

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

WEDNESDAY, THE TENTH 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: 13225 OF 2023**

**Between:**

1. M/s. BRS Paramount Edifice Pvt. Ltd., Having its office at 22- 240/1, Aruna Co- op, Kukatpally, Hyderabad - 500072. Rep. by its Director Mr. Chennareddy Ramesh Babu.
2. Mr. Chennareddy Ramesh Babu, Aged about 48 years, Occ Business, R/o C-402, Abhaya Lake View Residency, Nizampet, Hyderabad

...PETITIONERS

**AND**

1. Indian Bank, Srinagar Colony Main Road, Srinagar Colony, Ameerpet Hyderabad Telangana - 500073 Rep. by its Authorized Officer
2. Mr. Vasireddy Nageshwar Rao, S/o Vasireddy Bhaskar Rao, R/o 3- 46/18, Plot no. 763, Vasanth Nagar, Near Society Office, Kukatpally, Hyderabad

...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 Writ order or direction, more particularly one in the nature of Writ of Mandamus, declaring the order passed by the Debt Recovery Tribunal- II on 24- 04- 2023 as arbitrary, untenable and contrary to law and so also the E-auction proceedings dated 05- 03- 2021 in respect of the loan account of the petitioners alongwith the sale certificate dated 19- 03- 2021 issued by the respondent bank and the sale certificate registered as document No. 3260 of 2021 dated 20- 03- 2021 as being untenable, contrary to law and consequently set aside the same.

**IA NO: 2 OF 2023**

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/s not to alienate, encumber or clear any third party rights pending disposal of the writ petition.

**IA NO: 1 OF 2024**

**Between:**

Indian Bank, Srinagar Colony Main Road, Srinagar Colony, Ameerpet  
Hyderabad Telangana - 500073 Rep. by its Authorized Officer

**...PETITIONER**

**AND**

1. M/s. BRS Paramount Edifice Pvt. Ltd., Having its office at 22- 240/1, Aruna Co- op, Kukatpally, Hyderabad - 500072. Rep. by its Director Mr. Chennareddy Ramesh Babu.
2. Mr. Chennareddy Ramesh Babu, Aged about 48 years, Occ Business, R/o C-402, Abhaya Lake View Residency, Nizampet, Hyderabad
3. Mr. Vasireddy Nageshwar Rao. S/o Vasireddy Bhaskar Rao, R/o 3- 46/18, Plot no. 763, Vasanth Nagar, Near Society Office, Kukatpally, Hyderabad

**...RESPONDENTS**

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 vacate the interim orders dated 04.05.2023 passed in I.A. No 2 /2023 in W.P. No. 13225 of 2023 and dismiss the W.P. with exemplary costs.

**Counsel for the Petitioners: SRI VIVEK JAIN**

**Counsel for the Respondent No.1: SRI V.MURALI MANOHAR, REP. FOR  
M/s. V.DYUMANI**

**Counsel for the Respondent No.2: SRI KAILASHNATH P.S.S.**

**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.13225 of 2023**

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

Mr. Vivek Jain, learned counsel for the petitioners.

Mr. V.Murali Manohar, learned counsel represents  
Ms. V.Dyumani, learned counsel for respondent No.1-  
Bank.

Mr. Kailashnath P.S.S., learned counsel for  
respondent No.2.

2. This writ petition has been filed against the order dated 24.04.2023, passed by the Debts Recovery Tribunal-II at Hyderabad, in S.A.No.115 of 2021.

3. Admittedly, against the aforesaid order, an appeal lies before the Debts Recovery Appellate Tribunal under Section 18 of 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**<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 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

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

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

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.”

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**<sup>3</sup>.

6. In view of aforesaid enunciation of law, we are not inclined to entertain the writ petition. However, liberty is

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

reserved to the petitioners to take recourse to the remedy of appeal. It is directed that for a period of eight weeks, the interim order granted earlier by a Division Bench of this Court in this writ petition shall continue. In case the petitioners file an appeal within the aforesaid period of eight weeks from today, the Debts Recovery Appellate Tribunal shall extend the benefit of Section 14 of the Limitation Act, 1963, to the petitioners.

7. With the aforesaid liberty, the writ petition is disposed of. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

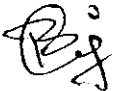
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SD/- T. JAYASREE  
ASSISTANT REGISTRAR  
  
SECTION OFFICER

To,

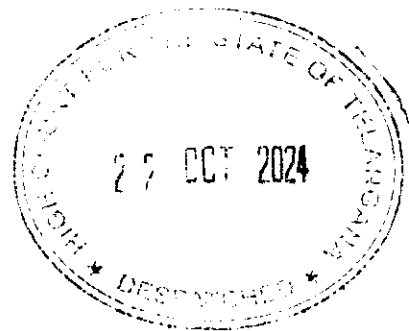
1. The Authorized Officer, Indian Bank, Srinagar Colony Main Road, Srinagar Colony, Ameerpet Hyderabad Telangana – 500073.
2. One CC to SRI VIVEK JAIN, Advocate [OPUC]
3. One CC to M/s. V.DYUMANI, Advocate [OPUC]
4. One CC to SRI KAILASHNATH P.S.S., Advocate [OPUC]
5. Two CD Copies

BSR  
GJP



**HIGH COURT**

**DATED: 10/07/2024**



**ORDER**

**WP.No.13225 of 2023**

**DISPOSING OF THE WRIT PETITION,  
WITHOUT COSTS**

⑦  
27/10/24  
ball