

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

**TUESDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA**

WRIT PETITION NO: 2568 OF 2026

Between:

1. Sri Mukund Maheswari, S/o G.K. Maheshwari, Aged about 52 years, R/o Flat No.401, Janapriya Prameela Enclave, Umanagar, Begumpet, Hyderabad - 500016.
2. Smt. Neeta Shrinivas Zanvar, W/o Shri Mukund Maheswari, Aged about 47 years, R/o Flat No.401, Janapriya Prameela Enclave, Umanagar, Begumpet, Hyderabad -500016.

...PETITIONERS

AND

1. Axis Bank Ltd, Having its Registered Office at Trishul - 3rd Floor, Opp. Samartheshwar Temple, Law Garden, Ellisbridge, Ahmedabad 380006. Represented by its Chairman and Managing Director.

Also having office at No 5/4/186, Fatepuria Towers, Mahatma Gandhi Road, Rani Gunj, Hyderabad, Telangana 500003.
2. Table Space Technologies Pvt. Ltd., Having its Registered Office at Building Level 2, Pride Elite, No.10, Museum Road, Shanthala Nagar, Ashok Nagar, Bengaluru, Karnataka 560001. Represented by its Managing Director.

Also having office at 6th Floor, Western Aqua, HITEC City, Whitefields, Kondapur, Survey No. 8, Plot Nos. 1, 2, 3 and 4 (Part), Hyderabad - 500081, Telangana.
3. Mr. Mukkala Rama Krishna, Advocate Commissioner, Appointed under Crl. M.P. No. 286/2022, Before the Chief Metropolitan Magistrate, Ranga Reddy District, L.B. Nagar. R/o 22-9-1/A, Chilka Nagar, Uppal, Medchal District, Telangana - 500039.
4. The Chief Metropolitan Magistrate, Ranga Reddy District, L.B. Nagar, Hyderabad, Telangana - 500074.

(Impleaded in representative capacity regarding proceedings Crl.M.P. No. 286/2022)
5. The Special Chief Secretary, Home Department, Fifth Floor, A Block, Telangana Secretariat, Hyderabad

6. The Director General of Police (DGP), Telangana State, Police Head Quarters, Lakdi Kapool, Hyderabad - 500004, Telangana.
7. The Commissioner of Police, Cyberabad Commissionerate, P/21, Old Mumbai Hwy, Next to Care Hospital 2-48, Sri Shyam Nagar, Telecom Nagar Extension, Gachibowli, Hyderabad, Telangana 500032.
8. The Station House Officer, Madhapur Police Station, Cyberabad Commissionerate, Hyderabad, Telangana - 500081.
9. The Bar Council of Telangana, Represented by its Chairman. High Court Premises, Near Public Gardens, Hyderabad - 500066.

(Respondent No. 2 is not a necessary party)

...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 an appropriate Writ, Order or Direction, more particularly in the nature of Writ of Certiorari and/or Mandamus, or any other appropriate Writ under Article 226 of the Constitution of India, declaring that the Panchanama dated 30.07.2022 submitted by Respondent No.3 before the Chief Metropolitan Magistrate, Ranga Reddy in Crl. M.P. No. 286/2022 and all consequential actions taken by Respondent No.1 under the SARFAESI Act, 2002, in respect of the Petitioners mortgaged property (Space No. 1C, Part of 1A, Western Aqua, Kondapur) are vitiated by fraud, collusion, and violation of principles of natural justice, and are consequently liable to be set aside and to further direct restoration of possession, status and rights of the Petitioners as lawful owners and mortgagors of the said property. (a)To direct initiation of appropriate legal, disciplinary and administrative action against Respondent No.3 (Advocate Commissioner) for professional misconduct and abuse of judicial authority (b)To direct the Chief Metropolitan Magistrate, Ranga Reddy District,(Respondent No. 4) to recall and reopen the proceedings in Crl. M.P. No. 286/2022, in view of the false Panchanama dated 30.07.2022, violation of mandatory procedures under Rule 8(1), (6), and (7) of the Security Interest (Enforcement) Rules, 2002, and suppression of material facts by the Advocate Commissioner and Axis Bank. (c)To direct the Respondent No.8 (Station House Officer, Madhapur Police Station) to include the name of Respondent No.3 (Advocate Commissioner) in the FIR No. 559/2024 or alternatively, to register a fresh FIR based on the Petitioners complaint dated 12.08.2023 disclosing cognizable offence (d)To direct

