

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

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN
AND**

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 23859 OF 2022

Between:

1. M/s Pogula Sujata Filling station, Rep by Mr Raghavendra Reddy, S/o P Ram Reddy, Aged about 34 Years, Occ. Business, O/o.156/E, Bhagayath(V), Uppal Main Road, Medchal, Hyderabad.
2. Mr. P Raghavendra Reddy, S/o P Ram Reddy, Aged, about 34 Years, Occ.Business, R/o.2-7-40/ I, Bharatnagar, Uppal, Hyderabad.
3. Mrs Pogula Sujatha, W/o P Ram Reddy, Aged, about 59 Years, Occ. B Isiness, R/o.2-7-40/1, Bharatnagar, Uppal, Hyderabad.
4. M/s Victory Restaurant and Bar, Rep by Mr.P Raghavendra Reddy, S/o P Ram Reddy, Aged, about 34 Years, Occ.business, R/o. 2-3-125/118/A/N, Uppal Main Road, Hyderabad.

...PETITIONERS

AND

Aditya Birla Finance Limited, O/o.78, Star Avenue, 6th Cross Road, Victoria Layout, Bengaluru, Rep by its Authorized Officer.

...RESPONDENT

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 or direction more particularly one in the nature of writ of mandamus or any other appropriate by calling the records (a) To declare that the proceedings of the respondent bank under SARFAESI Act including proposed dispossession of the petitioner from the petition schedule property through Advocate Commissioner vacate notice dated 10.05.2022 vide CrI.M.P No.213 of 2022 on the file Chief Metropolitan Magistrate, Rangareddy District Court is Null and void and set-aside the same or any other actions under this Act forthwith. (b) To declare that the action of the respondent bank under SARFAESI Act in pursuance to the possession notice dated 16.03.2022 against petition schedule property is Null and void and set-aside the same or any other actions under this Act forthwith.

I.A.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 stay all further proceedings of the respondent bank under SARFAESI Act including the proposed dispossession of the petitioner from the petition schedule property through Advocate Commissioner vacate notice dated 10.05.2022 vide CrI.M.P No.213 of 2022 on the file Chief Metropolitan Magistrate, Rangareddy District Court, L B Nagar in pursuance to the possession notice dated 16.03.2022 without following the due procedure as contemplated under the Act 2002, pending disposal of the writ petition.

I.A.NO:2 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 extend the further 3 weeks time to pay the reaming Rs.15,00,0000/- due of the petitioner as per the orders of this Hon'ble Court order dt. 19.05.2022 in the present writ petition.

Counsel for the Petitioners : SRI.K.KRANTHI KUMAR

Counsel for the Respondents : NONE APPEARED

The Court made the following ORDER

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.23859 of 2022

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

Heard Mr. Kranthi Kumar K., learned counsel for the petitioners.

2. Though I.A.No.2 of 2022 has been filed for extension of time to make the deposit in terms of order dated 19.05.2022, we are of the view that having regard to orders passed by this Court in identical matters, the writ petition need not be kept pending and can be disposed of at this stage itself.

3. M/s. Pogula Sujata Filling Station i.e., petitioner No.1 is a partnership firm of petitioner Nos.2 & 3. Petitioners had availed loan from the respondent-Aditya Birla Finance Ltd. It appears that for various reasons, petitioners defaulted in repayment of loan, for which the loan account was classified as Non Performing Assct (NPA). Thereafter respondent initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

(briefly referred to hereinafter as the 'SARFAESI Act'), in connection with which possession notice dated 16.03.2022 was issued. Thereafter Advocate Commissioner issued vacation notice dated 10.05.2022.

4. Petitioners have filed securitisation application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal-II, Hyderabad (Tribunal), which has been numbered as S.A(I.R).No.531 of 2022.

5. With the grievance that the Tribunal is non-functional because of absence of Presiding Officer, present writ petition was filed before the Vacation Court.

6. On 19.05.2022, this Court issued notice and passed the following order:

"Having regard to the fact that there is no Presiding Officer in the Debts Recovery Tribunal-II, Hyderabad and since the petitioners have stated that they filed S.A. (IR) No.531 of 2022 and also application for stay of the vacate notice dated 10.5.2022, there shall be interim stay of all further proceedings pursuant to vacate notice dated 10.5.2022 subject to the

condition of petitioners depositing 15% of the outstanding dues as on today within 30 days from today."

7. Outstanding dues of the petitioners has been quantified by the respondent at Rs.3,44,11,016.00 as on 15.12.2021, plus interest, costs and other charges.

8. Learned counsel for the petitioners submits that in terms of order dated 19.05.2022, petitioners have deposited Rs.35,00,000.00 on 15.06.2022 and balance amount of 15% i.e., Rs.15,00,000.00 would be paid within further two (02) weeks.

9. In view of above, we grant liberty to the petitioner to pay the balance amount of Rs.15,00,000.00 within 15 days from today. Since S.A(I.R).No.531 of 2022 has already been filed by the petitioners before the Tribunal, the steps taken by the respondent would be subject to outcome of the said securitisation application. If the petitioners deposit the balance amount within 15 days from today, respondent shall not take further steps pursuant to the notice of the Advocate Commissioner dated 10.05.2021. However, if there is default in

making the payment, it would be open to the respondent to take such steps as may be permissible in law to recover the outstanding dues.

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

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

SD/-G.SIREESHA
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To

1. The Authorized Officer, Aditya Birla Finance limited, O/o.78, Star Avenue, 6th Cross Road, Victoria Layout, Bengaluru.
2. One CC to SRI.K.KRANTHI KUMAR, Advocate [OPUC]
3. Two CD Copies
4. One spare copy

S.A

PS



HIGH COURT

DATED:30/06/2022

ORDER

WP.No.23859 of 2022



DISPOSING OF THE W.P
WITHOUT COSTS.

MRC
23-7-22 (5)