

**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI**

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**WRIT PETITION NO: 33802/2025**

Between

M/s. Kumar Hospitals Private Limited, (Golagani Institute of Medical Sciences)  
rep. by its Managing Director, Dr. Golagani Ashok Kumar, Plot No.17A,  
Health City, Chingadilli, Visakhapatnam and 2 others

.. Petitioners

and

1.The Union of India, rep. by its Secretary,  
Ministry of Finance, New Delhi and 5 others

.. Respondents

**DATE OF JUDGMENT PRONOUNCED: 03.12.2025**

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**AND**

**THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA**

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|----|----------------------------------------------------------------------------|--------|
| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reports/Journals?      | Yes/No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

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**CHEEKATI MANAVENDRANATH ROY, J**

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**TUHIN KUMAR GEDELA, J**

**\* THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY  
AND  
THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA**

**+ WRIT PETITION NO: 33802/2025**

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# M/s. Kumar Hospitals Private Limited, (Golagani Institute of Medical Sciences) rep. by its Managing Director, Dr. Golagani Ashok Kumar, Plot No.17A, Health City, Chingadilli, Visakhapatnam and 2 others

... Petitioners

Vs.

\$ 1. The Union of India, rep. by its Secretary,  
Ministry of Finance, New Delhi and 5 others

.. Respondents

! Counsel for the petitioner : Sri C.Nageswara Rao, representing  
Sri Tagore Yadav Yaragorla

^Counsel for respondents : --

< Gist:

➤ Head Note:

? CASES REFERRED:

1. (1998) 8 SCC 1
2. (2023) 17 SCC 311
3. (2023) 2 SCC 168

APHC010654742025



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

[3558]

WEDNESDAY, THE THIRD DAY OF DECEMBER  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**

**WRIT PETITION NO: 33802/2025**

**Between:**

- 1.M/S. KUMAR HOSPITALS PRIVATE LIMITED,, (GOLAGANI INSTITUTE OF MEDICAL SCIENCES) REP. BY ITS MANAGING DIRECTOR, DR. GOLAGANI ASHOK KUMAR, PLOT NO. 17A, HEALTH CITY, CHINGADILLI, VISAKHAPATNAM
- 2.SRI GOLAGANI ASHOK KUMAR, S/O RAMARAO LATE D. NO. 8-12-5/1 NETHAJI STREET CHINA WALT AIR VISAKHAPATNAM
- 3.SMT GOLAGANI ARUNA JYOTHI, D/O PEETHALSOMUNAIDU D NO 8-12-5/1 NETHAJI STREET CHINA WALT AIR, VISAKHAPATNAM

**...PETITIONER(S)**

**AND**

- 1.THE UNION OF INDIA, REP. BY ITS SECRETARY, MINISTRY OF FINANCE NEW DELHI.
- 2.THE VISAKHAPATNAM COOPERATIVE BANK LIMITED, REPRESENTED BY ITS AUTHORISED OFFICER HEAD OFFICE. 5TH LANE, DWARAKANAGAR, VISAKHAPATNAM
- 3.M/S GEMS AVENUE LLP, REP BY ITS PARTNER MR. RAVINDRANATH CHINTHALA UPPAL METRO STATION, UPPAL MEDCHAL- MALAKAJGIRI DISTRICT

4.MR RAVINDRANATH CHINTHALA, S/O LATE MR. CHINTHALA LAXMAN RAO AGED 50 YEARS, OCC. BUSINESS R/O. H. NO. 162738/E/11, ASMANGADH, MALAKPET, HYDERABAD.

