



2025:TSHC:57160

[3302]

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

**FRIDAY, THE FOURTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION NO: 16004 OF 2025

Between:

Hinduja Housing Finance Ltd, Mahbubnagar Branch, 1st Floor, Anjaiah Naik Complex, Padmavathi Colony, Mahabubnagar Represented by Regional Legal Manager, Sri. T Raghava Reddy, S/o. T. Krishna Reddy Ashok Bhoopal Chambers, Unit No.101, 1-8-271 to 273 and 1-8-301 to 302, 1st Floor, Sardar Patel Road, Secunderabad.

...PETITIONER

AND

1. The State of Telangana, Rep by its Principal Secretary to Government, Revenue (Stamps and Registration) Department, Dr. B.R. Ambedkar Secretariat, Hyderabad.
2. The District Registrar, Wanaparthy, IDOC, Wanaparthy Dist.
3. The Sub Registrar, Wanaparthy, Raigadda, Wanaparthy,
4. Sri. I. Vijaya Kumar, S/o. Hiralala Lala, Aged . 53 Years, Occ . Business, R/o. H.No.16-174/1, Bhramangari Vedi, Near Temple Arch, Ward No.12, Wanaparthy.
5. Smt. I. Kalpana, W/o. Sri. I. Vijaya Kumar, Aged . 40 Years, Occ . Housewife, R/o. H.No.16-174/1, Bhramangari Vedi. Near Temple Arch, Ward No.12, Wanaparthy.
6. The Margadarshi Chit Fund Pvt. Ltd, Clock Tower, Mahabubnagar Branch. Represented by its Branch Manager

...RESPONDENTS

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, order or direction more particularly one in the nature Writ of Mandamus declaring the action of the Respondent No.3 in not deleting the subject mortgage property i.e., all that house property bearing H.No.16-174/1, in Plot No.21/Part in Survey No.49, 50 and 51/A, admeasuring 70.0



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Sq.Yds, situated at Brahmangari Veedhi, Wanaparthi Town and District, from the prohibitory list as illegal, arbitrary and contrary to the provisions of Registration Act and violative of Article 14 of Constitution of India and consequently direct the Respondent No.3 delete the subject mortgage property i.e., all that house property bearing H.No.16-174/1, in Plot No.21/Part in Survey No.49, 50 and 51/A, admeasuring 70.0 Sq.Yds, situated at Brahmangari Veedhi, Wanaparthi Town and District, from the prohibitory list and registrar the sale deed in favour of the successful bidder forthwith pending disposal of the above Writ Petition.

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 Respondent No.3 to delete the subject mortgage property i.e., all that house property bearing H.No.16-174/1, in Plot No.21/Part in Survey No.49, 50 and 51/A, admeasuring 70.0 Sq.Yds, situated at Brahmangari Veedhi, Wanaparthi Town and District, from the prohibitory list and registrar the sale deed in favour of the successful bidder forthwith pending disposal of the above Writ Petition.

Counsel for the Petitioner: SRI VIKRAM RAGI

**Counsel for the Respondents No 1 To 3: AGP FOR STAMPS AND
REGISTRATION**

Counsel for the Respondents No 4 To 6: -----

The Court made the following: ORDER



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THE HON'BLE SRI JUSTICE K.SARATH

WRIT PETITION No.16004 of 2025

ORDER:

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Stamps and Registration appearing for the respondent Nos.1 to 3 and Sri P. Durga Prasad, learned counsel for the respondent No.6 and perused the material on record.

2. The personal notice sent to the respondent Nos.4 and 5 was returned with an endorsement that 'addressee left without instructions' and in view of the same, service of notice sent to the respondent Nos.4 and 5 deemed to be served.

3. Learned Counsel for the petitioner submits that the petitioner is questioning the action of the respondent No.3 in not deleting the subject mortgage property i.e., house property bearing H.No.16-174/1 in Plot No.21/Part in Sy.Nos.49, 50 and 51/A admeasuring 70.0 sq. yards situated at Brahmangari Veedhi, Wanaparthy Town and District from the prohibitory list



as illegal and arbitrary and consequently direct the respondent No.3 to delete the subject mortgage property from the prohibitory list and register the sale deed in favour of the successful bidder.

