

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

FRIDAY, THE THIRTEENTH DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

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

**WRIT PETITION NO: 35048 OF 2024**

**Between:**

1. M/s. PSR Infrastructures, Represented by its authorized signatory Anil Mainampati, S/o. Bhasker Reddy, aged about 32 years, Office at D. No. 26- 1- 1578, Flat No. 301, Block B, Dheeraj Courts Apartments, Srinagar Colony, Magunta Layout, Nellore- 524003.
2. Puchalapalli Sudhakar Reddy, S/o Late p. Narayana Reddy Aged about 59 Years R/o. D. No. 26- 1- 1578, Flat No. 301 Block B, Dheeraj Courts Apartments, Srinagar Colony, Magunta Layout, Nellore- 524003.
3. Puchalapalli Shilpa, W/o P. Sudhakar Reddy Age about 51 Years R/o. D. No. 26- 1- 1578. Flat No. 301 Block B, Dheeraj Courts Apartments, Srinagar Colony, Magunta Layout, Nellore- 524003.

**...PETITIONERS**

**AND**

1. The Union of India, Represented by its Secretary. Department of Finance and Planning, Secretariat, New Delhi.
2. Canara Bank, Head Office, Rep. by its Executive Director, 112, J. C. Road, Bangalore - 560 002, Karnataka State.
3. Canara Bank, Nellore Regional Office, Dargamitta, Nellore - 524 003, Andhra Pradesh. represented by its Chief Manager.
4. Canara Bank, constituted under the Banking Companies (Acquisition and Transfer of Undertaking Acts, 1970 O/o. Dargamitta Branch, D. No. 24- 1- 168, Near KVR Petrol Pump, Brahmanandapuram, Nellore - 524 003, Andhra Pradesh. represented by its Authorised Signatory.

**...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, one more particularly in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in issuing notice under Section 13 (8) of the Act, 2002 read with Rule 8 (6) of the Security Interest (Enforcement) Rules, 2002, dated 12. 11. 2024 (received by the petitioner

on 18. 11. 2024) providing the petitioners the last and final opportunity to redeem and reclaim the assets in possession of the secured creditor within 30 days from receipt of notice by discharging alleged outstanding liability of Rs. 4,83,29,337. 46 (Rupees Four Crores Eighty- Three Lakhs Only), as being illegal, arbitrary, vitiated for non- application of mind and violative of Article 14 of Constitution of India and consequently set aside the same

**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 under Section 13 (8) of the Act, 2002 read with Rule 8 (6) of the Security Interest (Enforcement) Rules, 2002, dated 12. 11. 2024 (received by the petitioner on 18. 11. 2024) issued by 3rd respondent, pending the present writ petition

**Counsel for the Petitioners: SRI M.V PRATAP KUMAR representing  
SRI. NAREN SAI CHIRAMDASU Advocate**

**Counsel for the Respondent No.1: SRI GADI PRAVEEN KUMAR Dy. SOLICITOR  
GEN. OF INDIA**

**Counsel for the Respondent Nos.2 to 4: SRI MANAV GECIL THOMAS**

**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.35048 of 2024**

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

Mr. M.V.Pratap Kumar, learned counsel representing  
Mr. Naren Sai.C, learned counsel for the petitioners.

Mr. Gadi Praveen Kumar, learned Deputy Solicitor  
General of India for the respondent No.1.

Mr. Manav Gecil Thomas, learned counsel for the  
respondents No.2 to 4.

2. In this writ petition, the petitioners have assailed the  
validity of the impugned notice dated 12.11.2024 issued by  
the Canara Bank (hereinafter referred to as, "the bank")  
under Section 13(8) of the Securitization and  
Reconstruction of Financial Assets and Enforcement of  
Security Interest Act, 2002 (hereinafter referred to as, "the  
SARFAESI Act").

