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APHC010040522026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

[3602]

(Special Original Jurisdiction)

MONDAY, THE 13th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO: 2632/2026

Between:

1. CHALLASRIRAMACHANDRA MURTHY, S/O. NARASIMHA MURTHY, AGED 40 YEARS, R/O. D.NO. 4-204, KAPULARAMALAYAM VEEDHI, NEAR KAPULA RAMALAYAM, PATAVALA, THALLAREVU MANDAL-533 461, KAKINADA DISTRICT.
2. CHALLA SOMA SITA VEERALAKSHMI, W/O. CHALLASRIRAMACHANDRA MURTHY, AGED 36 YEARS, R/O. D.NO. 4-204, KAPULARAMALAYAMVEEDHI, NEAR KAPULA RAMALAYAM, PATAVALA, THALLAREVU MANDAL-533 461, KAKINADA DISTRICT.

...PETITIONER(S)

AND

1. SRIRAM FINANCE LIMITED, REGD. OFFICE 14A, SRI TOWERS, SOUTHPHASE, INDUSTRIAL ESTATE, GUINDY, CHENNAI-600 032 (TAMIL NADU)
2. THE BRANCH MANAGER, SRIRAM FINANCE LIMITED, DOOR NO.9-185-3 AND 74/2, 2ND FLOOR, RAMANAYYAPET, KAKINADA.-533003

3. AUTHORIZED OFFICER, SRIRAM FINANCE LIMITED, DOOR NO.9-185-3 AND 74/2, 2ND FLOOR, RAMANAYYAPET, KAKINADA.-533003

...RESPONDENT(S):

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 or direction more particularly one in the nature of Mandamus to i) Declaring the illegal recovery tactics, including the deployment of rowdy elements by 2nd Respondent as unconstitutional, illegal and arbitrary, violative of Article 21 and 300-A of Constitution of India and contrary to the provisions of SARFAESI Act and Debts Recovery Tribunal's Act, ii) Restraining the 2nd Respondent from taking any extra-judicial coercive measures while directing the 2nd respondent to follow the procedure authorized under law

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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 2nd Respondent to restrain from resorting to any extra judicial or coercive recovery methods, including entering the petitioners residential premises or causing any public humiliation to the petitioners or the family pending final disposal of the Writ Petition

Counsel for the Petitioner(S):

1. MALLAVOLU NIKITHA

Counsel for the Respondent(S):

1. O UDAYA KUMAR

The Court made the following:

THE HON'BLE SRI JUSTICE BATTU DEVANAND

&

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO.2632 of 2026

ORDER: *(Per Hon'ble Sri Justice Battu Devanand)*

This writ petition is filed under Article 226 of the Constitution of the India seeking the following reliefs:-

> *"to issue a Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring the illegal recovery tactics, including the deployment of rowdy elements by 2nd respondent as unconstitutional, illegal and arbitrary, violative of Articles 21 and 300-A of the Constitution of India and contrary to the provisions of SARFAESI Act and Debts Recovery Tribunal Act and pass such other order…"*

2. Heard learned counsel for petitioners and learned counsel for the respondents.

3. The grievance of the petitioners is that the respondents are entitled to recover loan amount in terms of the loan agreements by following the procedure established under law and they are not having any right to recover the loan amount by using force or other methods which are unknown to Law.

4. The issues raised in this Writ Petition are no longer *res integra* as the Hon'ble Supreme Court in **ICICI Bank Ltd. vs. Prakash Kaur and others**[1], while dealing with the similar issues where the banks engaged the

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[1] (2007) 2 SCC 711

services of recovery/collection agents to recover the loans, observed as follows:

> *"16. Before we part with this matter, we wish to make it clear that we do not appreciate the procedure adopted by the Bank in removing the vehicle from the possession of the writ petitioner. The practice of hiring recovery agents, who are musclemen, is deprecated and needs to be discouraged. The Bank should resort to procedure recognized by law to take possession of vehicles in cases where the borrower may have committed default in payment of the instalments instead of taking resort to strong-arm tactics."*

5. Aggressive recovery tactics adopted by the agents of Banks/Financial Institutions lead to the landmark judgment in **ICICI Bank vs. Shanti Devi Sharma and others**[2], where the Hon'ble Supreme Court directed the Banks/Financial Institutions to strictly follow the guidelines issued by the Reserve Bank of India.

