APHC010090372026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

MONDAY, THE 26th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 5113 OF 2026

Between:

1. MUTYALA MAHESH BABU, S/o late M Venkata Srinivas Rao, aged 34 years, Hindu, resident of do.no.24-929 Road no. 15, Vishnupriya Nagar, Velpur, Tanuku Mandalam, West Godavari District-534222.

...Petitioner

AND

1. UNION OF INDIA, Rep. by its Secretary to Government of India Ministry of Finance, New Delhi.110001.

2. Reserve Bank of India, Rep. by its Regional Director, Fort Glacis, No. 16, Rajaji Salai, Chennai - 600 001.

3. Union Bank of India, , Rep. by its Chief Manger, Regional Office Vijayawada Circle, D.No. 27-33-2,Sivani Towers, Gudavallivari street, Governor Pet, Vijayawada - 520 002.

4. UNION BANK OF INDIA, (erstwhile Andhra Bank), represented by its Branch Manager, Andhra Bank Building, RR Apparao St, 1 Town, NTR District, Vijayawada, Andhra Pradesh - 520001.

5. Kesavarapu Shanmukheswara Rao, S/o, Tata Rao, Residing at door no.3-294-1, and 3-295-1, Main Road, Beside SBI Bank, Siddantham Village, Penugonda Mandal, West Godavari District. 534320.

6. The Superintendent of Police, District Police Office, West Godavari District .Bhimavaram, Andhra Pradesh. 534201.

7. The Circle Inspector of Police, Penugonda, West Godavari District, Andhra Pradesh. 534320.

8. The Station House Officer, Penugonda Police Station, Penugonda, West Godavari District, Andhra Pradesh.534320.

...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, particularly one in the nature of Writ of Mandamus, to declare the inaction of Respondent No. 4 in failing to deliver actual, vacant, and peaceful physical possession of the Subject Property to the Petitioner as illegal, arbitrary, and in violation of the SARFAESI Act, 2002, the Security Interest (Enforcement) Rules, 2002 and is in violation of the rights conferred under Article 300A of the Constitution of India to consequently direct Respondent No. 4 to immediately re-invoke and execute proceedings under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Eluru, by taking physical possession from the Respondent No.5 and deliver actual, vacant, and peaceful physical possession to the Petitioner with the necessary assistance from Respondent Nos. 6, 7, and 8 or alternatively, in the event of failure to deliver such possession, to direct Respondent No. 4 to refund the entire sale consideration of 2,09,50,000/- along with interest at 24PERCENT per annum calculated from March 2021 until the date of realization, and pass

IA NO: 1 OF 2026

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 pleased to direct the Respondents No. 6, 7, and 8 to submit a detailed Status Report/Progress Report of the investigation conducted so far in connection with FIR.No.101/2025, dated 20.07.2025, registered against the accused, Mr. Kesavarapu Shanmukheswara Rao/respondent no.5 for offences punishable under Sections 331(1), 329(4), and 351(4) read with Section 3(5) of the Bharatiya Nyaya Sanhita (BNS). pending disposal of the writ petition, and to pass

Counsel for the Petitioner: GINJALA VIJAYA KUMAR

Counsel for the Respondents: S SATYANARAYANA MOORTHY

Counsel for the Respondents: GP FOR HOME

Counsel for the Respondents: RANGA SURYA PRAKASH RAO KOLA

Counsel for the Respondents: ALEKHYA TADASINA(CENTRAL GOVT COUNSEL)

Counsel for the Respondents: O N KRISHNA

THE HON'BLE SRI JUSTICE BATTU DEVANAND

&

THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 5113 OF 2026

ORDER: *(Per Hon'ble Sri Justice Battu Devanand)*

Heard the learned counsel for the petitioner and the learned counsel for the respondents. Perused the material available on record.

