

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

FRIDAY, THE TWENTIETH 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: 35715 OF 2024**

**Between:**

1. Thunga Venkata Rami Reddy, S/o. T.Pulla Reddy, Aged about. 47 Years, Occ. Railway Contractor, R/o. D.No.2-1-899-1, Maheswara Nagar-2, Yerraguntla Town and Mandal, YSR Kadapa District, Andhra Pradesh.
2. Smt.Thunga Amrutha Lakshmi, W/o. T. Venkata Rami Reddy, Aged about. 39 Years, Occ. Business. R/o. D.No.2-1-899-1, Maheswara Nagar-2, Yerraguntla Town and Mandal, YSR Kadapa District, Andhra Pradesh.

**.....PETITIONERS**

**AND**

1. The State of Telangana, Rep., by its Principal Secretary. Finance Department, Dr.B.R.Ambedkar Telangana State Secretariat, Hyderabad, T.S.
2. The Registrar, Debts Recovery Tribunal (DRT-I), Hyderabad, 3rd Floor, Triveni Complex, Hyderabad -500001, T.S.
3. Canara Bank, Rep., by its Authorised Officer, ARM Branch, Office at. Ground Floor, Circle Office Building, Beside Rail Nilayam, Secunderabad-500026, T.S.
4. Canara Bank, Rep., by its Authorised Officer, Basheerbagh Branch, Office at. Avanthi Nagar, Hyderabad, T.S.
5. M/s. Dinesh Jewellers, Basheerbagh, Hyderabad Rep., by its Partner, Dinesh Kumar Agarwal, S/o. Late Mahesh Chand Agarwal.
6. M/s. Dinesh Gold, Siddiamber Bazar, Hyderabad, Rep., by its Partner Dinesh Kumar Agarwal, S/o. Late Mahesh Chand Agarwal.
7. Mr. Sailesh Kumar Agarwal, S/o. Late Mahesh Chand Agarwal, Aged about. 53 years, Occ. Business, R/o. H.No. 8-2-269/S/56, Sagar Society, Road No. 2, Banjara Hills, Hyderabad -500034, T.S.

8. Mr. Dinesh Kumar Agarwal, S/o. Late Mahesh Chand Agarwal, Aged about. 49 years, Occ. Business, R/o. H.No. 8-2-269/S/56, Sagar society, Road No. 2 Banjara Hills, Hyderabad -500034, T.S.
9. Mr. Rupesh Kumar Agarwal, S/o. Late Mahesh Chand Agarwal, Aged about. 47 years, Occ. Business, R/o. H.No. 8-2-269/S/56, Sagar Society, Road No. 2, Banjara Hills, Hyderabad -500034, T.S.
10. Smt.Rekha Agarwal, W/o. Sailesh Kumar Agarwal, Aged about. 48 years, Occ. Business, R/o. H.No. 8-2-269/S/56, Sagar Society, Road No. 2, Banjara Hills, Hyderabad -500034, T.S.
11. Smt. Seema Agarwal, W/o. Dinesh Kumar Agarwal, Aged about. 46 years, Occ. Business, R/o. H.No 8-2-269/S/56, Sagar Society, Road No. 2, Banjara Hills, Hyderabad -500034, T.S.
12. Smt. Ashita Agarwal, W/o. Rupesh Kumar Agarwal, Aged about. 43 years, Occ. Business, R/o. H.No 8-2-269/S/56, Sagar Society, Road No. 2, Banjara Hills, Hyderabad -500034, T.S.

**.....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 MANDAMUS, questioning and challenging the impugned order, dated. 19.04.2024 passed by the 2nd respondent Honorable Tribunal, in I.A. No. 2883 of 2023 in S.A.No. 296 of 2022, on the file of the Honorable DRT-I, Hyderabad, wherein Honorable DRT-I, allowed the I.A.No.2883 of 2023 and passed the impugned order with a direction to the respondents No. 3 and 4 therein not to alter the structures available in the A schedule property during the pendency of the SA. i.e . in respect of petitioners registered Schedule Property A, i.e., house bearing No. 8-2-269/S/56, admeasuring of 456 Sq.yards, on Plot No.56, situated at Sagar Society, Road No.2, Banjara Hills, Hyderabad, though the above mentioned schedule property has been purchased and physical possession handed over to the petitioners by the bank authorities by conducting the panchanarna, and registered the same on the name of the petitioners, vide Registered Document No. 7804/2023, dated. 06.11.2023, SRO, Banjara Hills. Therefore, passing the present impugned order in I.A. No. 2883 of 2023 in S.A. No. 296 of 2022, dt.19.04.2024, and the said impugned order its nothing but transgressed order, and same has been illegal, arbitrary and unjust, and its nothing but abuse of process of law and its violative of Articles 19, 21 and 300-A of Constitution of India. and consequently set-aside the impugned orders passed

in I.A.No 2883/2023 in SA No. 296/2022, dated, 19.04.2024, which was passed by the 2nd respondent Honorable DRT-I, Hyderabad.