6. In the above referred judgments, the Hon'ble Supreme Court condemned the procedure adopted by the Banks/Financial Institutions in employing recovery agents who are acting as middlemen for securing possession of vehicles/secured assets in cases where the borrower commits default. It was observed that Banks/Financial Institutions, instead of taking recourse to follow the procedure recognized by law for securing the possession of vehicles/secured assets in cases where the borrower commits default in repayment of loan/ loan account is declared as NPA, are resorting to strong-arm tactics. The Hon'ble Supreme Court delineated the guidelines

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[2] (2008) 7 SCC 532

issued by the Reserve Bank of India time and again on the fair conduct by lenders, with reference to usage of services of recovery agents. It also stated that the banks should be reminded of the rule of law and strict action must be taken by the RBI in case of breach of such guidelines.

7. It is apt and appropriate to extract latest guidelines issued by the Reserve Bank of India on 12.08.2022 with regard to outsourcing of Financial Services – Responsibilities of regulated entities employing Recovery Agents, which reads as follows:

"RBI/2022-23/108 DOR.ORG.REC.65/21.04.158/2022-23

August 12, 2022 Madam/ Sir,

Outsourcing of Financial Services - Responsibilities of regulated entities employing Recovery Agents

The Reserve Bank of India has from time to time advised regulated entities (REs) that the ultimate responsibility for their outsourced activities vests with them and they are, therefore, responsible for the actions of their service providers including Recovery Agents (hereafter referred to as 'agents').

2. It has been observed that the agents employed by REs have been deviating from the extant instructions governing the outsourcing of financial services. In view of concerns arising from the activities of these agents, it is advised that the REs shall strictly ensure that they or their agents do not resort to intimidation or harassment of any kind, either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude upon the privacy of the debtors' family members, referees and friends, sending inappropriate messages either on mobile or through social media, making threatening and/or anonymous calls, persistently *calling the borrower and/or calling the borrower before 8:00 a.m. and after 7:00 p.m. for recovery of overdue loans, making false and misleading representations, etc.*

3. The instructions contained in para 2 above shall supplement and be read in conjunction with the existing guidelines/directions issued by the Reserve Bank of India, as amended from time to time, including those tabulated in Annex.

4. Any violation in this regard by REs will be viewed seriously.

Applicability

5. This circular shall apply to the following REs:

(a) All Commercial Banks (including Local Area Banks, Regional Rural Banks, and Small Finance Banks) excluding Payments Banks;

(b) All All-India Financial Institutions (viz. Exim Bank, NABARD, NHB, SIDBI, and NaBFID);

(c) All Non-Banking Financial Companies including Housing Finance Companies;

(d) All Primary (Urban) Co-operative Banks, State Co-operative Banks, and District Central Co-operative Banks; and

(e) All Asset Reconstruction Companies.

6. This circular shall not apply to microfinance loans covered under <u>'Master Direction – Reserve Bank of India (Regulatory Framework for Microfinance Loans) Directions, 2022', dated March 14, 2022.</u>

Yours faithfully,

(Sunil T. S. Nair)
Chief General Manager"

8. For the aforesaid reasons and as the procedure adopted by the respondents for recovery of loan amount from the petitioner, amounts to violation of the rights guaranteed under Articles 14 and 21 of the Constitution of India, this Court deems it appropriate to direct the respondents, to ensure that the agents engaged by them for recovery of the loan amounts, shall strictly follow the guidelines and instructions issued by the Reserve Bank of India and also the judgments of the Hon'ble Supreme Court in **ICICI Bank Ltd. vs. Prakash Kaur's case** (1 supra) and I**CICI Bank vs. Shanti Devi Sharma's case** (2 supra).

9. In view of the foregoing discussion, this Court deems it appropriate to direct the respondents, to ensure that the agents engaged by them for recovery of the loan amounts shall strictly adhere to the guidelines and instructions issued by the Reserve Bank of India and as held by the Hon'ble Apex Court as stated supra.

10. With the above direction, this writ petition is disposed of.

11. There shall be no order as to costs.

Miscellaneous petitions, if any pending, in this case, shall stand closed.

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JUSTICE BATTU DEVANAND

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JUSTICE SUNITHA GANDHAM

Dated: 13.07.2026
PGR
Whether the order is:
Speaking Yes/No / Reasoned Yes/No
Reportable Yes/No / Non-Reportable Yes/No

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

&

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO.2632 of 2026

Dt.13.07.2026
PGR