2. The petitioner emerged as a successful bidder in a public auction conducted by Respondent No.4-bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the S.A.R.F.A.E.S.I Act'). He purchased the said property situated at Siddantham Village for a total consideration of Rs.2,09,50,000/- and Respondent No.4 issued sale certificate bearing No.1070 of 2021, dated 20.03.2021 in favour of the petitioner. The grievance of the petitioner is that though he paid the entire sale consideration pursuant to the auction proceedings, the 4th respondent-bank did not handover the physical possession of the subject property to him and the 5th respondent illegally occupied the subject property and he is continuing in that property. Though the petitioner made complaint to the police department who are impleaded as Respondent Nos.6 to 8 to provide police protection to take possession of the subject property, the police department did not act properly on his complaint.

Under these circumstances, the petitioner approached this Court by filing this Writ Petition.

3. As per the facts of the case, Respondent No.5 and his family members stood as guarantors for two(2) loans totaling Rs.11,00,00,000/- (Loan account Nos.060613100003350 and 060630100060212) sanctioned on 30.07.2019 by Respondent No.4 to one Mr Velagala Subba Rao, proprietor of Teja Sea Foods. As the original borrower committed default in payment of the dues to the bank, the secured assets are declared as Non-Performing Assets and the 4threspondent-bank initiated recovery proceedings under the S.A.R.F.A.E.S.I Act against the mortgaged properties registered under Document No.193 of 2018 at SRO, Sarpavaram, Kakinada District. Subsequently, the subject property was put to e-auction, wherein the petitioner emerged as a bonafide purchaser for valid consideration, as evidenced by Sale Certificate No.1070 of 2021, dated 20.03.2021 issued in favour of the petitioner. The petitioner paid the total consideration of Rs.2,09,50,000/- and consequently sale certificate was issued on 20.03.2021 to the petitioner. As per the learned counsel for petitioner, the Debts Recovery Tribunal, Visakhapatnam dismissed the S.A.No.208 of 2020 filed by the 5th respondent on 05.07.2021 and the 5th respondent filed appeal before the Debts Recovery Appellate Tribunal, Kolkata *vide* R.A.No.101 of 2022 and it is pending. Learned counsel for the petitioner raised several contentions in the affidavit filed along with this Writ Petition.

4. In the counter affidavit filed by Respondent No.5, though there are several averments made by the 5th respondent, but there is no specific mention about continuation of his possession in the subject property subsequent to Section 13 (4) proceedings initiated by the 4th respondent-bank after dismissal of the S.A filed by him. It appears that he filed different civil suits before the concerned jurisdictional Courts. But, those cases would not come in the way to handover the possession of the subject property to the petitioner by the 4th respondent-bank. It is the specific contention of the 5th respondent that as stated in the F.I.R, dated 20.07.2025, if the 5th respondent had trespassed into the subject property on 14.10.2021 and dispossessed the petitioner from the said property, the petitioner was remained silent for more than 3 years from the date of alleged date of dispossession i.e., from 14.10.2021 to 20.07.2025, which discloses that the 5th respondent is in possession and enjoyment of the subject property from the beginning. Accordingly, the learned counsel for the 5th respondent would submit that the possession of the subject property was never taken by the 4th respondent-bank and the 5th respondent is in continuous possession and enjoyment of the subject land.

5. In the counter affidavit filed by the 4th respondent-bank it is stated that the bank took physical possession of the subject property pursuant to the order of Chief Judicial Magistrate, Eluru in Crl.M.P.No.25 of 2021. The 4th respondent-bank inturn handed over the vacant physical possession to the petitioner on 31.10.2022 and the same was admitted by the petitioner. It is

further stated in the counter affidavit that it is not legal obligation on the part of the 4th respondent-bank to handover the physical possession again to the petitioner subsequent to the trespass made by the 5th respondent and his family members into the property. Further, it is averred that the 5th respondent filed suit in O.S.No.187 of 2023 on the file of Principal Junior Civil Judge, Tanuku against one S.Sudhakar and the 4th respondent-bank is not made as a party in the said suit. Respondent No.5 challenged the pre-sale notice, dated 27.08.2020, Sale Notice, dated 13.01.2021 and measures taken under S.A.R.F.A.E.S.I Act before the Debts Recovery Tribunal, Visakhapatnam *vide* S.A.No.208 of 2020 and the same was dismissed on 05.07.2021. It is also the stand of the 4th respondent-bank that once the physical possession of the property has been handed over to the petitioner, it is his responsibility to protect his possession and to take legal steps if any trespass was made by the 5th respondent. The request of the petitioner to re-invoke Section 14 of the S.A.R.F.A.E.S.I Act and in the alternative to refund entire sale consideration is not maintainable as the 4th respondent-bank handed over the physical possession to the petitioner by invoking Section 14 of the S.A.R.F.A.E.S.I Act. It is also averred in the counter affidavit that now the matter is pending before the civil Courts between petitioner and Respondent No.5 on the subject property and the 4th respondent-bank has no role on this aspect.