5.THE EMPLOYEES STATE INSURANCE CORPORATION, HAVING ITS OFFICE AT ESI HOSPITAL ROAD GUNADALA VIJAYAWADA ANDHRA PRADESH

6.RESERVE BANK OF INDIA, THROUGH ITS REGIONAL DIRECTOR 27-37-158, MG RD, GOVERNOR PETA, VIJAYAWADA, ANDHRA PRADESH

**...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 topleased to a) issue a Writ, Order or Direction, more particularly one in the nature of Writ of Certiorari, calling for the records relating to the impugned order dated 27.11.2025 passed in TSA No. 1 of 2024 (SA 153/2023) by the Hon'ble DRT-I, Hyderabad and quash the same as being illegal, arbitrary, void, vitiated by fraud, and without jurisdiction b) issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the auction sale conducted on 02.03.2023 pursuant to the sale notice dated 11.01.2023, including the sale confirmation and the sale certificate issued in favour of Respondent No.3, as null and void in law on account of fraud, fabrication, collusion, violation of mandatory provisions of the SARFAESI Act, 2002 and the Security Interest (Enforcement) Rules, 2002 c) issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus directing forfeiture of the bid amount paid by the auction purchaser for failing to comply with Rule 9 of Security Interest Rules d) consequently direct the Respondent Bank to restore possession of the schedule property to the Petitioners, and pass

**IA NO: 1 OF 2025**

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 auction purchaser, their agents, representatives, assignees or anybody claiming through them, not to alter, damage, dispose of, dismantle or demolish any structure, equipment, machinery or medical infrastructure situated within the premises of Petitioner No.1 Company, and to

maintain the property in status quo as the date of filing of this Writ Petition; and pass

**IA NO: 2 OF 2025**

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 Pleased to direct Respondents to permit Petitioner No.2 to enter the premises under proper inventory and supervision solely for the purpose of retrieving his personal belongings, academic certificates, identity documents, financial records and other essential personal materials, which continue to remain unlawfully withheld in the premises presently under possession of Respondent Nos. 2 and 3; and pass s

**IA NO: 3 OF 2025**

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 pleased to restrain Respondent from removing, alienating, transferring, encumbering or in any manner dealing with the movable assets, equipment, inventory and official records of Petitioner No.1 Company, including the medical equipment worth approximately Rs. 4 crores, which were taken without proper panchnama and signature of the Petitioner; and pass

**IA NO: 4 OF 2025**

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 pleased to Restrain the respondents from demolishing the structure over the scheduled property; and pass

**Counsel for the Petitioner(S):**

1. TAGORE YADAV YARAGORLA

**Counsel for the Respondent(S):**

1.



**The Court made the following:**

**ORDER:- (Per Hon'ble Sri Justice Cheekati Manavendranath Roy)**

Assailing the order dated 27.11.2025 passed in TSA.No.1 of 2024 on the file of the Debts Recovery Tribunal-I, Hyderabad, whereby the application filed by the petitioners under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") challenging the auction conducted by the 2<sup>nd</sup> respondent-bank in respect of the secured asset and the proceedings initiated in issuing demand notice taking possession etc., was dismissed, the present writ petition has been filed by the petitioners.

2. Heard Sri C.Nageswara Rao, learned Senior Counsel for the petitioners.

3. The 1<sup>st</sup> petitioner is a private limited company engaged in running hospital services. The 2<sup>nd</sup> petitioner is the Managing Director of the company and the 3<sup>rd</sup> petitioner is the wife of the 2<sup>nd</sup> petitioner. The 1<sup>st</sup> petitioner availed credit facilities from the 2<sup>nd</sup> respondent-bank in the year 2006 for running the hospital and the petitioners 2 and 3 stood as guarantors. As the 1<sup>st</sup> petitioner committed default in repayment of the loan amount, the bank has initiated measures under the SARFAESI Act and brought the secured asset for sale for realization of the due amount after complying with the procedure prescribed under the SARFAESI Act.

4. Aggrieved by the said measures initiated by the bank under the SARFAESI Act, the petitioners have filed initially Securitisation Application (SA) No.153 of 2023 on the file of the Debts Recovery Tribunal, Visakhapatnam under Section 17 of the SARFAESI Act. It was subsequently transferred to the Debts Recovery Tribunal-I, Hyderabad and thereafter it was re-numbered as TSA.No.1 of 2024.

