

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

MONDAY, THE THIRTIETH 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: 36183 OF 2024

Between:

1. Soma Lalitha, W/o. Soma Srinivas, Aged about 46 years, Occ. Business, R/o. H.No. 16-4-1107, Shiva Nagar, Warangal Town, Warangal District, Telangana State. Aadhaar Card No. 7563 6956 2980.
2. Soma Srinivas, S/o. Soma Veeraiah, Aged about 53 years, Occ. Business, R/o. H.No. 16-4-1107, Shiva Nagar, Warangal Town, Warangal District, Telangana State, India. Aadhaar Card No. 49118099 7875.

...PETITIONERS

AND

1. The Union of India, Rep. by its Under Secretary, Finance and Banking, Central Secretariat Buildings, New Delhi - 110 001, India.
2. SBFC Finance Limited, Plot No.6-8-247, 248, 249, Sagar Veedi, Chowrastha, Hanamkonda, Warangal, Telangana - 506001, India. Rep. by its Manager.
3. The SBFC Finance Limited, Unit No. 103, 1st Floor, C and B, Andheri, Mumbai, Maharashtra State, India.
4. The District Collector, Warangal District, at Warangal, Telangana State, India.

...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 a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondent No. 4 in failing to implement the policies of the 1st respondent for the development of middle class peoples small business by the 2nd respondent without following procedure issued illegal Notice dated 18-11-2024 without mentioning the Notice Number and without mentioning the payment details of the petitioners loan as illegal, arbitrary and in violation of Principles of Natural Justice and in violation of Articles 14, 16, 19, 21 and 300-A of the Constitution of India, consequently direct the respondent No.1 and 4 to treat the Notice dated 18-11-2024 issued by the respondent No.2 as Null

and Void and not to disturb the petitioners' middle class small business i.e. Sri Akshaya Designers Fabrics 12-2- 39/1, V.N. Road, Near Venkateshwara Swamy Temple, Warangal Town and District, Telangana State - 506 002 by giving Six months time for payment balance loan amount to the petitioners under One Time Settlement Scheme by following the procedure and implementation of Scheme by the 4th respondent.

**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 direct the respondent No.2 not to disturb the petitioners' middle class small business i.e. Sri Akshaya Designers Fabrics # 12-2-39/1, V.N. Road, Near Venkateshwara Swamy Temple, Warangal Town and District, Telangana State - 506 002 of the petitioners by giving Six months time for payment balance loan amount to the petitioners under One Time Settlement Scheme by following the procedure and implementation of Scheme by the 1st and 4th respondents for the development of small people business encouragement programmes pending disposal of the above Writ Petition.

**Counsel for the Petitioners: SRI VENKATA RAGHU MANNEPALLI**

**Counsel for the Respondent No.1: SRI M.VIJAY KUMAR, Sr SC FOR CENTRAL GOVT**

**Counsel for the Respondent No.4: GP FOR REVENUE**

**Counsel for the Respondent Nos.2 & 3: ---**

**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.36183 of 2024**

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

Mr. Venkata Raghu Mannepalli, learned counsel for the petitioners.

Mr. M.Vijay Kumar, learned Standing Counsel for Central Government for respondent No.1.

2. In this writ petition, the petitioners have assailed the validity of the notice dated 18.11.2024 issued by respondent No.2 under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly referred to hereinafter as the 'SARFAESI Act').

3. 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

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

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

4. 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**<sup>3</sup>.

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

<sup>3</sup> 2024 SCC OnLine SC 528

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5. Admittedly, the petitioners have the statutory remedy of approaching the Debts Recovery Tribunal. The petitioners instead of approaching the Debts Recovery Tribunal have filed this writ petition.

6. In view of aforesaid enunciation of law, we are not inclined to entertain the writ petition. The same is disposed of with the liberty to the petitioners to take recourse to the remedy provided under Section 17 of the SARFAESI Act.

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

SD/- T.TIRUMALA DEVI  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Under Secretary, Union of India, Finance and Banking, Central Secretariat Buildings, New Delhi - 110 001, India.
2. The Manager, SBFC Finance Limited, Plot No.6-8-247, 248, 249, Sagar Veedi, Chowrastha, Hanamkonda, Warangal, Telangana - 506001, India.
3. The SBFC Finance Limited, Unit No. 103, 1st Floor, C and B, Andheri, Mumbai, Maharashtra State, India.
4. The District Collector, Warangal District, at Warangal, Telangana State, India.
5. One CC to SRI VENKATA RAGHU MANNEPALLI, Advocate [OPUC]
6. One CC to SRI M.VIJAY KUMAR, Sr SC FOR CENTRAL GOVT [OPUC]
7. Two CD Copies

PSK.

PSK



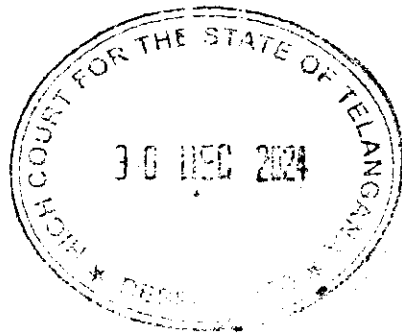
CC TODAY

HIGH COURT

DATED:30/12/2024

ORDER

WP.No.36183 of 2024



DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS

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30/12/24  
lax