

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(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: 37471 OF 2021

Between:

M/s. New E. Jagadeshwar Books and General stores, Prop Mr. Praveen Kumar Elisetty,
S/o. Jagadeshwar Elisetty, Netaji Chowk, Badepally, Jadcherla, Mahabubnagar District.

...PETITIONER

AND

1. The Debts Recovery Tribunal - 1, Hyderabad at Abids, Hyderabad.
2. Krishna Bhima Samrudhi Local Area Bank, Door No.5-254/11, 12, 13, Ground Floor, BK Reddy Complex, Opp: New Bus - Stand, Jadcherla - 509301, Mahabubnagar District.
3. Sri. D. Shiva Kumar, S/o. Not known to the Petitioner, Occ: Advocate Commissioner Appointed by The Chief Judicial Magistrate at Mahabubnagar in Crl.MP.No.51 of 2019, C/o. Advocates Bar Association, Mahabubnagar District Court at Mahabubnagar.

...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, order or direction, preferably in the nature of a Writ of Certiorari, calling for records in S.A.No.16 of 2020 and the order dated 11.10.2021 passed by the respondent no.1 and to declare the same as illegal, arbitrary malicious, motivated, violative of Articles 14, 19, 21 and 306A of the Constitution of India and to set aside the same by allowing the S.A No. 16 of 2020 on the file of Respondent No.1.

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 restore the possession and management of the shops No.29-65 8s 29-66 (old No.29-51 & 29-47) Block No.29, situated at Jadcherla Municipality Mahabubnagar District to the Petitioner, by removing the seal put up by the Advocate Commissioner, during the pendency of the above writ petition.

IA NO: 2 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 suspend the operation of the Order dated 11-10-2021 passed in S.A.No.16 of 2020 by the Respondent No.1 and all consequential actions including the auction proceedings, during the pendency of the above writ petition.

Counsel for the Petitioner: SRI. MD.AJMAL AHMED

Counsel for the Respondents: NONE APPEARED

The Court made the following: ORDER

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

W.P.No.37471 OF 2021

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

Heard Mr.Md.Ajmal Ahmed, learned counsel for the petitioner.

2. This writ petition challenges order dated 11.10.2021 passed by the Debts Recovery Tribunal-I, Hyderabad (Tribunal) in S.A.No.16 of 2020.

3. Be it stated that petitioner had filed securitization application under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly, the SARFAESI Act hereinafter) against the action taken by the respondent bank against the petitioner under the SARFAESI Act. The same was registered S.A.No.16 of 2020. By the order dated 11.10.2021, S.A.No.16 of 2020 has been dismissed. Aggrieved, present writ petition has been filed.

4. We find that under Section 18 of the SARFAESI Act, any person aggrieved by an order made by the Tribunal under Section 17, may prefer an appeal to the Appellate Tribunal within 30 days from the date of receipt of the order of the Tribunal. In view of the above, we are of the view that petitioner should approach the Appellate Tribunal by filing appeal under Section 18. If the appeal is filed within a period of 30 days from today, the same shall be considered on its own merit by the Appellate Tribunal.

5. However, we have been informed that presently the Appellate Tribunal is not functional because of the absence of the regular Chairman. That being the position, we direct that for a period of 60 days from today, respondents shall not take any further steps pursuant to the order dated 11.10.2021 passed by the Tribunal. Beyond the aforesaid period, it will be entirely within the discretion of the Appellate Tribunal to pass such order as may be deemed fit and proper and in accordance with law. However, if the appeal is not filed, as aforesaid, respondents would be at liberty to proceed in accordance with law.

6. Writ petition is, accordingly, disposed of.

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

8. No costs.

SD/-K.ONESIM
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Debts Recovery Tribunal - 1, Hyderabad at Abids, Hyderabad.
2. One CC to Sri M.L. Ajmal Ahmed, Advocate [OPUC]
3. Two CD Copies
4. One Spare Copy

CHR
SW

HIGH COURT

DATED:31/12/2021

ORDER

W.P.No.37471 of 2021



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

ATM (5)
17/1/2022