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APHC010404212026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3602]
(Special Original Jurisdiction)

WEDNESDAY, THE 11th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO: 21765/2026

Between:

1. KADIYALA PRAVEEN KRISHNA, S/O LATE SANTHOSH KUMAR KADIYALA, OCC. BUSINESS, AGED ABOUT 54 YEARS, D. NO.10-2-6, WARD NO.4, BLOCK NO.6, SAMBASIVAPET, 2ND LINE,OPP. WOMEN'S COLLEGE ROAD KOTHAPETA,GUNTUR, ANDHRA PRADESH, PIN.522001.

2. KADIYALALAVANYA,, W/O KADIYALA PRAVEEN KRISHNA, OCC. HOUSE WIFE. AGED ABOUT 52 YEARS, D. NO.10-2-6, WARD NO.4, BLOCK NO.6, SAMBASIVAPET, 2ND LINE,OPP. WOMEN'S COLLEGE ROAD, KOTHAPETA, GUNTUR, ANDHRA PRADESH, PIN.522001.

3. KADIYALAVIYALAKSHMI, W/O. LATE SANTHOSH KUMAR KADIYALA, OCC. HOUSE WIFE. AGED ABOUT 73 YEARS, D. NO.10-2-6, WARD NO.4, BLOCK NO.6 SAMBASIVAPET, 2ND LINE,0PP. WOMEN'S COLLEGE ROAD, KOTHAPETA, GUNTUR, ANDHRA PRADESH, PIN.522001.

...PETITIONER(S)

AND

1. THE DEBT RECOVERY TRIBUNAL, REP.BY ITS CHAIRMAN, D. NO. 31-31-21, SAI BABA STREET, NARAYANA BHAWAN,

DABAGARDENS, VISAKHAPATNAM DISTRICT, PIN. 530020.

2. THE AUTHORIZED OFFICER, AXIS BANK LTD, RAC, D NO. 30-22-79, SREE TOWERS, KOLLIPARASRIRAMULU STREET,BESIDE SBI BANK, SEETARAMPURAM, VIJAYAWADA, ANDHRA PRADESH, PIN.520008.

3. THE BRANCH MANAGER, AXIS BANK LTD, KOTHAPET BRANCH, D. NO.9-11-186, GROUND FLOOR, T.S. NO.143, BLOCK NO.4, FACTORY ROAD, GUNTUR, ANDHRA PRADESH, PIN.522001.

...RESPONDENT(S):

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 toissue any appropriate Writ order or Direction preferably a Writ in the nature of Writ of Mandamus declaring the inaction of Respondent No 1 in passing orders in I.A. No.467 of 2024 in S.A. No. 104 of 2024 on the file of the 1st Respondent despite an order is passed in CrI. M.P. No. 95 of 2026 on the file of Principal Assistant Sessions Judge, Cum Chief Judicial Magistrate, Guntur appointing an advocate commissioner for taking of possession of scheduled property on or before 04.08.2026 as illegal arbitrary violative of fundamental rights guaranteed to the Petitioners under Article 14 19 and 21 of Constitution of India and violative of the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and consequently to direct the Respondent No 1 to dispose of the stay application in I.A. No.467 of 2024 in S.A. No. 104 of 2024 on the file of the 1st Respondent

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 stay all further proceedings including execution of warrant and taking over possession pursuant to CrI.M.P. No. 95 of 2026 on the file of Chief Judicial Magistrate cum Principal Assistant Sessions Judge, Guntur, pending disposal of the Writ Petition

Counsel for the Petitioner(S):

1. RAVI CHANDAVARAPU

Counsel for the Respondent(S):

1. KUNUKU RAJA SEKHAR
2.

The Court made the following:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION No. 21765 OF 2026

ORDER: *(Per Hon'ble Smt.Justice Sunitha Gandham)*

This Writ Petition is filed by the petitioners questioning the steps initiated by the respondent Bank for taking physical possession of the secured asset in exercise of its powers under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act") and for inaction of respondent No.1/ the Debts Recovery Tribunal, Visakhapatnam in passing the orders in I.A. No.467 of 2024 in S.A. No.104 of 2024.

