

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

THURSDAY, THE THIRD DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NO: 26486 OF 2024

Between:

1. Crown Convention Centre, Rep. by its Managing Partner Syed Ikram, R/o.2-3-510, Noor Bagh, Amberpet, Ramnath Road, Hyderabad-500 008.
2. Syed Ikram, S/o. Syed Ibrahim, Aged 36 years, R/o. D.No.9-4-86/52, Upstairs Salarjung Colony, Tolichowki, Hyderabad-500 008.
3. Syed Mohammed Omair, S/o. Syed Ibrahim, Aged 31 years, R/o. D.No.9-4-86/52, Upstairs Salarjung Colony, Tolichowki, Hyderabad-500 008.

...PETITIONERS

AND

1. Debts Recovery Tribunal-I, Hyderabad Represented by its Registrar Ministry of Finance, Government of India
2. Indian Overseas Bank, Mehdipatnam Branch, 12-2-422/41, Priya Colony, Gudimalkapur, Mehdipatnam, Hyderabad-28 Rep. by its authorized Officer.
3. Smt. D.Jyothi Rani, Advocate Commissioner, H.No.A-54, Phase-I, Vanasthalipuram, Hyderabad-500 070

...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 a writ in the nature of mandamus, declaring the Notice dated. 09/09/2024 issued by the 3rd respondent herein in pursuance of Docket Order dated 02/07/2019 passed in T.R.P.No.01/2019 (Old R.P.No.2229/2017) by the Hon'ble Recovery Officer-II, Debts Recovery Tribunal-I, Hyderabad, for taking the physical possession of

immovable properties as mentioned in the said Notice as illegal, arbitrary and violation of the Principles of Natural Justice and The Recovery of Debts Due to Banks and Financial Institutions Act 1993 and Rules made there under.

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 proceedings including execution of Warrant dated 20/08/2024 in T.R.P.No. 01/2019 (Old R.P.No.2229/2017) by the Hon'ble Recovery Officer-II, Debts Recovery Tribunal-I, Hyderabad for taking the physical possession of the immovable properties as stated in the Advocate Commissioners Notice dated 09/09/2024, pending disposal of the above writ petition.

**Counsel for the Petitioner: Ms. C. ASAWARI, REPRESENTING
SRI AYYAGARI JAYASHREE**

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.26486 of 2024

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

Ms. C.Asawari, learned counsel representing
Ms. K.Jayashree, learned counsel for the petitioners.

2. In this writ petition, the petitioners have assailed the validity of the notice dated 09.09.2024 issued by the Advocate Commissioner in pursuance of the order passed by the Recovery Officer in T.R.C.No.1 of 2019 (old R.P.No.2229 of 2017 in O.A.No.519 of 2015).

3. Admittedly, against the aforesaid proceedings, an appeal lies before the Debts Recovery Appellate Tribunal 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.”

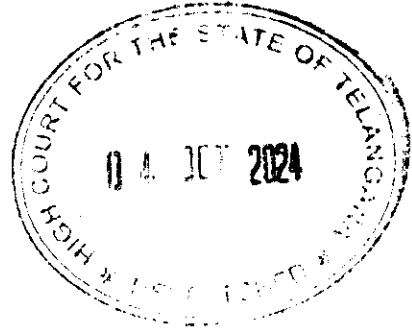
¹ (2010) 8 SCC 110

² (2023) 2 SCC 158

CC TODAY

HIGH COURT

DATED: 03/10/2024



ORDER

WP.No.26486 of 2024

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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[Signature]
03/10/2024