

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

**MONDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J SREENIVAS RAO**

WRIT PETITION NO: 24919 OF 2024

Between:

1. Navneeta Agarwal, D/o Shankarlal Agarwal, Aged 44 years, Occ: House wife, R/o. M.No. 8-2-293/82/PN/152, Plot No. 152, Sy No. 403 (TS No.1, Ward No. 9, Block No. P), Shaikpet Village, Golconda Mandal, Hyderabad.
2. Komal Agarwal, D/o Shankarlal Agarwal, W/o Deepak Bansal, aged 45 years, Occ: Housewife, R/o H.No. 3-4-397, Flat No. 412, Lingampally Road, S V Basant Apartment, Narayanaguda, Kachiguda, Hyderabad.

...PETITIONERS

AND

1. The State Bank of India, Rep by its authorised officer, Stressed Assets Management Branch-II, Kacheguda, Hyderabad.
2. The Authorised Officer, State Bank of India, SME Branch, 3rd Floor, Above Westside, Hyderabad.
3. M/s Navneeta Steels Pvt Ltd, Rep by Sri Shankarlal Agarwal, R/o. Plot No. 152, 8-2-82/PN/152, Prashasan Nagar, Road No. 72, Jubilee Hills, Hyderabad.
4. The Debt Recovery Tribunal, Rep by its Presiding Officer, Abids, Hyderabad
5. Smt Jyothi Rani Dharmi, W/o not known, aged about 35 years, Occ: Advocate, C/o Bar Association, Nampally Criminal Courts, 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 pass an order or direction or writ in the nature of writ of Mandamus duly declaring the order of the Debt Recovery Tribunal in IA No. 2241 of 2024 in SA No. 335 of 2024 dated 05.09.2024 as bad, illegal, arbitrary and against the

principles of natural justice and consequently suspend the notice issued by the advocate commissioner vide dated 23.08.2024 by virtue of orders in Criminal Miscellaneous Petition No. 1315 of 2024 dated 24.07.2024 on the file of Honorable XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, until the statutory appeal is preferred as against the orders of the Debt Recovery Tribunal in IA No. 2241 of 2024 in SA No. 335 of 2024 dated 05.09.2024 in the interest of justice.

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 suspend the notice issued by the advocate commissioner vide dated 23.08.2024 by virtue of orders in Criminal Miscellaneous Petition No. 1315 of 2024 dated 24.07.2024 on the file of Honorable XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, until the statutory appeal is preferred as against the orders of the Debt Recovery Tribunal in IA No. 2241 of 2024 in SA No. 335 of 2024 dated 05.09.2024 in the interest of justice.

Counsel for the Petitioners: SRI P. RAMA SHARANA SHARMA

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.24919 of 2024

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

Mr. P. Rama Sharana Sharma, learned counsel appears for the petitioners.

2. In this Writ Petition, the petitioners have assailed the validity of the order dated 05.09.2024 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.No.2241 of 2024 in S.A.No.335 of 2024 filed under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act").

3. Admittedly, against the aforesaid order, an appeal lies under Section 18 of the SARFAESI Act before the Debts Recovery Appellate Tribunal.

4. Though the learned counsel for the petitioners has argued on the merits of the matter, it is not necessary for us to advert to the same because the petitioners have an alternative remedy.

5. The Supreme Court in **United Bank of India v. Satyawati Tondon**¹ has deprecated the practice of the 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 portion of para 36 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.”

¹ (2010) 8 SCC 110

² (2023) 2 SCC 168

6. The view taken in **Satyawati Tondon** (supra) has been reaffirmed by a three Judge Bench of the Supreme Court in **PHR Invent Educational Society v. UCO Bank and others**³.

7. In view of aforesaid enunciation of law by the Supreme Court and in view of availability of alternative remedy to the petitioners, we are not inclined to entertain the Writ Petition. However, liberty is reserved to the petitioners to take recourse to the remedy of appeal which is provided under the provisions of the SARFAESI Act. It is open for the petitioners to raise all contentions, as are permissible, in the proceeding before the Debts Recovery Appellate Tribunal.

8. Accordingly, the Writ Petition is disposed of.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

³ 2024 SCC OnLine SC 528

SD/- N. CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The authorised officer, Stressed Assets Management Branch-II, State Bank of India, Kacheguda, Hyderabad.
2. The Authorised Officer, State Bank of India, SME Branch, 3rd Floor, Above Westside, Hyderabad.
3. The Presiding Officer, Debt Recovery Tribunal, Abids, Hyderabad
4. One CC to SRI P. RAMA SHARANA SHARMA, Advocate [OPUC]
5. Two CD Copies

MP
CID

HIGH COURT

DATED:09/09/2024



ORDER

WP.No.24919 of 2024

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

*⑦ Copies
Bm
6/11/24*