

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

WEDNESDAY, THE FOURTH 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: 33930 OF 2024

Between:

S.Ramesh Babu, S/o. Satya Rama Murthy, Aged about 59 years, Occ. Business, R/o. Sri Krishna Apartments (formerly Brindavan Apartments), No. 39/6, Thanikachalam Road, T.Nagar, Chennai - 600 017

...PETITIONER

AND

1. The Union of India, represented by its Secretary, Finance Department, New Delhi.
2. The Authorized Officer, Union Bank of India, Asset Recovery Branch, 249/3 RT, First Floor, Main Road S.R., Nagar, Hyderabad - 500 038.
3. The Chief Manager, Union Bank of India, Asset Recovery Branch, 249/3 RT, First Floor, Main Road S.R. Nagar, Hyderabad - 500 038.
4. Balaji Colour Laboratories, Represented by its Partner, T. Ramesh, S/o. Papa Rao, having office at Flat No. G-1701, Block G, Taisha Apartment, 2nd main road, Dhanalakshmi Nagar, Virugambakam, Chennai - 600 092.

...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, or order or direction, more particularly, one in the nature of Writ of Mandamus, declaring the action of the respondents 2 and 3- in issuing the pR/Or to sale notice dt. 14-08-2024 under Rule 8(6) of Security Interest (Enforcement) Rules, 2002, in violation of the Rule 8(6)(b)(c)(d) of Security Interest Enforcement Rules, 2002, in refusing to consider the request of the petitioner by letter dated 30-08-2024 to redeem the mortgage as per Decretal amount passed by the learned DRT - II, Hyderabad in O.A. No. 2984 of 2017, in dismissal of the stay petition vide I.A. No. 2620/2024 and rejection of redemption petition vide I.A. IR No. 3083/2024 in S.A. No. 388 of 2024 by the learned DRT - II, Hyderabad vide its order dated 25-11-2024 which is violation of

Section 13 (8) of SARFAESI Act, 2002, unreasonable, illegal, arbitrary and unconstitutional being violative of Articles 14, 21 and 300-A of the Constitution of India and also violative of principles of natural justice and consequently set aside the impugned prior to sale notice dated 14/08/2024 issued by the 2nd respondent herein, by directing the respondents 2 AND 3 herein to consider the request of the petitioner letter dated 30-08-2024 to redeem the mortgaged properties by receiving the Decretal amount as passed by the learned DRT - II, Hyderabad in O.A. No. 2984 of 2017 vide its order dated 18-04-2024

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 stay all further SARFAESI proceedings initiated by the respondents 2 & 3 herein including the further proceedings in pursuance of impugned prior to sale notice dated 14-08-2024 issued under Rule 8 (6) of the Security Interest (Enforcement) Rules, 2002 by the 2nd respondent herein against the petitioner

Counsel for the Petitioner: SRI. M. ARAVIND

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

Counsel for the Respondent Nos. 2&3: SRI N.V. SUBBARAJU

Counsel for the Respondent No.4:--

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.33930 of 2024

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

Mr. M.Arvind, learned counsel for the petitioner.

Mr. N.V.Subbaraju, learned counsel for the respondents No.2 and 3.

2. In this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the validity of the order dated 25.11.2024 passed by the Debts Recovery Tribunal-II, Hyderabad, in I.A.No.2620 of 2024 in S.A.No.388 of 2024.

3. Admittedly, against the aforesaid order, a statutory remedy of appeal lies under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as, 'the SARFAESI Act').

4. 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 extract of para 36 in **Varimadugu Obi Reddy** (supra) 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

5. 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.

6. In view of aforesaid enunciation of law by the Supreme Court, we are not inclined to entertain the writ petition. However, liberty is reserved to the petitioner to avail the statutory remedy of appeal before the Debts Recovery Tribunal.

7. 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.V.S. PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Union of India, Finance Department, New Delhi.
2. The Authorized Officer, Union Bank of India, Asset Recovery Branch, 249/3 RT, First Floor, Main Road S.R., Nagar, Hyderabad - 500 038.
3. The Chief Manager, Union Bank of India, Asset Recovery Branch, 249/3 RT, First Floor, Main Road S.R. Nagar, Hyderabad - 500 038.
4. One CC to SRI. M. ARAVIND, Advocate [OPUC]
5. One CC to SRI. N.V. SUBBARAJU, Advocate [OPUC]
6. One CC to SRI. GADI PRAVEEN KUMAR Dy. SOLICITOR GEN. OF INDIA [OPUC]
7. Two CD Copies

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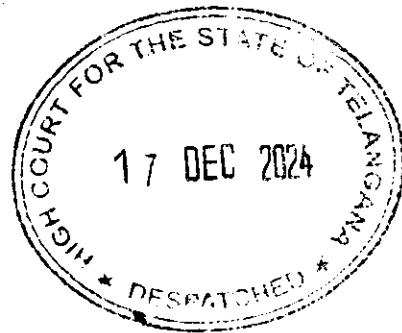
K.P.

HIGH COURT

DATED:04/12/2024

ORDER

WP.No.33930 of 2024



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

9 Copies

[Signature]
13/12/24.