Respondent No.9 (Bar Council of Telangana) to take on file and act upon the Petitioners complaint dated 12.08.2023 seeking disciplinary action against Respondent No.3 (e)To direct Respondent No.6 the Director General of Police, Telangana State, to monitor and expedite the investigation in FIR No. 559/2024 and to ensure that a thorough and impartial investigation is conducted, including into the role of Respondent No.3 (Advocate Commissioner), and report compliance to this Honorable Court within a time-bound manner.

IA NO: 2 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 to direct the Director General of Police, Telangana State (Respondent No. 6), to supervise and monitor the investigation into FIR No. 559/2024, Madhapur Police Station, Cyberabad Commissionerate, Hyderabad, Telangana - 500081, and to ensure that the role of Respondent No.3 is investigated without bias or interference.

IA NO: 3 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 to stay all further proceedings under the SARFAESI Act, 2002, including physical possession, auction, or alienation of the Petitioners mortgaged property bearing Space No. 1C (Part of 1A), Western Aqua, Kondapur, Hyderabad, based on the Panchanama dated 30.07.2022 submitted by Respondent No.3 in Crl. M.P. No. 286/2022 on the file of The Chief Metropolitan Magistrate, Ranga Reddy District, L.B. Nagar, Hyderabad, Telangana - 500074, pending disposal of the writ petition.

Counsel for the Petitioner : SMT.GAYATHRI

Counsel for the Respondents No.1to4 :

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Counsel for the Respondents No.5to8: SRI MAHESH RAJE, GP FOR HOME

Counsel for the Respondents No.9 :

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The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT
HYDERABAD

THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

WP.No.2568 of 2026

Date:03.02.2026

Between:

Mr.Mukund Maheswari and another

... Petitioners

And

Axis Bank Ltd.,
Having registered office at "Trishul",
Ahmedabad and others.

...Respondents

ORDER: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Smt.Gayathri, learned counsel for the petitioners and
Mr.Mahesh Raje, learned Government Pleader for Home, appearing for
respondent Nos.6,7 and 8 and perused the record.

2. The present writ petition which has been filed seeking for the
following relief:

"...It is prayed that this Hon'ble Court to stay
all further proceedings under the SARFAESI Act,
2002, including physical possession, auction, or
alienation of the Petitioner's mortgaged property
bearing Space No.1C (Part of IA), Western Aqua,
Kondapur, Hyderabad, based on the Panchanama
dated 30.07.2022 submitted by Respondent No.3 in
Crl.MP.No.286 of 2022 on the file of the Chief
Metropolitan Magistrate, Ranga Reddy District,
L.B.Nagar, Hyderabad,Telangana-500074, pending
disposal of the writ petition..."

3. At the outset, this Bench is not inclined to entertain the writ
petition for more than one reason. Firstly, for the reason that

proceedings under challenge is one which is originating from the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short" the SARFAESI Act"). Secondly, for the reason that the petitioners have already availed remedy under the SARFAESI Act before the Debt Recovery Tribunal (for short "the D.R.T.") i.e. SA.No.55 of 2022 on 07.03.2022 itself. The Securitization Application has since also been amended by taking the grounds that have been raised in the instant writ petition also vide amendment application dated 27.12.2023. Thirdly, for the reason that the Tribunal has already seized of the matter and the grounds raised by the petitioners in the present writ petition has already been raised in the Securitization Application before the D.R.T.

