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

THURSDAY, THE FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE SRI JUSTICE GADI PRAVEEN KUMAR

WRIT PETITION NO: 32316 OF 2025

Between:

1. M/s Shaftek Infrastructure Private Limited, Having its office at Plot No. 108/3, IDA Phase II, Charlapally, Hyderabad Rep. by its Director Smt Bhupatiraju Vijayalaxmi W/o B R Chinna Suryanarayana Raju, Aged about 72 years, Occ: Business R/o H.No. 11-13-60/1/A, Plot No. 65, Alkapuri, R K Puram Saroornagar, Hyderabad, Telangana - 500035
2. Smt Bhupatiraju Vijayalaxmi, W/o B R Chinna Suryanarayana Raju, Aged about 72 years, Occ Business R/o H. No. 11-13-60/1/A, Plot No. 65, Alkapuri, R K Puram Saroornagar, Hyderabad, Telangana - 500035

...PETITIONERS

AND

1. The Union of India, Rep. By its Secretary to Government of India Department of Finance New Delhi
2. Indian Bank, Himayatnagar Branch, PB No. 1010, H.No. 3-6-150, Himayatnagar, Hyderabad, Telangana - 500029, Represented by its Authorised Officer.
3. Smt. Lakshmi Aparna Potharaju W/o. Pavan Gopal, Aged about: 41 years, Occ: Dental Doctor, R/o. 3-1-200/2/403, Sreenivasam Builders, Mallapur, Behind S.L.N.Function Hall, Uppal, Mallapur, K.V. Rangareddy, Telangana – 500076.
4. B. Pavan Gopal S/o. Sundra Ramaiah B., Occ: Engineer, aged about: 48 years, R/o.3-1-200/2/403, Sreenivasam Builders, Mallapur, Behind S.L.N. Function Hall, Uppal, Mallapur, 500076, K.V. Rangareddy, Telangana, Hyderabad, Telangana State – 500076.

   Respondent No.3 and 4 are impleaded as per Court Order dated 04.12.2025 vide I.A.No.2 of 2025 in W.P.No.32316 of 2025.

...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, Orders or Direction, particularly in the nature of Writ of Mandamus

a. Declaring the action of the Respondent no. 2 authority in initiating proceedings under SARFAESI Act, 2002 and proceeding with the issuance of Demand Notice dated 1.07.2024 under section 13(2), further issuing Possession Notice dated 02.09.2024 and thereupon proceeding with the auction and sale of the subject property and notice dated 24.09 2024 and notice of taking possession dated 13.10.2025 issued by the Respondent no. 2 Bank, without the compliance of the provisions under Section 26 D of the SARFAESI act, 2002 as being bad, arbitrary and illegal and violative of Article 14, 21 and 300-A of Constitution of India

b. Consequentially set aside the proceedings initiated by the Respondent no. 2 under the SARFAESI act, 2002, on the ground of they being void ab initio

c. Consequentially direct the Respondent no. 2 bank to handover the possession of the residential house bearing H. No. 11-13-362/2, on Plot No.65, admeasuring 298 sq. yds., situated at Alkapuri Colony, Saroornagar, Hyderabad as well as the movable properties in it.

IA NO: 1 OF 2025

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 the proceedings that have been initiated by the Respondent no. 2 bank under the provisions of the SARFAESI act, 2002 in respect of the residential house bearing H. No. 11-13-362/2, on Plot No. 65, admeasuring 298 sq. yds.,

situated at Alkapuri Colony, Saroornagar, Hyderabad, Direct the Respondent no. 2 to not take any coercive action pending disposal of the Writ Petition.

Counsel for the Petitioners: SRI A. VENKATESH, SENIOR COUNSEL REPRESENTING SRI KOTA LAKSHMI SAI SIRISHA

Counsel for the Respondent No.1: SRI ANGOTHU NEHRU, S.C. FOR CENTRAL GOVERNMENT

Counsel for the Respondent No.2: SRI A. SATYANARAYANA, SENIOR COUNSEL REPRESENTING SMT. CH. LAXMI CHAYA

Counsel for the Respondent Nos.3 & 4: SRI RAMAKANTH REDDY

The Court made the following: ORDER

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD.

****

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

WRIT PETITION No.32316 of 2025

DATE : 09-12-2025

Between :

1. M/s.Shaftek Infrastructure Private Limited
and another

... Petitioners

And

1. The Union of India, Rep.by its Secretary
To Government of India and three others .... Respondents.

ORDER: (*per Hon'ble Justice Gadi Praveen Kumar*)

Heard Sri A.Venkatesh, learned Senior Counsel representing Ms.Kota Lakshmi Sai Sirisha, learned counsel for the petitioners, Sri A.Satyanarayana, learned Senior Counsel representing Smt.Ch.Laxmi Chaya, learned counsel appearing for respondent No.2 Bank and Sri Ramakanth Reddy, learned counsel for respondent Nos.3 and 4.

