

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

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

**THE HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE MRS JUSTICE SUREPALLI NANDA**

WRIT PETITION NO: 26504 OF 2022

Between:

1. Mr. Baddila Murali Krishana, S/o. B Jayaramiah , Hindu aged about 56 years, Occ. Business, R/o .10-40, Kothapeta, Bharathi Nagar, Chandragiri (V) (M), Chittor District - 517101.
2. Baddila Mallika, W/o Baddila Murali Krishana. Hindu, aged about 50 years, R/o .10-40, Kothapeta, Bharathi Nagar, Chandragiri (V) (M) Chittor District - 517101.

...PETITIONERS

AND

M/s. Shriram City Union Finance Limited., 221, Royapettah High Road, Mylapore, Chennai - 600 004, Rep. by its Authorised officer.

...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, Direction more particularly one in nature of Writ of Mandamus declaring the action of the respondent bank in issuing the "Possession Notice dated 30/04/2022 under Section 13(4) of the Act read with Rule 8 and 9 of the Security Interest (Enforcement) Rules-2002", affixed by the Respondent against the schedule property as illegal, arbitrary, and contrary to the provisions of the SARFAESI Act and the rules there under and consequently set aside all the measures initiated by the Respondent under Section 13(4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act read with the Security Interest (Enforcement) Rules, 2002 against the schedule property, pending the SA.No.126/2022 and IAIR.No. 449/2022 before the Hon'ble Debts Recovery Tribunal - II at Hyderabad.

IA NO: 1 OF 2022

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 grant stay of all further proceedings, pursuant to "Possession Notice" dated. 30.05.2022 under Section 13(4) of the Act read with Rule 8 and 9 of the Security Interest (Enforcement) Rules-2002, issued by the Respondent against the schedule property till disposal of the SA.No.126/2022 and IAIR.No. 449/2022 before the Hon'ble Debts Recovery Tribunal - II at Hyderabad, in the interest of Justice.

Counsel for the Petitioners: SRI RAMISETTI NAGA HEMANAND

Counsel for the Respondent: NONE APPEARED

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE MRS JUSTICE SUREPALLI NANDA
WRIT PETITION No.26504 of 2022

ORDER: *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Mr. Ramiseti Naga Hemanand, learned counsel for the petitioners.

2. Petitioners are aggrieved by issuance of symbolic possession notice dated 30.04.2022 issued by the respondent.

3. From a perusal of the above, it is seen that the said notice has been issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly referred to hereinafter as the 'SARFAESI Act'). It is further seen that outstanding dues of the petitioners have been quantified by the respondent at Rs.32,32,272.00 as on 10.01.2022.

4. Against the aforesaid possession notice, petitioners have filed securitisation application before the Debts Recovery Tribunal-II, Hyderabad (Tribunal) under Section 17 of the

SARFAESI Act, which has been numbered as S.A.No.126 of 2022.

5. With the grievance that there is no Presiding Officer in the Tribunal rendering the same non-functional, present writ petition has been filed.

6. Having heard learned counsel for the parties and considering the orders passed by this Court in identical matters, we are of the view that since petitioners have availed their alternative remedy, they may pursue the same. Additionally, if the petitioners deposit 15% of the outstanding dues as on 10.01.2022 with the respondent within a period of 30 days from today, respondent shall not proceed further pursuant to the possession notice dated 30.04.2022, which in any event would be subject to outcome of S.A.No.126 of 2022. However, we make it clear that if there is any default on the part of the petitioners in making the payment as above, it would be open to the respondent to proceed in accordance with law for realisation of outstanding dues.

7. This disposes of the Writ Petition. However, there shall be no order as to costs.

8. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/-N.RAJ GOPAL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Debts Recovery Tribunal-II, Hyderabad.
2. One CC to Sri Ramisetti Naga Hemanand, Advocate [OPUC]
3. Two CD Copies
4. One Spare Copy

GJ

SW

HIGH COURT

DATED:22/06/2022

ORDER

WP.No.26504 of 2022



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

⑤ VW
4/7/22