

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)**

FRIDAY, THE NINTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE



PRESENT

**THE HON'BLE THE CHIEF JUSTICE SRI DHIRAJ SINGH THAKUR
AND
THE HON'BLE DR JUSTICE K MANMADHA RAO**

WRIT PETITION NO: 4479 OF 2024

Between:

Sri Reddy Sanyasi Naidu, S/o Demudu (late) R/at Flat No.GF-1 MIG-112,
Ratnagiri Housing Board Colony P.M.Palem, Madhuruvada, Visakhapatnam.

...PETITIONER

AND

1. Union of India, Ministry of Finance Represented by its Secretary Sastry Bhavan, New Delhi.
2. AXIS BANK, registered office at Trishul, 3rd floor Opp. Samarthewar temple, Near Law Garden Ahmedabad and branch office at Sri Gayatri Towers D.No.43-9-141, 4th Floor, Dondparthy, Visakhapatnam 16 Represented by its Authorized Officer
3. Sri G. Jayababu, Advocate Commissioner (Appointed in Crl M.P.2118/2019 of Chief Metropolitan Magistrate, Visakhapatnam.) Visakhapatnam.
4. The Station House Officer, P.M.Palem Police Station, P.M.Palem Visakhapatnam.
5. Mr. Brahamayya Sape, S/o S.Appala Swarmy Aged major ,R/at Q.No.MIG -17 Auto Nagar, Gajuwaka B.H.P.V. Post Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High

Court may be pleased to pass an Order to Issue a Writ or Order or Direction more particularly in the Nature of a Writ of Certiorari to Call for the Records pertaining to the CrI M.P. No.2118/2019 on the file of Chief Metropolitan Magistrate Court at Visakhapatnam as filed by the 2nd Respondent by Invoking U/s 14 of SARFEASI Act on that Issued a Commissioner Warrant directing the Advocate-Commissioner (R-3) to take out the Physical Possession of the Property Schedule Covered in CrI M.P. No.2118/2019 relates to the Petitioner on that the 2nd Respondent along with the 3rd and 4th Respondents made Attempts to take out the Physical Possession of the Property Covered under Schedule in CrI MP No.2118/2019 by any Cost for that threatens the petitioner family that they will thrown out by Invoking the Commissioner Warrant (New) issued by Cheif Metropolitan Magistrate Court at Visakhapatnam all are Illegal, Unlawful, Violation of Principles of Natural Justice, Violation of Article 14,19,21,300-A- of the Constitution of India Consequently to Direct the Respondents 2 ,3 and 4 not to Execute the Commissioner Warrant issued by Chief Metropolitan Magistrate Court at Visakhapatnam in CrI M.P.No.2118/2019 in the interest of the justice.

IA NO: 2 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased STAY of all the further proceedings in CrI M.P.No.2118/2019 on the file of Chief Metropolitan Magistrate Court at Visakhapatnam U/s 14 of the SARFEASI Act including the execution of the Commissioner Warrant in CrI M.P.No.2118/2019 as against the Property of petitioner i.e.. Flat No.GF-1(W) in Ground Floor In Reddy Twin Castle-I D.NO.11-74 bering Plot No.MIG 112 of Pothenamallyapalem, Visakhapatnam pending disposal of the main Writ Petition in the interest of the justice.

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an Order to Dispense with Filing of the Original Schedule Copy as well as Commissioner Warrant in Crl M.P.No.2118/2019 on the file of Chief Metropolitan Magistrate Court at Visakhapatnam pending disposal of the main Writ Petition in the interest of the justice.

**Counsel for the Petitioner: SRI SIVA SAI SWARUP REPRESENTING
SRI RAVURI LEELA SAI SAMPATH**

**Counsel for the Respondent No.2: MS. SRAVANTHI K REPRESENTING
SRI KUNUKU RAJA SEKHAR**

Counsel for the Respondent No.4: GP FOR HOME

The Court made the following: ORDER

**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.

//TRUE COPY//

Sd/- K. TATA RAO
DEPUTY REGISTRAR


SECTION OFFICER

To,

1. One CC to Sri Ravuri Leela Sai Sampath, Advocate [OPUC]
2. One CC to Sri Kunuku Raja Sekhar, Advocate [OPUC]
3. Two CCs to GP for Home, High Court of Andhra Pradesh. [OUT]
4. Three CD Copies

TF

HIGH COURT

DATED:09/05/2025

ORDER

WP.No.4479 of 2024



DISMISSING THE W.P., WITHOUT COSTS