5. While the said Securitisation Application was pending adjudication, the petitioners have approached this Court by way of filing W.P.No.18014 of 2024, on the ground that the bank has violated the procedure in receiving the auction amount after expiry of the prescribed period of 90 days contrary to Rule 9(4) of the Security Interest (Enforcement) Rules, 2002. The said writ petition was disposed of by a Coordinate Bench of this Court as per order dated 23.06.2025 relegating the petitioners to the Debts Recovery Tribunal-I, Hyderabad to take necessary steps before the said forum, as the petitioners have already approached the Debts Recovery Tribunal, which is an appropriate forum for redressal of their grievance.

6. Thereafter, the Debts Recovery Tribunal-I, Hyderabad has dismissed the said Securitisation Application filed under Section 17 of the SARFAESI Act by the impugned order dated 27.11.2025. Aggrieved thereby, the petitioners have preferred the instant writ petition challenging the legal validity of the impugned order of the Debts Recovery Tribunal-I, Hyderabad.

7. Learned Senior Counsel appearing for the petitioners vehemently contended that this Court in W.P.No.18014 of 2024, has directed the Debts Recovery Tribunal-I, Hyderabad to dispose of the Securitisation Application in the manner suggested in the order and the Debts Recovery Tribunal-I, Hyderabad did not dispose of the said application as per the manner suggested by this Court and as such, this writ petition challenging the order of the Debts Recovery Tribunal is maintainable. He further contends that when the petitioners have challenged the measures initiated by the bank on the ground of violation of certain mandatory procedure prescribed under the SARFAESI Act, the writ is maintainable even though an alternative remedy is available to the petitioners. In support of his contention, he relied on the Judgment of the Apex Court rendered in the case of ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and others***<sup>1</sup>. We have meticulously

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<sup>1</sup> (1998) 8 SCC 1

gone through the said Judgment of the Apex Court, on which strong reliance is placed by the learned counsel for the petitioners regarding maintainability of the writ petition.

8. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is a special enactment brought into existence with the object of recovery of the money due to the banks and financial institutions which is the public money when the principal borrowers and the guarantors committed default in repayment of the loan amount. Certain procedure is prescribed for the banks and financial institutions to initiate the measures under the SARFAESI Act against the principal borrowers and the guarantors for recovery of the loan amount by initiating the measures provided under the SARFAESI Act. In case, the principal borrowers and the guarantors are aggrieved by any of the measures initiated by the bank in violation of the procedure prescribed under the SARFAESI Act, a remedy has been provided to the aggrieved person for redressal of their grievance by way of filing a Securitisation Application under Section 17 of the SARFAESI Act. A separate forum has been constituted under the SARFAESI Act namely the Debts Recovery Tribunal for the purpose of dealing with the said applications under Section 17 of the SARFAESI Act. Invoking the said remedy provided to the petitioners under the SARFAESI Act, they have approached the Debts Recovery Tribunal by way of filing a Securitisation Application under Section 17 of the SARFAESI Act. During the pendency of the said application, they approached this Court earlier by way of filing W.P.No.18014 of 2024. This Court did not decide the same on merits and it has relegated the petitioners to the Debts Recovery Tribunal-I, Hyderabad for redressal of their grievance, as can be seen from the order dated 23.06.2025 passed in W.P.No.18014 of 2024. Accordingly, the petitioners have approached the Debts Recovery Tribunal and the Debts Recovery Tribunal has in the final adjudication of the matter, dismissed the said Securitisation Application by the impugned order. In the scheme of the Act, a right of appeal is provided to the aggrieved

persons, whose application filed under Section 17 of the SARFAESI Act was dismissed, under Section 18 of the SARFAESI Act, a Tribunal was constituted under the SARFAESI Act to prefer an appeal against the order of the Debts Recovery Tribunal dismissing the application filed under Section 17 of the SARFAESI Act. Therefore, if the petitioners are aggrieved by the order passed by the Debts Recovery Tribunal dismissing the application under Section 17 of the SARFAESI Act, they have to avail the remedy of preferring an appeal against the said order before the Debts Recovery Appellate Tribunal. Without preferring an appeal to question the validity of the said order, in our considered view, they cannot invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India.