4. In view of the aforesaid facts and circumstances of the case it would not be appropriate for the High Court in exercise of its writ jurisdiction simultaneously to also decide the matter which is already *subjudiced* before the D.R.T. We are fortified further by the judgment of Hon'ble Supreme Court in **PHR INVENT EDUCATIONAL SOCIETY v.UCO BANK**¹, wherein in paragraph Nos.3, 7, 40 and 41 held as under:

¹ (2024) 6 Supreme Court Cases 579

“ 3. The borrower had availed a loan from the respondent Bank and in order to secure the said loan, the borrower had mortgaged four properties (hereinafter referred to as “the scheduled properties”) situated at Vijayawada, Andhra Pradesh as collateral security. However, the borrower defaulted in the repayment of the loan amount, which led the respondent Bank to initiate proceedings against the borrower under the SARFAESI Act.

7. On the same day i.e. 14-12-2017, DRT passed an interim order in SA No. 1476 of 2017, thereby refusing to interfere with the sale of the scheduled properties which was to be conducted on that very day. The borrower had also filed an interlocutory application being IA No. 3446 of 2017, thereby praying for stay of further proceedings qua the auction of the scheduled properties, wherein DRT directed the respondent Bank not to confirm the sale of the scheduled properties subject to the borrower depositing 30% of the outstanding dues as claimed for in the auction-sale notice in two equal instalments. The first instalment of 15% amount was to be deposited within a week from the date of the said order, and the second instalment of 15% amount was to be deposited within two weeks thereafter. DRT further directed that, in the event that the borrower failed to make the aforesaid deposits, the interim stay would stand vacated and the respondent Bank would be at liberty to confirm the sale in favour of the highest bidder, although the sale itself was made subject to the final outcome in SA No. 1476 of 2017. Subsequently, the appellant deposited Rs 4,29,16,650 towards the payment of the balance auction price on 28-12-2017.

40. We are therefore of the considered view that the High Court has grossly erred in entertaining and allowing the petition under Article 226 of the Constitution.

41. While dismissing the writ petition, we will have to remind the High Courts of the following words of this Court in *Satyawati Tondon* [*United Bank of India v. Satyawati Tondon*, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260 : 2010 INSC 428] since we have come across various matters wherein the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy : (SCC p. 128, para 55)

“55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

5. In view of the authoritative decision of the Hon'ble Supreme Court and in the light of the series of the judgments already enunciated by the Hon'ble Supreme Court referred to in the said judgment, we do not find the present writ petition one which could be entertained by the High Court at this juncture.

6. The Writ Petition accordingly fails and rejected reserving the right of the petitioners to resort to the remedy that the petitioners have already availed before the D.R.T. We do not find any good reason why the D.R.T. was not considered the grounds which are already raised by the petitioners in the application in the course of deciding the matter.

There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-P.C.SULEKHA DEVI
ASSISTANT REGISTRAR

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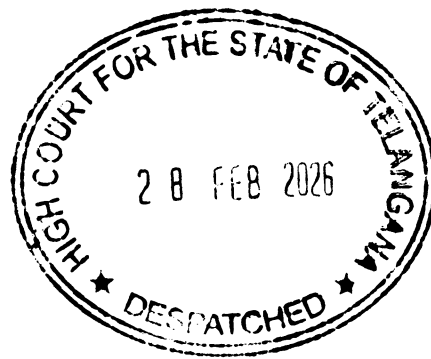
1. One CC to SMT.GAYATHRI Advocate [OPUC]
2. Two CCs to GP FOR HOME, High Court for the State of Telangana at Hyderabad. [OUT]
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BSK

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HIGH COURT

DATED:03/02/2026



ORDER

WP.No.2568 of 2026

**REJECTING THE WRIT PETITION
WITHOUT COSTS**

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