

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

**WEDNESDAY, THE SIXTH DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO**

**WRIT PETITION NO: 13185 OF 2024**

**Between:**

Aadhar Housing Finance Ltd., Kukatpally Branch 15-21-42/1/5-6 & 7 New Bus Stop Sai Vikram Towers Hyderabad Represented by its authorized officer Mr.Deepak G.

**...PETITIONER**

**AND**

1. S. Rajesh, S/o. Not Known, Age Major, Occ. Business, R/o. H.No.1-38-3576, Indiramma Nagar, Rasoolpura, Secunderabad.
2. Smt. Pulamma, W/o. Not Known, Age Major, Occ. Housewife, R/o. H.No.1-38-3576, Indiramma Nagar Rasoolpura, Secunderabad.
3. Danthuri Naveen, S/o. Not Known, Age Major, Occ. Business, R/o. H.No.2-24-108/14/A/1 Laxmi Narayan Nagar Colony, IDA, Uppal, Hyderabad-500039.
4. Debt Recovery Appellate Tribunal, Kolkata, Represented by its Registrar.
5. Debt Recovery Tribunal-2, Hyderabad, Represented by its Registrar.

**...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 one in the nature of Writ of Certiorari, by calling for the records Appeal No. 13 of 2023 on the file of Debt Recovery Appellate Tribunal, Kolkata, and declare order dated. 20.09.2023 passed in Appeal No. 13 of 2023 before the Debt Recovery Appellate Tribunal, Kolkata as illegal, arbitrary and violation of provision of SARFAESI Act, 2002 and Rules There under.

**IA NO: 3 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 order dated. 20.09.2023 passed in Appeal No. 13 of 2023 before the Debt Recovery Appellate Tribunal, Kolkata, pending disposal of the Writ petition.

**Counsel for the Petitioner: SRI ABHINAV KRISHNA UPPALURI**

**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.13185 of 2024

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

Mr. Abhinav Krishna Uppaluri, learned counsel for the petitioner.

2. In this writ petition, the petitioner has assailed the validity of the order dated 20.09.2023 passed by the Debts Recovery Appellate Tribunal, Kolkata (hereinafter referred to as 'the DRAT'), by which the appeal preferred by the petitioner *viz.*, Appeal No.13 of 2023, against the order dated 01.06.2020, passed by the Debts Recovery Tribunal-II at Hyderabad (hereinafter referred to as 'the DRT'), has been dismissed.

3. Facts giving rise to filing of this writ petition briefly stated are that respondents No.1 and 2 had availed housing loan to the extent of Rs.19 lakhs from the

petitioner. On failure of respondents No.1 and 2 to repay the loan, petitioner initiated proceedings under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') and a notice dated 09.01.2019 was issued. Thereafter, an auction --cum-- sale notice dated 28.01.2019 was issued, by which the auction was scheduled to be held on 26.02.2019.

4. Respondents No.1 and 2 challenged the aforesaid action initiated by the petitioner by way of Securitization Application No.60 of 2019 before the DRT. The DRT, by order dated 01.06.2020, allowed the aforesaid application and directed the petitioner to redeliver the schedule property to respondents No.1 and 2 on the ground that the action has been taken in violation of the mandatory provisions of the Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as 'the

Rules'). Being aggrieved, the petitioner filed Appeal No.13 of 2023. The DRAT, by order dated 20.09.2023, has dismissed the appeal.

5. Learned counsel for the petitioner submitted that the DRAT grossly erred in dismissing the appeal preferred by the petitioner. It is further submitted that the mandatory provisions contained in the Rules were complied with.

6. We have considered the submissions made by learned counsel for the petitioner and have perused the record.

7. Admittedly, the auction –cum- sale notice was published on 28.01.2019 and the auction was held on 26.02.2019. Thus, the auction has been held before expiry of the period of thirty days of publication of auction-cum-sale notice. Therefore, the sale was held in contravention of Rule 9(1) of the Rules. The DRT as well

as the DRAT have recorded the finding that the notices under Section 13(2) and 13(4) of the SARFAESI Act were not properly served on respondents No.1 and 2. The aforesaid concurrent findings of fact are based on meticulous appreciation of the material available on record.

8. The aforesaid concurrent findings of fact do not call for any interference in this writ petition.

9. In the result, the Writ Petition fails and is hereby dismissed. No costs.

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

//TRUE COPY//

SD/- T. JAYASREE  
ASSISTANT REGISTRAR  
SECTION OFFICER

To,

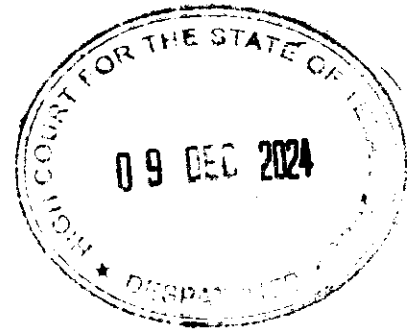
1. One CC to SRI ABHINAV KRISHNA UPPALURI, Advocate [OPUC]
2. Two CD Copies

BSR

LS /G

**HIGH COURT**

**DATED: 06/11/2024**



**ORDER**

**WP.No.13185 of 2024**

**DISMISSING THE WRIT PETITION,  
WITHOUT COSTS**

*4 copies  
KR  
22/11/24*