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

MONDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NO: 36026 OF 2024

Between:

1. Sri Bhanavath Hanmanth @ Banoth Hanumanthu Nayak, S/o Bhanavath Peerya @ Banoth Priya aged 49 years, Occ. Agriculture
2. Sri Bhanavath Yadgiri @Banoth Yadgiri, S/o. Banoth Hanumanthu Nayak aged 34 years, Occ. Pvt.Employee
Both R/o. H.No.1-115, Saidhoni Gadda Thanda Ravalkol Village, Medchal Mandal, Medchal-Malkajgiri District.

...PETITIONERS

AND

1. State Bank of India, Retail Assets Central Processing Center - 18915 Rep by its Chief Manager/Authorized Officer, KKR Arige Complex, Kukatpally, Hyderabad - 500004.
2. State Bank of India, Medchal Main Branch, Medchal Rep by its Chief Manager/Authorized Officer Medchal-Malkajgiri District 501401
3. Debt Recovery Tribunal - II, 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 Order or Direction more particularly one in the nature of Writ of Certiorari calling for the records relating to the Order dated 05-11-2024 in SA No. 42 of 2021 on the file of the Hon'ble Debt Recovery Tribunal- II, Hyderabad the respondent No.3 herein and after perusing the same, quash it as illegal and unjust and consequently direct the respondents bank to settle the loan account of the petitioners with reasonable and genuine amounts and to restore possession of the secured property to the petitioners by declaring the possession notice dated 09-12-2020 issued U/sec. 13(4) Securitization Act as arbitrary and illegal.

IA NO: 1 OF 2024

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 interim stay of all further proceedings pursuant to the possession notice dated 09-12-2020, pending disposal of the writ petition.

Counsel for the Petitioners: SRI C.M.R.VELU
Counsel for the Respondents: --

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION No.36026 of 2024

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

Mr. C.M.R.Velu, learned counsel for the petitioners.

2. This writ petition is filed against the order dated 05.11.2024 passed by the Debts Recovery Tribunal-II at Hyderabad by which the Securitization Application filed by the petitioners under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act"), namely S.A.No.42 of 2021, has been rejected.

3. The petitioners, admittedly, have an alternative efficacious statutory remedy of filing an appeal under Section 18 of the SARFAESI Act.

4. The Supreme Court in **United Bank of India v. Satyawati Tondon**[1] has deprecated the practice of the

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[1] (2010) 8 SCC 110

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 in **Varimadugu Obi Reddy** (supra) 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

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[2] (2023) 2 SCC 168

Court in **PHR Invent Educational Society v. UCO Bank and others**[3].

6. In view of aforesaid enunciation of law by the Supreme Court, we are not inclined to entertain the writ petition. However, liberty is reserved to the petitioners to take recourse to the alternative remedy available to them under Section 18 of the SARFAESI Act.

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.

[3] **2024 SCC online SC 528**

SD/-P. GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Chief Manager/Authorized Officer, State Bank of India, Retail Assets Central Processing Center - 18915 KKR Arige Complex, Kukatpally, Hyderabad - 500004.
2. Chief Manager/Authorized Officer, State Bank of India, Medchal Main Branch, Medchal Medchal-Malkajgiri District 501401
3. Debt Recovery Tribunal - II, Hyderabad.
4. One CC to SRI C.M.R.VELU, Advocate [OPUC]
5. Two CD Copies

PSK.
BS

CC TODAY

HIGH COURT

DATED:23/12/2024

ORDER

WP.No.36026 of 2024



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

23/12/2024