3. Facts leading to filing of this petition briefly stated are that the petitioner No.1 is a partnership firm which is engaged in the business of undertaking civil contract works, real estate and construction works. The petitioners had obtained loan from the bank for an amount of Rs.15,00,00,000/-. The petitioners had provided collateral security by mortgaging six immovable assets situated at Nellore and Hyderabad in favour of the bank. After the onset of COVID-19 pandemic, an additional amount of loan to the tune of Rs.1,50,00,000/- was sanctioned on 29.09.2020 to the petitioners. The petitioners did not repay the amount of loan. Thereupon, the bank has invoked the provisions of the SARFAESI Act for recovery of the amount. The bank has issued a notice dated 12.11.2024 by which the petitioners have been provided the last and final opportunity to redeem and reclaim the assets in possession of the secured creditor within a period of thirty days by discharging the outstanding liability of Rs.4,83,29,337.46. Hence, this writ petition.

4. Learned counsel for the petitioners submitted that the action of the bank is arbitrary and is violative of Article 14 of the Constitution of India and therefore, this Court, in exercise of powers under Article 226 of the Constitution of India, should entertain the writ petition even though there exists an alternative remedy of approaching the Debts Recovery Tribunal.

5. We have considered the submissions made by the learned counsel for the petitioners.

6. The Supreme Court in **United Bank of India v. Satyawati Tondon**<sup>1</sup> 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**<sup>2</sup>. The relevant extract of paragraph 36 in **Varimadugu Obi Reddy** (supra) reads as under:

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<sup>1</sup> (2010) 8 SCC 110

<sup>2</sup> (2023) 2 SCC 168

‘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 2<sup>nd</sup> proviso to Section 18 of the 2002 Act.”

7. 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**<sup>3</sup>. In **PHR Invent Educational Society** (supra), the Supreme Court in paragraph 37 of its decision has carved out the exceptions, notwithstanding the availability of an alternative remedy under the SARFAESI Act, when

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<sup>3</sup> (2024) 6 SCC 579 : 2024 SCC OnLine SC 528

this Court can entertain the writ petition. Paragraph 37 of the aforesaid order reads as under:

“37. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;

(ii) it has acted in defiance of the fundamental principles of judicial procedure;

(iii) it has resorted to invoke the provisions which are repealed; and

(iv) when an order has been passed in total violation of the principles of natural justice.”

8. We have perused the notice dated 12.11.2024 which has been issued under Section 13(8) of the SARFAESI Act according to the petitioners the last and final opportunity to redeem and reclaim the secured assets which are in possession of the secured creditor within thirty days from the date of receipt of the notice by discharging the outstanding liability of an amount of Rs.4,83,29,337.46. The aforesaid period of thirty days shall expire on 18.12.2024. We are not inclined to examine the validity of

the notice issued under Section 13(8) of the SARFAESI Act, as, in our opinion, the case of the petitioners does not fall in any of the exceptions carved out by the Supreme Court in **PHR Invent Educational Society** (supra).

9. In view of availability of an alternative remedy and in view of the well settled legal proposition, this Court is not inclined to interfere in the matter. However, liberty is reserved to the petitioners to take recourse to such remedy as may be available to them in law.

10. With the aforesaid liberty, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-A. SRINIVASA REDDY  
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

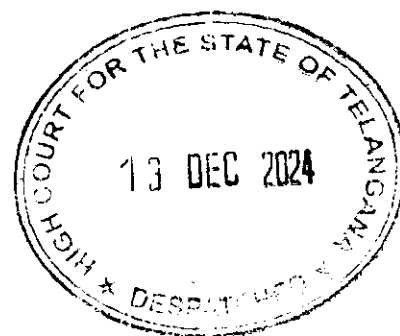
1. The Secretary Department of Finance and Planning, Secretariat, New Delhi.
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5. One CC to SRI. NAREN SAI CHIRAMDASU Advocate [OPUC]
6. One CC to SRI. GADI PRAVEEN KUMAR Dy. SOLICITOR GEN. OF INDIA [OPUC]
7. One CC to SRI MANAV GECIL THOMAS Advocate [OPUC]

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**HIGH COURT**

**DATED:13/12/2024**



**ORDER**

**WP.No.35048 of 2024**

**DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS**

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13/12/24  
bx