4. Learned counsel for the petitioner further submits that the respondent Nos.4 and 5 have obtained housing loan of an amount of Rs.12,50,000/- vide Customer ID:AP/HDB/MBNR/A000000129 Sanction Letter dated 30.04.2017 from the petitioner Company by mortgaging the subject house property of the respondent No.5 by way of registered Memorandum of Deposit of Title Deed vide Doc.No.6496/2017 dated 09.06.2017 registered in the office of the Sub-Registrar, Wanaparthy.

5. Learned counsel for the petitioner further submits that in view of default in payment, the petitioner-Company initiated proceedings under provisions of Section 14 of SARFAESI Act and took over the possession of the property and later the petitioner-Company brought the mortgaged property for auction by



way of paper publication mentioning the date of auction on 25.11.2024. As the subject property is reflected in prohibitory list of the Sub-Registrar, Wanaparthi, the interested buyers did not participate in the auction and withdrawn from auction. He further submits that the respondent No.6 filed ARB No.191/2021 before the Deputy Registrar of Chits/Arbitrator, Mahabubnagar against one Md. Chand Pash and others for claim of Rs.15,29,962/- and the Deputy Registrar of Chits/Arbitrator, Mahabubnagar, has passed order in I.A.No.19/2021 in ARB No.191 of 2021 attaching the subject mortgage property of the respondent No.5, who is the respondent No.6 in ARB No.191 of 2021, and directed the respondent No.3 to enter the same in EC DATA and pursuant the said orders, the subject mortgaged property was incorporated in the prohibitory list.

6. Learned counsel for the petitioner further submits that the action of respondent No.3 is contrary to the Orders passed by this Court in **City Union Bank**

Limited Vs Sub Registrar, Peddapalli and Ors.,¹ and the same is followed by another Division Bench of this Court in W.P.No.38125 of 2018 dated 14.10.2019 and requested to direct the respondent No.3 to register the sale deed to be issued in favour of the successful bidder.

7. On the other hand, learned Assistant Government Pleader for Stamps and Registration submits that as per the orders of the Deputy Registrar of Chits/Arbitrator, Mahabubnagar in I.A.No.19 of 2021 in ARB No.191 of 2021 dated 10.08.2021, the respondents herein have entered the subject property in prohibitory list and in view of the provisions of the Registration Act, 1908, the respondent No.3- The Sub-Registrar, Wanaparthy is not empowered to delete the subject property from the prohibitory list and requested to dismiss the writ petition.

8. Learned Counsel for the respondent No.6 has not disputed the orders passed by this Court in **City Union Bank Limited's** case (1 supra), but requested to direct

¹ 2018 (5) ALT 279



the petitioner, if after adjustment of the entire loan amount, any surplus money remains out of the auction sale proceeds, shall pay to the respondent No.6 and he relied on the order passed by a Division Bench of this Court in W.P.No.22518 of 2024 dated 12.12.2024.

9. After hearing both sides and perusing the material on record, this Court is of the considered view that there is no dispute with regard to the mortgage of the subject property by the respondent Nos.4 and 5 with the petitioner Company and in view of their default in payment of loan amount, the petitioner by following due procedure contemplated under SARFAESI Act brought the subject property for auction, however, as the property was incorporated in the prohibitory list, the interest buyers did not participate in the auction and withdrawn from the auction. Now the respondent No.3 refused to delete the subject property from the prohibitory list on the pretext of the attachment order in I.A.No.19 of 2021 in ARB No.191/2021 dated 10.08.2021 in favour of the respondent No.6. The



said contention of respondent No.3 is contrary to the Orders passed by this Court in **City Union Bank Limited Vs Sub Registrar, Peddapalli and Ors. (supra: 1).**

10. The relevant portion of the Judgment in **City Union Bank Limited Vs Sub Registrar, Peddapalli and Ors. (supra: 1)** is as follows:

"8. It is needless to observe that the civil Court has no jurisdiction to deal with subject matters pertaining to the SARFAESI Act. In the present scenario, the secured creditor was not a party to the civil suits before the Courts below and thus the orders of attachment before judgment are not binding on the secured creditor/Bank. More so, the cause of action before the Courts below is not within the ambit of SARFAESI Act.

