

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

**MONDAY, THE TWENTY SECOND DAY OF JULY  
TWO THOUSAND AND TWENTY FOUR**

**PRESENT**

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION NO: 19362 OF 2024**

**Between:**

K.Narahari Goud, S/o: K.Hari Shankar Goud, Aged about 54 years,  
Occ. Business, R/o H.No.9-26-121, Langar House, Golkonda, Hyderabad.

**...PETITIONER**

**AND**

Sri Ram City Union Finance Private Ltd., Rep. by its Authorized Officer, Office  
No.3-6-478, 4<sup>th</sup> Floor, Anand. Estate, Libarity Road, Himayathnagar,  
Hyderabad-500029.

**...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 pass order or orders direction more particularly in the nature of Writ of Mandamus or any other appropriate writ, order or direction to set aside the warrant in Crl MP No. 35 /2024 on the file of the Hon'ble VI Addl Chief Metropolitan Magistrate, Hyderabad in pursuance of the Vacate Notice dated 29.01.2024, in respect of property All that the part and parcel of the entire ground and second floor and <sup>1/2</sup> (Half) undivided share in cellar and fourth floors, entire ground floor admeasuring 2067 Square feet and second floor admeasuring 2067 square feet and <sup>1/2</sup> (half) undivided share in the cellar floor admeasuring 1033.7 Square feet out of 2067 square feet and 1/2 (Half) undelved share in the fourth floor admeasuring 1033.7 square feet out of 2067 square feet, all together with undivided share of land admeasuring 117.22 square yards out of total land admeasuring 234.44 square yards, in premises bearing municipal, NO.9-29/A/1(NEW), Corresponding of its old.9- 1- 29/2,situated at langer House,

Hyderabad, TS and All that the part and parcel of the entire First and Third floor and  $\frac{1}{2}$ (Half) undivided share in cellar and fourth floors, entire First floor admeasuring 2067 Square feet and Third floor admeasuring 2067 square feet and  $\frac{1}{2}$  (half) undivided share in the cellar floor admeasuring 1033.7 Square feet out of 2067 square feet and  $\frac{1}{2}$ (Half) undelved share in the fourth floor admeasuring 1033.7 square feet out of 2067 square feet, all together with undivided share of land admeasuring 117.22 square yards out of total land admeasuring 234.44 square yards, in premises bearing municipal, No.9-29/A/1(NEW), Corresponding of its old.9-1-29/2,situated at langer House, Hyderabad, TS, as without following the procedure contemplated under the Act as illegal, null and void without following due process of law and consequently set aside the Vacate Notice dated 29.01.2024.

**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 of all further proceedings in pursuance of the Warrant in Crl MP No. 35 /2024 on the file of the Hon'ble VI Addl Chief Metropolitan Magistrate, Hyderabad , including taking physical possession of the property.

**Counsel for the Petitioner: SRI S. SAI KIRAN**

**Counsel for the Respondent: -----**

**The Court made the following: ORDER**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION No.19362 of 2024**

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

Mr. S.Sai Kiran, learned counsel for the petitioner.

2. In this writ petition under Article 226 of the Constitution of India, the petitioner has assailed the validity of the order dated 14.12.2023 passed by VI Additional Chief Metropolitan Magistrate at Hyderabad in CrI.M.P.No.35 of 2024 in S.R.No.2591 of 2022, by which warrant has been issued in a proceeding under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to 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 availability of

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

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>.

5. In view of the aforesaid enunciation of law, learned counsel for the petitioner submits that the petitioner

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

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

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be granted the liberty to approach the Debts Recovery Tribunal by filing a petition under Section 17 of the SARFAESI Act.

6. In view of the aforesaid submission, liberty is granted to the petitioner to approach the Debts Recovery Tribunal within a period of six weeks and in case the petitioner approaches the Debts Recovery Tribunal within the aforesaid period of six weeks from today, the Debts Recovery Tribunal shall extend the benefit of Section 14 of the Limitation Act, 1963, to the petitioner.

7. With the aforesaid liberty, the Writ Petition is disposed of.

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

SD/- P.Ch. NAGABHUSHAMBA  
ASSISTANT REGISTRAR

//TRUE COPY//

*NS*  
SECTION OFFICER

To,

1. The Authorized Officer, Sri Ram City Union Finance Private Ltd., Office No.3-6-478,4th Floor , Anand. Estate,Libarity Road, Himayathnagar, Hyderabad-500029.
2. One CC to Sri S. Sai Kiran, Advocate [OPUC]
3. Two CD Copies

TJ  
GJP

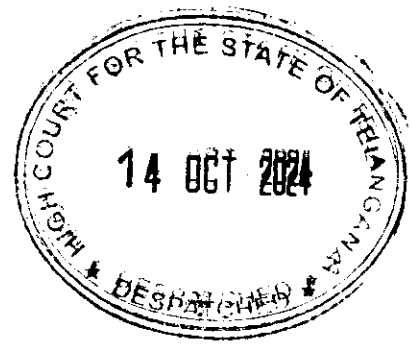
*PMK.*

HIGH COURT

DATED:22/07/2024

ORDER

WP.No.19362 of 2024



DISPOSING OF THE WRIT PETITION  
WITHOUT COSTS

⑤ PMG.  
27/9/24.