

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI****WRIT PETITION NO: 4479 of 2024**

Sri Reddy Sanyasi Naidu

...Petitioner

Vs.

Union of India and others

...Respondents

Advocate for Petitioner:

R. Siva Sai Swarup representing
Mr. Ravuri Leela Sai Sampath

Advocate(s) for Respondent(s):

Ms. Sravanthi K representing
Mr. Kunuku Raja Sekhar for R.2**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
DR JUSTICE K MANMADHA RAO****DATE : 9th May 2025****P C :**

The petitioner in the present case has challenged the proceedings initiated by the respondent bank under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short, 'SARFAESI Act'] against respondent No.5 – Brahamayya Sape.

2. On account of the loan having been taken by the said respondent No.5, it appears that respondent No.5 mortgaged the property by way of deposit of title deeds on 24.05.2004.

3. While things stood thus, it appears that a sale was executed in regard to the same property which was the subject matter of mortgage with the respondent bank by the principal borrower – respondent No.5 herein in favour of the petitioner as late as on 19.01.2016.

4. The contention of the petitioner before this Court is that since the petitioner was in possession of the property ever since the execution of the sale deed in the year 2016, the respondent bank could not have initiated any action against the petitioner in regard to the property in question.

The petitioner also contends that since the petitioner was in possession of the property in question and since the name of the petitioner did not figure in the order passed by the concerned Magistrate while exercising powers under Section 14 of the SARFAESI Act, the possession cannot be taken from the petitioner.

5. By virtue of an interim order, dated 20.02.2024 a Bench of this Court directed maintenance of *status quo* for a period of six weeks with a view to elicit an appropriate response from the respondent bank.

6. The response has since been filed in which it is reiterated that the proceedings initiated under the SARFAESI Act are perfectly justified as the petitioner cannot, in view of the equitable mortgage having been created by the principal borrower – respondent No.5, claim any right based upon the execution of the sale deed as late as in the year 2016.

It is also stated that in case the petitioner has any right, he would have the liberty to approach the Debts Recovery Tribunal in terms of the provisions of the SARFAESI Act.

7. We are quite in agreement with the arguments advanced by learned counsel for the respondent bank. Without commenting on the merits of the case and considering the fact that on the date when the sale deed was executed in favour of the petitioner there was already an equitable mortgage created, the interim directions issued by this Court by virtue of order, dated 20.02.2024 do not justify any further extension.

8. The Writ Petition is found to be without merit and is, accordingly, dismissed. We, however, leave the petitioner free to avail the appropriate remedy as prescribed under the SARFAESI Act, if so advised. No order as to costs.

Miscellaneous applications pending, if any, including IA.No.1 of 2024, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

Dr. K MANMADHA RAO, J

Vjl