2. The present Writ Petition is filed assailing the action of the respondent No.2 Bank in initiating proceedings under The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and issuing of Demand Notice dated 01.07.2024 under Section 13(2) of the Act and subsequent Possession Notice under Section 13(4) of the Act dated 02.09.2024 and thereupon proceeding with the auction and sale of the subject property and notice dated 24.09.2024 as well as notice of taking possession dated 13.10.2025 without complying with Section 26D of the Act, as arbitrary and illegal and a consequential direction to set aside the proceedings initiated by respondent No.2 under SARFAESI Act and handover the possession of the subject land.

3. The facts leading to filing of the present Writ Petition are that petitioner No.1 is engaged in the business of erecting and fabricating works for cell phone towers. Respondent No.2 had offered overdraft facility to petitioner No.1. In the year 2016, petitioner No.1 approached the respondent No.2 Bank for financial assistance, upon which, the Bank extended overdraft facilities sanctioning an amount of Rs.3,75,00,000/- in favour of petitioner No.1. The subject overdraft facility stands secured by collateral, comprising a residential house bearing H.No.11-13-362/2, on

Plot No.65, admeasuring 298 sq. yards situated at Alkapuri Colony, Saroornagar, Hyderabad (for short 'the schedule property'), which is the ancestral property of petitioner No.2, who is one of the Directors of petitioner No.1 company. Against the said security property, a suit for partition vide O.S. No. 574 of 2024, is presently pending before the I Additional Senior Civil Judge, Ranga Reddy District, wherein the rights and interests of the co-owners are under adjudication.

4. During the period from 2020 to 2022 due to Covid-19 Pandemic certain financial constraints arose on account of adverse market conditions which temporarily affected the regular flow of business revenue of petitioner No.1 and also due to ill-health of petitioner No.2, the repayment schedule of the loan account was affected and thereafter respondent No.2 Bank classified the account of petitioner No.1 as 'Non-Performing Asset (NPA)' on 28.06.2024.

5. Subsequently, respondent No.2 Bank initiated recovery proceedings under the Act by issuing a Demand Notice dated 01.07.2024 under Section 13(2) of the Act indicating the outstanding amount of Rs.3,00,87,923/-. Thereafter, Possession Notice under Section 13(4) of the Act was issued on 02.09.2024 indicating the outstanding amount of Rs.2,84,24,626/-.

6. Aggrieved by the action of respondent No.2, the petitioners approached the Debts Recovery Tribunal–II, Hyderabad (for short 'DRT') by filing S.A. No. 438 of 2024. The learned DRT, by an interim order dated 28.10.2024 passed in I.A. No. 3051 of 2024, granted stay on the condition that the petitioners deposit a sum of Rs.80,00,000/– in three installments, one within two weeks from the date of the order and the remaining two at intervals of two weeks each. On account of non-compliance of the said conditional order passed by the learned DRT, respondent No.2 Bank conducted auction of the schedule property and sold the same to the highest bidder. Accordingly, respondent No.2 Bank issued another notice dated 13.10.2025 to the petitioners for taking possession of the schedule property.

7. Therefore, the present Writ Petition is filed contending that the proceedings issued by respondent No.2 Bank are in violation of Section 26D of the Act, which imposes a mandatory pre-condition for the enforcement of any security interest.

8. Sri A.Venkatesh, learned Senior Counsel appearing for the petitioners contended that the respondent clearly violated Section 26D of the SARFAESI Act which provides that a security interest has to be

created in favour of secured creditor by the borrower and it has to be registered with the Central Registry for commencement of enforcement proceedings with respect to securities by the secured creditor. Learned Senior Counsel has placed reliance on the Asset Based Search Report generated on 18.10.2025, reflecting that the secured asset forming the subject matter was not registered with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI).

9. Learned Senior Counsel further contended that since the security interest was never registered, respondent No.2 Bank is statutorily barred under Section 26D of the Act from exercising any enforcement powers conferred under Chapter III and as such, all actions taken including Demand Notice, Possession Notice, auction process and possession attempt, are all illegal, arbitrary and devoid of jurisdiction.

10. On the other hand, Sri A.Satyanarayana, learned Senior Counsel appearing for the respondent No.2 Bank contended that the Writ Petition itself is not maintainable in view of the Writ Petition invoking of Section 17 of the Act by filing S.A.No.438 of 2024 before the learned DRT which is pending consideration and that the issues raised in the present Writ

Petition as well as the issues raised before the learned DRT are one and the same.

11. Learned Senior Counsel further submitted that, the petitioners having suffered an adverse conditional order and having failed to comply with the deposit mandated therein, are not entitled to invoke the extraordinary jurisdiction of this Court, and on this ground alone, the Writ Petition deserves to be dismissed.

12. Learned Senior Counsel further contended that the documents filed by the petitioners referring to the schedule property are different from the one reflected in the Asset Based Search Report of CERSAI dated 18.10.2025, which specifically refers to two properties viz., H.No.11-13-362/2 (as claimed by the petitioners) and H.No.11-13-60/1/A (as shown in the CERSAI report) as secured asset.

