC]
3. Two CD copies.
4. One spare copy.

GB

NPJ

HIGH COURT

DATED:31/12/2021

ORDER

WP.No.37410 of 2021



DISMISSING OF THE WP
WITHOUT COSTS.

25/1/2022
A571 (5)