6. Having considered the facts and circumstances of the case, the contentions of the respective counsels and on careful examination of the material available on record, it is an admitted fact that one Mr Velagala Subba

Rao availed financial assistance from the 4th respondent-bank for an amount of Rs.11,00,00,000/- and the 5th respondent and his family members stood as guarantors for the said financial assistance. As the borrower committed default, the 4th respondent-bank initiated S.A.R.F.A.E.S.I proceedings and by following the due procedure took possession of the secured asset and put it to auction. The petitioner emerged as a successful bidder in the auction conducted by the 4th respondent-bank and he paid total consideration of Rs.2,09,50,000/- Accordingly, the 4th respondent-bank issued sale certificate on 20.03.2021 in favour of him. As per the learned counsel for the petitioner, physical possession of the property was not handed over to him. As per the learned counsel for the 4th respondent-bank physical possession was handed over to the petitioner under proper acknowledgment and it is the duty of the auction purchaser i.e., the petitioner herein to protect the subject property from any trespassers and the 4th respondent-bank has no role to play once the property is handed over to the petitioner.

7. The contention of the 5th respondent is that the officers of the 4th respondent-bank in collusion with the petitioner to damage the interest of the 5th respondent and his family members initiated S.A.R.F.A.E.S.I proceedings and put the secured asset to auction. Aggrieved by the measures taken by the 4th respondent-bank they approached the Debts Recovery Tribunal, Visakhapatnam by filing S.A.No.208 of 2020. But unfortunately it is dismissed. Aggrieved by the same, the 5th respondent approached the Debts Recovery Appellate Tribunal, Kolkata by filing R.A.No.101 of 2022 and it is pending.

Accordingly, the learned counsel for the 5th respondent requested this Court to wait till completion of the Appeal pending before the D.R.A.T Kolkata to pass appropriate orders in this Writ Petition.

8. Having considered the submissions of the respective counsels, there is no dispute with regard to dismissal of S.A.No.208 of 2020 filed by the 5th respondent and the appeal filed by him is pending before the Debts Recovery Appellate Tribunal, Kolkata. Once the petitioner emerged as a successful bidder in the auction proceedings conducted by the 4th respondent-bank and sale certificate was issued on 20.03.2021 on payment of total consideration, it is the responsibility of the 4th respondent-bank to handover the physical possession of the property to the petitioner, if necessary by taking police aid. It appears that in the present case the 4th respondent-bank failed to do that. In view of the same, taking the advantage, the 5th respondent is continuing his possession in the subject property. Though the petitioner has paid total consideration of Rs.2,09,50,000/- in the year 2021 itself, till date he is not in a position to enjoy the said property or the 4th respondent-bank is not ready to refund the amount to him as requested. Besides this, the 4th respondent-bank is taking stand that now the dispute is between the petitioner and the 5th respondent which is pending before the Civil Court. We are not able to accept such stand of the 4threspondent-bank.

9. In our view, the 4th respondent-bank shall handover the physical possession of the subject property to the petitioner by taking necessary police

protection from Respondent Nos.6 to 8 to protect the interest of the petitioner who paid huge amounts to the 4th respondent-bank.

10. Accordingly, this Writ Petition is allowed with a direction to the 4th respondent-bank to handover the physical possession of the subject property to the petitioner by taking necessary police protection from Respondent Nos.6 to 8 within a period of one week from the date of receipt of a copy of this order. However, it is made clear that if the 5th respondent succeed in the proceedings pending before the Debts Recovery Appellate Tribunal, Kolkata, then the 5th respondent is entitled to seek possession of the subject property by following due process of law.

11. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE TUHIN KUMAR GEDELA

Dated: 26.10.2026
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