**I.A.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 permit the petitioners to repair, modify and change the bathrooms, kitchens, bedrooms, wherever required and necessary repairs, according to VASTU, so as to enable the petitioners and, petitioners. family members to live and, spent peaceful in their own house, i.e., Schedule Property A, i.e., house bearing No. 8-2-269/S/56, admeasuring of 456 Sq.yards, on Plot No.56, situated at Sagar Society, Road No.2, Banjara Hills, Hyderabad, by suspending the operation of the impugned orders passed in I.A.No.2883/2023 in S.A. No. 296/2022, dated. 19.04.2024, which was passed by the 2nd respondent Honorable DRT-I, Hyderabad, pending disposal of the main writ petition.

**Counsel for the Petitioners : SRI A.RAVINDER REDDY, SENIOR COUNSEL FOR SRI VEERA SAVAN CHAKRAVARTHY DARA**

**Counsel for the Respondent No.1 : SRI MOHAMMED HUSSAIN, GP FOR FINANCE AND PLANNING**

**Counsel for the Respondent Nos.2 to 12 : --**

**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.35715 of 2024**

**ORDER:** *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

This writ petition is filed aggrieved by the orders passed by the Debts Recovery Tribunal-I at Hyderabad, in I.A.No.2883 of 2023 in S.A.No.296 of 2022, by which the application filed under Section 17(1) of the Securitisation and Reconstruction and Financial Assets and Enforcement of Security Interest Act, 2002 (herein after referred to as "the SARFAESI Act") for not to change the structure of Schedule-A property by alteration, construction, demolishing the structure till the disposal of the second appeal was allowed, by its order dated 19.04.2024.

2. Heard Sri A. Ravinder Reddy, learned Senior Counsel representing Sri Veera Savan Chakravarthy Dara, learned counsel for the petitioners, and Sri Mohammed Hussain, learned Government Pleader for Finance and Planning appearing for respondent No.1.

3. Admittedly, aggrieved by the orders passed by the Debt Recovery Tribunal-I at Hyderabad, dated 19.04.2024, the statutory remedy of appeal is provided before the Debt Recovery Appellate Tribunal under Section 18 of the SARFAESI Act.

4. 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 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

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

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

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.”

5. The view taken in **Satyawati Tondon** (supra) has been reaffirmed by a three Judge Bench of the Hon'ble Supreme Court in **PHR Invent Educational Society v. UCO Bank** in Civil Appeal No.4845 of 2024 vide order dated 10.04.2024.

6. However, learned Senior Counsel for the petitioners submitted that S.A.No.296 of 2022 is posted for arguments of the parties. Therefore, the writ petition may be disposed of with the direction to the Debts Recovery Tribunal to decide S.A.No.296 of 2022 in a time bound manner.

7. In view of aforesaid submission and taking into account the fact that the proceeding before the Debts Recovery Tribunal is pending since 2022, the writ petition is disposed of with the direction to the Debts Recovery Tribunal-I at Hyderabad to decide

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the S.A.No.296 of 2022 as expeditiously as possible, preferably within a period of five (5) months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on merits of the matter. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

Sd/-S.MALLIKARJUNA/RAO  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Finance Department, Dr.B.R.Ambedkar Telangana State Secretariat, State of Telangana at Hyderabad, T.S.
2. The Registrar, Debts Recovery Tribunal (DRT-I), Hyderabad, 3rd Floor, Triveni Complex, Hyderabad -500001, T.S.
3. Two CCs to GP FOR FINANCE AND PLANNING, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to SRI VEERA SAVAN CHAKRAVARTHY DARA, Advocate [OPUC]
5. Two CD Copies

SA

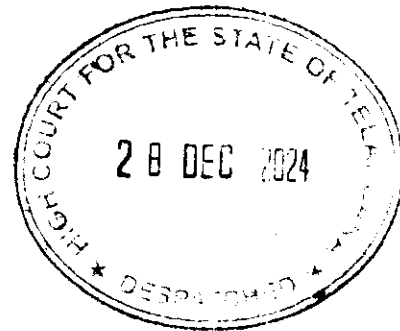


HIGH COURT

DATED:20/12/2024

ORDER

WP.No.35715 of 2024



DISPOSING OF THE W.P  
WITHOUT COSTS.

⑧  
27/12/24  
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