

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

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

PRESENT

**THE HON'BLE SRI JUSTICE UJJAL BHUYAN
AND
THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

WRIT PETITION NO: 18833 OF 2022

Between:

Smt.B.Suneetha, W/o.B.Surender Reddy, Aged 39 years, Occ. Housewife,
R/o.Flat No.303, Balaji Heights, Road No.4, Satyanarayana Colony,
Nagaram, Ranga Reddy Dist.,500 083.

...PETITIONER

AND

Union Bank of India, Plot No.29, Near EC Nagar Phase-II, IDA Cherlapally,
R.R.Dist., Hyderabad-500 051, Rep.by its Authorized Officer.

...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 pass an order or orders more particularly one in the nature of Writ of Mandamus or any other appropriate writ order or direction declaring the action of the respondent bank in trying to take physical possession of the secured property through the Advocate Commissioner Notice dt.29.03.2022, vide Warrant dt.17.02.2022 issued by the Chief Metropolitan Magistrate, Cyberabad, at L.B.Nagar, R.R.Dist., in CrI.MP No.63/2022, pursuant to the Possession Notice dt.08.06.2020 issued under Section 13 (4) of SARFAESI Act by the respondent bank, as illegal and arbitrary, unjust, violation of principles of natural justice and also violation of provisions of SARFAESI Act and consequently set aside the same

IA NO: 1 OF 2022

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 of the respondent bank in trying to take physical possession of secured property through the Advocate Commissioner Notice dt.29.03.2022, vide Warrant dt.17.02.2022 issued by the Chief Metropolitan

Magistrate, Cyberabad, at L.B.Nagar, R.R.Dist., in CrI.MP No.63/2022, pursuant to the Possession Notice dt.08.06.2020 issued under Section 13 (4) of SARFAESI Act, pending disposal of the present Writ Petition, in the interest of Justice.

Counsel for the Petitioner: SRI SRIDHAR REDDY TALASANI

Counsel for Respondent: SRI SETHU MADHAVA RAO

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.18833 of 2022

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

Heard Mr. T.Sridhar Reddy, learned counsel for the petitioner and Mr. Sethu Madhava Rao, learned counsel for the respondent Union Bank of India.

2. Challenge made in this writ petition is to the notice dated 29.03.2022 issued by the Advocate Commissioner calling upon the petitioner to hand over vacant physical possession of the schedule property.

3. Petitioner as the borrower of respondent had defaulted in repayment, for which respondent initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly referred to hereinafter as the 'SARFAESI Act'). After the Chief Metropolitan Magistrate, Cyberabad, had issued warrant under Section 14 of the SARFAESI Act,

impugned notice came to be issued by the Advocate Commissioner.

4. It is submitted that petitioner has already filed securitisation application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal-II, Hyderabad (Tribunal), which has been numbered as S.A(I.R).No.391 of 2022.

5. From the materials on record, we find that outstanding dues of the petitioner has been quantified at Rs.18,56,599.38 as on 08.06.2020.

6. Since petitioner has availed her statutory remedy, we are of the view that she should pursue her remedy. Further, if the petitioner deposits 15% of the outstanding dues as on today within a period of 30 days from today, respondent shall not proceed further against the petitioner pursuant to the notice dated 29.03.2022 issued by the Advocate Commissioner. However, if there is any default by the petitioner, it would be open to the

respondent to proceed in accordance with law for recovery of dues.

7. At this stage, learned counsel for the respondent submits that there are other loan accounts of the petitioner, in respect of which respondent has already initiated action under the SARFAESI Act.

8. We make it clear that this stay order is applicable only to the loan account relatable to the notice dated 29.03.2022 of the Advocate Commissioner.

9. This disposes of the Writ Petition. However, there shall be no order as to costs.

10. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/-K.AMMAJI
ASSISTANT REGISTRAR
GIB
SECTION OFFICER

To,

1. The Authorized Officer, Union Bank of India, Plot No.29, Near EC Nagar Phase-II, IDA Cherlapally, R.R.Dist., Hyderabad-500 051.
2. One CC to Sri Sridhar Reddy Talasani Advocate [OPUC]
3. One CC to Sri Sethu Madhava Rao, Advocate (OPUC)
4. Two CD Copies
5. One Spare Copy

MBC
MMA

HIGH COURT

DATED: 13/04/2022



ORDER

WP.No.18833 of 2022

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

Copies
Sm
2/7/22