13. Learned Senior Counsel appearing for respondent No.2 categorically denies the allegation with respect to violation of Section 26D of the Act stating that the Security Interest was duly registered with the CERSAI and the said mortgage was created by deposit of title deeds on 24.03.2016 by petitioner No.2 and was confirmed by executing a registered Memorandum of deposit of title deeds on 29.03.2016. It is contended that the Bank

registered the security interest on the property with Central Registry by mentioning the new D.No.11-13-362 corresponding to subject property i.e. in Sy.No.9/1/F part, plot No.65 admeasuring 298 sq. yards, whereas the search conducted by the petitioners was by using old Door Number i.e. 11-13-60/1A, disclosing the result as 'not satisfied', and as such, both the House Numbers are one and the same situated at Ankapuri Colony, Saroornagar, Hyderabad.

14. Respondent No.2 filed Debtor Based Search Report of CERSAI dated 29.10.2025. Valuation report dated 04.09.2024 and Certificate confirming the identity of the property.

15. Learned Senior Counsel appearing for respondent No.2 lastly contended that, in view of the pendency of the proceedings before the learned DRT and the petitioners' failure to comply with the interim order passed therein, the petitioners are barred from invoking the writ jurisdiction of this Court.

16. Sri Ramakanth Reddy, learned counsel appearing for petitioner Nos.3 and 4/auction purchasers submits that they are the successful bidders and pursuant to the auction, they have deposited an amount of Rs,.3,29,18,000/- and accordingly, the Bank has issued Sale Certificate and

took possession and as such, the Writ Petition has become infructuous and liable to be dismissed.

17. We have given our earnest consideration to the contentions urged by respective parties.

18. Section 26D of the Act states:

> *"26D. Right of enforcement of securities.—Notwithstanding anything contained in any other law for the time being in force, from the date of commencement of the provisions of this Chapter, no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security interest created in its favour by the borrower has been registered with the Central Registry."*

19. A perusal of the record reveals that it is not in dispute that the petitioners knocked the doors of the learned DRT on the similar circumstances by instituting S.A.No.438 of 2024, which is pending for consideration.

20. The security asset (schedule property) is situated in Sy.No.9/1/F bearing Plot No.65 admeasuring 298 sq. yards with Door No.11-13-60/1A (old) and new Door No.11-13-362, which was subsequently bifurcated and allotted Door Numbers 11-13-362, 362/1 and 362/2, situated at Alkapuri Colony, Saroor Nagar, Hyderabad. The sale deed bearing Doc.No.14/2016,

which is mortgaged on 24.03.2016 with respondent No.2 Bank, reflects old Door Number of the property bearing No.11-13-60/1A, whereas the respondent No.2 Bank registered the security interest/charge created on the property with the Central Registry by mentioning the new D.No.11-13-362 in the same survey number. The said charge was duly registered with the Central Registry as required under Section 26D of the Act. The documents placed on record by the learned counsel appearing for respondent No.2 specify the same. Therefore, it cannot be said that there is violation of Section 26D of the Act.

21. The record further reveals that the petitioners never raised any objection with respect to the alleged non-registration of charge with the Central Registry at any point of time either at the time of Demand Notice, Possession Notice or Sale Notice. A perusal of the proceedings before the learned DRT in S.A.No.438 of 2024, reveal that the petitioners never raised any objection during the auction proceedings. Since the petitioners have failed to comply with the conditional order passed by the learned DRT while passing the interim orders, the petitioners are estopped from invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

22. Further, the petitioners did not raise any objection at the time of receiving Demand Notice under Section 13(2) of the Act or subsequently and the same indicates that there are no *bona fides* on the part of the petitioners.

23. The petitioners availed the statutory remedy before the learned DRT, however, failed to comply with the conditional orders and the registration under CERSAI is duly completed. Therefore, we are of the opinion that initiation of the present Writ Petition is clearly abuse of process of law, and the same is not maintainable.

24. Accordingly, W.P.No.32316 of 2025, along with all connected applications, is dismissed. There shall be no order as to costs.

SD/- A.H.S. GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

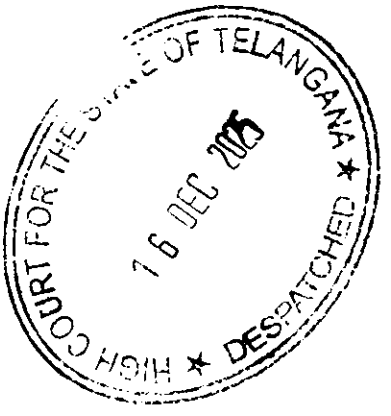
To

1. One CC to SRI KOTA LAKSHMI SAI SIRISHA, Advocate [OPUC]
2. One CC to SRI ANGOTHU NEHRU, S.C. for Central Government [OPUC]
3. One CC to SMT. CH. LAXMI CHAYA, Advocate [OPUC]
4. One CC to SRI RAMAKANTH REDDY, Advocate [OPUC]
5. Two CD Copies

MP
LS

HIGH COURT

DATED:04/12/2025



ORDER

WP.No 32316 of 2025

DISMISSING THE WRIT PETITION
WITHOUT COSTS

Asm
16/12/25