2. As per the version of the petitioners, notwithstanding the pendency of the proceedings before the Tribunal, the respondent Bank has initiated steps for taking physical possession of the secured asset, filed petition seeking appointment of an Advocate Commissioner in Crl.M.P. No.95 of 2026 on the file of Chief Judicial Magistrate, Guntur and accordingly, the petition is allowed and an advocate commissioner is appointed to take physical possession of the secured debt. Further, petitioners filed S.A. No.104 of 2024 and in which, they also filed I.A. No.467 of 2024 seeking interim directions of stay of all further proceedings and the learned Debts Recovery Tribunal, Visakhpatnam has not been disposing the petition, and unless appropriate interim protection is granted, they would suffer serious prejudice and the pending proceedings before the Tribunal may be rendered ineffective.

3. Heard Sri Ravi Chandavarapu, learned counsel for petitioner and Sri Kunuku Raja Sekhar, learned counsel for respondent No.2. Perused the petition and other material available on record.

4. As seen from the record, petitioners availed loan of Rs.4,70,00,000/- (Four Crores Seventy Lakhs only) from the respondent No.3/bank, mortgaged the secured asset i.e., 462 Sq.yds of land along with RCC building bearing

D.No.10-2-6 in T.S. No.315, Block No.6, 2nd lane, Sambasivapet, Guntur and the authorized officer issued possession notice dated 18.08.2023 for an amount of Rs.5,30,67,512/- under Section 13 (4) of SARFAESI Act, filed petition in Crl.M.P. No.84 of 2024 seeking appointment of advocate commissioner to take physical possession and accordingly the said petition was allowed with a direction to execute the warrant on 17.02.2024 on or before 04.03.2024. Further, petitioners filed S.A. No.104 of 2024 challenging the order in Crl.M.P. 84 of 2024 and along with the main application, they also filed a petition in I.A. No.467 of 2024 seeking stay of all further proceedings and the said petition and main application are pending on the file of Debts Recovery Tribunal, Visakhapatnam. Thereafter, again respondent No.3/ bank filed another petition in Crl.M.P. No.95 of 2026 seeking appointment of advocate commissioner to take physical possession and the same is allowed, and the learned advocate commissioner issued notice to the petitioner to hand over the physical possession on 04.08.2026.

5. The question whether the measures taken by the respondent Bank are in accordance with the provisions of the SARFAESI Act, and whether the petitioners are entitled to interim protection, are matters which appropriately fall for consideration by the Tribunal in the pending proceedings. At the same time, the interlocutory application has been pending for consideration and the petitioners apprehend that further steps may be taken in the meantime. Having regard to the nature of the dispute and the need to ensure that the statutory remedy is effective, this Court considers it appropriate to direct the Debts Recovery Tribunal, Visakhapatnam, to take up and dispose of the petition I.A. No.467 of 2024 in S.A. No.104 of 2024, on merits and in accordance with law.

6. The petitioners shall be at liberty to seek appropriate interim orders from the Tribunal, and it is for the Tribunal to consider such request in accordance with law. It is made clear that the respondent Bank is also at liberty to place all its objections before the Tribunal and seek appropriate orders. The Tribunal

shall afford a reasonable opportunity of hearing to the petitioners as well as the respondent Bank and shall consider their respective contentions and material placed on record. If physical possession has already been taken, this direction shall not be construed as requiring restoration of possession.

7. **In the result,** this Writ Petition is disposed of, and the learned Tribunal shall endeavour to dispose of the petition I.A. No.467 of 2024 as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

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JUSTICE BATTU DEVANAND

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JUSTICE SUNITHA GANDHAM

11.11.2026
knl

Whether the order is :

Speaking Yes/No ✓ / Reasoned Yes/No

Reportable Yes/No ✓ / Non-Reportable Yes/No