10. Upon fair reading of S.O. 219 in the light of Section 64 of CPC, this Court is of the view that it only pertains to a civil dispute between the private parties and it does not include an institutional sale under a statute. Though Section 64 comes into play only after the alienation of the property under attachment amongst the private persons, the said legal position does not create an embargo upon the Registrar to proceed with the registration of sale certificates under the SARFAESI Act as the bank is not a party to the suit and the sale is not being effected by a party to the attachment order.

12. In similar circumstances, the Kerala High Court in The South Indian Bank Ltd. v. The Sub Registrar (3) WP (C) No. 3875 of 2017 dated 24.11.2016, considered the question whether a sale certificate is liable to be registered or not in view of the order of attachment before judgment passed by the civil Court and held that the secured creditor is entitled to proceed with the registration and the Registration



Authority cannot stall the process of registration under the garb of an order of attachment passed by the civil Court."

The above said finding of the Division Bench of this Court would squarely apply to the instant case and the Registration Authority cannot stall the process of registration of the petitioner-Company in view of the attachment orders.

11. The relevant portion in para Nos.3 and 4 of the order relied on by the learned counsel for the respondent No.6 in W.P.No.22518 of 2024 dated 12.12.2024 is extracted as under;

"3. Learned counsel for the parties jointly submit that the controversy involved in the instant petition is squarely covered by an order dated 19.12.2018 passed in W.P.No.44014 of 2018.

4. Relevant extract of the order dated 19.12.2018 passed in W.P.No.44014 of 2018 reads as under:

"7. Therefore, the writ petition is disposed of directing the Sub-Registrar to register the sale certificate. However, if after adjustment of the entire loan amount, any surplus money remains out of the auction sale proceeds, the Bank shall not pay it to the 7th respondent borrower but shall pay it to the 5th



respondent-company, after notice to the 7th respondent.

There will be no order as to costs."

12. In the instant case also, the petitioner-Company by following the provisions of SARFAESI Act took over the possession of the subject property and brought the same for auction. In view of the settled law, the respondent authorities have no power to refuse the registration of the sale certificate under SARFAESI Act on the ground of attachment orders of the Civil Court or other authorities for the same property. In view of the same, the Registering Authority has to delete the subject property from the prohibitory list for registration of the sale certificate to be issued by the petitioner Company in favour of the auction purchaser without reference to the attachment order in I.A.No.19 of 2021 in ARB No.191/2021 dated 10.08.2021 on the file of the Deputy Registrar of Chits/Arbitrator, Mahabubnagar.

13. In view of the above findings, the present writ petition is disposed of directing the respondent No.3-Sub-Registrar to register the sale certificate to be issued



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by the petitioner Company in favour of the auction purchaser as per the provisions of SARFAESI Act without reference to the attachment order in I.A.No.19 of 2021 in ARB No.191/2021 dated 10.08.2021 on the file of the Deputy Registrar of Chits/Arbitrator, Mahabubnagar. However, if after adjustment of the entire loan amount, any surplus money remains out of the auction sale proceeds, the Bank shall not pay it to the respondent Nos.4 and 5-borrowers , but shall pay it to the respondent No.6-Company, after notice to the respondent Nos.4 and 5. There shall be no order as to costs.

14. Miscellaneous petitions pending, if any, shall also stand closed.

SD/- K. BHAVANI SWAMY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary to Government, Revenue (Stamps and Registration) Department, State of Telangana, Dr. B.R. Ambedkar Secretariat, Hyderabad.
2. The District Registrar, Wanaparthy, IDOC, Wanaparthy Dist.
3. The Sub Registrar, Wanaparthy, Raigadda, Wanaparthy,
4. One CC to SRI. VIKRAM RAGI, Advocate [OPUC]
5. Two CCs to GP FOR STAMPS AND REGISTRATION ,High Court for the State of Telangana. [OUT]
6. Two CD Copies

DAN.

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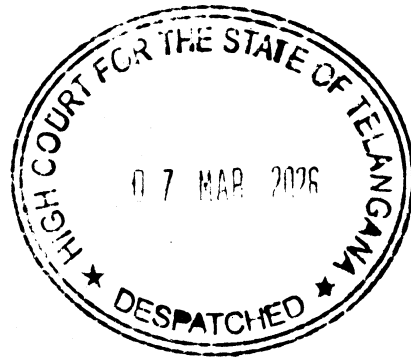
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HIGH COURT

DATED:14/11/2025

ORDER

WP.No.16004 of 2025



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

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