

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

**THURSDAY, THE SECOND DAY OF MAY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION NO: 22012 OF 2019

Between:

State Bank of India, Hyderabad Main Branch Bank Street, Koti Hyderabad,
Rep. by its Asst. General Manager

...PETITIONER

AND

1. M/s Ghanshyamdas Gems and Jewels, MayurKushal Complex Abids,
Hyderabad Rep. by its Managing Partner
2. Sanjay Kumar Agarwal, S/o Balkishan Agarwal Aged about 34 years
3. Ajay Kumar, S/o Balkishan Agarwal
4. Sri Balakrishnan, S/o Late Ghanshyamdasji
5. Smt.ParmilaBai, W/o Balakrishnan
6. Sri Vinay Kumar, S/o Balakishan
7. Smt.ShantaBai, W/o Late Ghanshyamdasji

All the Respondents are residing at H.No.1-2-593/17, Domalguda,
Hyderabad.

...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 a Writ or order or direction more particularly the one in the nature Writ of Certiorari calling for the records relating to OA No. 457/2011 on the file of The Debts Recovery Tribunal-I, Hyderabad and to quash the docket order passed by the DRT-I Hyderabad in IA No. 2633/2017 in OA No. 457/2011 dated 21-02-2019 as illegal, high handed, arbitrary and against to the well settled principles of Law and to dismiss the said IA with costs etc.

IA NO: 1 OF 2019

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 grant stay of all further proceedings in O.A.No.457/2011 on the file of the DRT-I, Hyderabad pending disposal of the main Writ Petition.

Counsel for the Petitioner: SRI K.B. RAMANNA DORA

Counsel for the Respondent No.1 & 2: Ms. VEDULA CHITRALEKHA

Counsel for the Respondent No.3 to 7: - - - -

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION No.22012 of 2019

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. K.B.Ramanna Dora, learned counsel for the petitioner.

Ms. Vedula Chitrlekha, learned counsel for the respondents No.1 and 2.

2. This writ petition has been filed against the order dated 21.02.2019 passed by the Debts Recovery Tribunal under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

3. Admittedly, against the aforesaid order, an appeal lies before the Debts Recovery Appellate Tribunal under Section 20 of the Recovery of Debts and Bankruptcy Act, 1993, before the Debts Recovery Appellate Tribunal.

4. The Supreme Court in **United Bank of India v. Satyawati Tondon**¹ has deprecated the practice of the High Courts in entertaining the writ petitions despite availability of an alternative remedy. The aforesaid view has also been reiterated by the Supreme Court in **Varimadugu Obi Reddy v. B.Sreenivasulu**². The relevant extract of para 36 reads as under:

“36. In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been adopted to avoid the condition of pre-deposit contemplated under 2nd proviso to Section 18 of the 2002 Act.”

5. The view taken in **Satyawati Tondon** (supra) has been reaffirmed by a three Judge Bench of the Supreme Court in **PHR Invent Educational Society v. UCO Bank** in Civil Appeal No.4845 of 2024, dated 10.04.2024.

¹ (2010) 8 SCC 110

² (2023) 2 SCC 168

6. In view of aforesaid enunciation of law, we are not inclined to entertain the writ petition. However, liberty is reserved to the petitioner to take recourse to the remedy of appeal. It is directed that for a period of eight weeks, the interim order granted in this writ petition, if any, shall continue and in case the petitioner files an appeal within the aforesaid period of eight weeks from today, the Debts Recovery Appellate Tribunal shall extend the benefit of Section 14 of the Limitation Act, 1963, to the petitioner.

7. With the aforesaid liberty, the writ petition is disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SD/- P.Ch. NAGABHUSHAMBA
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Managing Partner M/s Ghanshyamdas Gems and Jewels, MayurKushal Complex Abids, Hyderabad
2. One CC to SRI K.B. RAMANNA DORA, Advocate [OPUC]
3. One CC to SRI VEDULA SRINIVAS, Advocate [OPUC]
4. Two CD Copies

BN

GJP

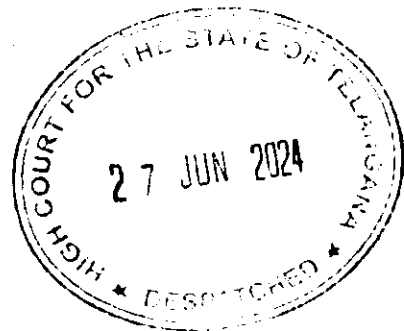
CHR

HIGH COURT

DATED:02/05/2024

ORDER

WP.No.22012 of 2019



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

⑥ CHR
18/6/24