9. The Apex Court in the case of ***South Indian Bank Limited and others v. Naveen Mathew Philip and others***<sup>2</sup>, held at para 55 as follows:

“It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

10. Then the Apex Court in the case of ***Varimadugu Obi Reddy v. B.Sreenivasulu and others***<sup>3</sup>, held as follows:

“In the instant case, although the respondent borrowers initially approached the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act, 2002, but the order of the Tribunal indeed was appealable under Section 18 of the Act subject to the compliance of condition of pre-deposit and without exhausting the statutory remedy of appeal, the respondent borrowers approached the High Court by filing the writ application under Article 226 of the Constitution. We deprecate such practice of entertaining the writ application by the High Court in exercise of jurisdiction under Article 226 of the Constitution without exhausting the alternative statutory remedy available under the law. This circuitous route appears to have been

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<sup>2</sup> (2023) 17 SCC 311

<sup>3</sup> (2023) 2 SCC 168

adopted to avoid the condition of pre- deposit contemplated under 2nd proviso to Section 18 of the 2002 Act.”

11. Therefore, when a clear statutory right of appeal is provided under Section 18 of the SARFAESI Act to enable the petitioners, who are the aggrieved persons to challenge the order of the Debts Recovery Tribunal passed under Section 17 of the SARFAESI Act, the petitioners have to avail the said remedy and they cannot maintain this writ petition under Article 226 of the Constitution of India.

12. In the judgment that is relied on by the petitioners in ***Whirlpool Corporation case*** (1 *supra*), the Apex Court clearly held that where the writ petition has been filed (i) for enforcement of any of the Fundamental rights, (ii) where there has been violation of the principle of natural justice, (iii) where the order or proceedings are wholly without jurisdiction, or (iv) where the vires of the Act is challenged, then only, irrespective of the fact whether they have exhausted the alternative remedy provided under the SARFAESI Act, the writ can be entertained. The case of the petitioners is not coming within the purview of any of the aforesaid four situations enumerated in the above judgment of the Apex Court. It is not their case that any of the fundamental rights of the petitioners is violated or that the principles of natural justice are violated or that the Tribunal has no jurisdiction to pass the impugned order and they did not challenge the vires of the Act. So, the aforesaid judgment is of no avail to the case of the petitioners.

13. Therefore, we are of the clear view that when a statutory right of appeal is provided under a special enactment to challenge the order passed in an application filed under Section 17 of the SARFAESI Act, this writ petition is not maintainable under law.

14. In fine, the Writ Petition is dismissed as not maintainable. However, the petitioners are at liberty to avail their statutory remedy of appeal by way of

preferring an appeal under Section 18 of the SARFAESI Act before the Debts Recovery Appellate Tribunal. There shall be no order as to costs.

Since interim order is in favour of the petitioners in the Debts Recovery Tribunal till the Securitisation Application was disposed of, there shall be a direction to the respondents 3 to 5, who are the auction purchasers, not to create any third party interest in respect of the subject property till the petitioners file their appeal in the Appellate Tribunal. The petitioners shall file their appeal within 30 days before the Appellate Tribunal from the date of this order, failing which, the above interim direction passed against the respondents 3 to 5 shall stand vacated without any further reference to this Court.

Miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

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**JUSTICE CHEEKATI MANAVENDRANATH ROY**

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**JUSTICE TUHIN KUMAR GEDELA**

Date: 03.12.2025

**Note:**

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**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**AND**

**THE HON'BLE SRI JUSTICE TUHIN KUMAR GEDELA**

**WRIT PETITION NO: 33802/2025**

**Date: 03.12.2025**

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