IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE TWENTY FIFTH DAY OF FEBRUARY,

TWO THOUSAND AND TWENTY SIX

:PRESENT:

HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

AND

HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

IA No. 1 OF 2026

IN

WP NO: 5507 OF 2026

Between:

1. Dayala Kanaka Rajya Lakshmi, W/o.Late Turaka Suresh Prasad, Aged about 56 years, Occ Agriculture, R/o. D.No.9-98, Opp RDO Office Street, Gandhi Nagar, Nuzvid, Eluru District.
2. Turaka Abhilash, S/o. Late Suresh Prasad, Aged about 35 years, Occ Agriculture, R/o. D.No.9-98, Opp RDO Office Street, Gandhi Nagar, Nuzvid, Eluru District.
3. Turaka Akhilesh, S/o. Late Turaka Suresh Prasad, Aged about 33 years, Occ Agriculture, R/o. D.No.9-98, Opp RDO Office Street, Gandhi Nagar, Nuzvid, Eluru District.

...Petitioners

(Petitioner in WP 5507 OF 2026

on the file of High Court)

AND

1. The Union of India, Ministry of Finance and Company Affairs, (Department of Economic Affairs) Banking Division, Represented by its Secretary, 3rd Floor, Jeevan Deep Building, Sansad Marg New Delhi - 110001.
2. The State Bank of India, A Government of India Undertaking, Represented by its Chief Manager/Authorized Officer, Nuzvid Main

Branch, S.Vani Towers, Hanuman Junction Road Nuzvid, Eluru District-521201.

3. G.Venkateswara Rao, S/o. Not known to the Petitioner, Aged about 45 years, Occ Advocate, R/o. Bar Association, Krishna District Court, Srinivas Nagar Colony, Machilipatnam, Andhra Pradesh - 521 002.

...Respondents

(Respondents in-do-)

Counsel for the Petitioner :Sri.M R K CHAKRAVARTHY

Counsel for Respondent No.1 : Standing counsel **for Central Government.**

Counsel for Respondent No.2:Sri.B.Surayanarayana Kumar.

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 stay all proceedings in furtherance of the Demand Notice dated 03.01.2025, Possession Notice dated 11.03.2025 and the Warrant dated 27.01.2026 in Crl.M.P.No.24 of 2026 in CF No.560 of 2025 on the file of the Court of the Chief Judicial Magistrate, Machilipatnam including taking possession of the Petitioners' RCC Building with Door No.9-98, built-up area of 2935 Sq.Ft., on Plot ad-measuring 248.50 Sq.Yds., situated in Nuzvid, Eluru District by the Respondent Bank, Pending disposal of WP No.5507 of 2026, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

Heard Sri M.R.K.Chakravarthy, the learned counsel for the petitioners, the learned Central Government counsel for respondent No.1 and the learned Panel Advocate for respondent Bank who is on caveat.

The petitioners are the legal heirs of the principal borrower by name Turaka Suresh Prasad, who availed loan from the 2nd respondent Bank by mortgaging the subject property as security for repayment of

the loan amount. As the principal borrower committed default in repayment of the loan amount, the Bank has initiated measures under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'). A notice under Section 13(2) of the SARFAESI Act was issued and thereafter, on a petition filed under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Machilipatnam, an order to take delivery of possession of the secured asset was passed. Challenging the said order, the legal heirs of the principal borrower filed the writ petition.

The main ground on which they sought to challenge the order of the learned Magistrate to take possession of the property is that the notice under Section 13(2) of the SARFAESI Act, which is required to be issued before initiating proceedings under Section 14 of the SARFAESI Act was issued to a dead person, who is a principal borrower as he died on 21.09.2024 and no notice was issued to the petitioners, who are his legal heirs.

The petitioners have produced a copy of the death certificate in proof of the death of the principal borrower on 21.09.2024. The notice issued under Section 13(2) of the SARFAESI Act to the principal borrower, which is available at Page No.16 of the material papers of the writ petition shows that it was issued on 03.01.2025. Therefore, obviously, it was issued to a dead person after the death of the principal borrower.

The learned counsel for the Bank submits that on the same day i.e. on 03.01.2025, as the Bank authorities came to know that the principal borrower died, that a personal notice was served on the writ petitioners, who are the legal heirs of the deceased principal borrower and he has now produced a copy of the notice said to have been served on the legal heirs of the borrowers which is also dated 03.01.2025. But, on a scrutiny of the said two notices, it throws some doubt on the genuineness of the notices said to have been served on the legal heirs of the deceased principal borrower on 03.01.2025. The legal notice dated 03.01.2025 was issued to the principal borrower shows that it was sent by registered post with acknowledgment due. The returned registered post with an endorsement that he died is not produced before this Court. So, when it was sent through registered post, it is really doubtful whether the Bank authorities got knowledge of the death of the principal borrower on the same day i.e. on 03.01.2025. So, it is doubtful whether a notice was served on the legal heirs of the deceased principal borrower on 03.01.2025 or not. The same has to be resolved after the Bank authorities file their counter explaining all these facts with relevant evidence.

Therefore, at this stage, as a prima facie case has been established that the notice under Section 13(2) of the SARFAESI Act was issued on 03.01.2025 to a dead person and thereafter, the petition under Section 14 of the SARFAESI Act was filed to take possession of the property, we deem it appropriate to stay further proceedings pursuant to the warrant dated 27.01.2026 issued in Crl.M.P.No.24 of 2026 in CF No.560 of 2025 on the file of the learned Chief Judicial Magistrate, Machilipatnam till the next date of hearing as, if it is ultimately found that the said proceedings under Section 14 of the SARFAESI Act are initiated after giving notice to a dead person under Section 13 (2) of the SARFAESI Act, it would strike at the very bottom of the matter, making further proceedings legally unsustainable.

Therefore, there shall be interim stay of further proceedings pursuant to the warrant dated 27.01.2026 issued in Crl.M.P.No.24 of 2026 in CF No.560 of 2025 by the learned Chief Judicial Magistrate, Machilipatnam till the next date of hearing.

Sd/-B.Chitti Joseph,
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Secretary, Union of India, Ministry of Finance and Company Affairs, (Department of Economic Affairs) Banking Division, 3rd Floor, Jeevan Deep Building, Sansad Marg New Delhi – 110001.
2. The Chief Manager/Authorized Officer, State Bank of India,, A Government of India Undertaking, Nuzvid Main Branch, S.Vani Towers, Hanuman Junction Road Nuzvid, Eluru District-521201.
3. G.Venkateswara Rao, S/o. Not known to the Petitioner, Occ Advocate, R/o. Bar Association, Krishna District Court, Srinivas Nagar Colony, Machilipatnam, Andhra Pradesh - 521 002.(addressee 1 to 3 by **RPAD**)
4. One CC to SRI. M R K CHAKRAVARTHY Advocate [OPUC]
5. One CC to Standing counsel for Central government [OPUC]
6. One CC to Sri B.Suryanarayana Kumar, Advocate [OPUC]
7. **Two spare copies**

HIGH COURT

CMR,J &
GTK,J

DATED:25/02/2026

LIST THE MATTER ON 11.03.2026.

ORDER

I.A.No.1 of 2026
IN
WP.No.5507 of 2026

INTERIM STAY