



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 11<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**WRIT PETITION NO.25833/2025 (GM-DRT)**

**C/W**

**WRIT PETITION NO.8224/2023 (GM-DRT) AND**

**WRIT PETITION NO.13365/2023 (GM-DRT)**

**IN WP NO.25833/2025**

**BETWEEN:**

1. M/S. P G SETTY CONSTRUCTIONS PVT. LTD.,  
A COMPANY REGISTERED UNDER THE  
PROVISIONS OF THE COMPANIES ACT  
AND ALSO REGISTERED AS MSME  
UNDER THE MSME ACT  
OFFICE AT NO.74, SANDESH ARCADE  
3<sup>RD</sup> FLOOR, SAUKAR CHANNAIAH ROAD  
KUVEMPU NAGAR  
MYSURU - 570 023  
REP. BY ITS MANAGING DIRECTOR.
2. M/S. P.G. SETTY HABITAT SYSTEM  
INDIA PVT. LTD.,  
A COMPANY REGISTERED UNDER THE  
PROVISIONS OF THE COMPANIES ACT  
OFFICE AT:NO.1056, KAVITHA VILAS  
M.G.ROAD, CHAMARAJAPURAM  
MYSURU- 570 005  
REP. BY ITS MANAGING DIRECTOR.
3. SRI. M.G. SOMASHEKAR  
S/O P. GOPALA SETTY  
AGED ABOUT 60 YEARS  
R/AT NO.57, 9<sup>TH</sup> MAIN  
'F' BLOCK, J.P NAGAR  
MYSURU - 570 008.



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

4. SMT. SANDHYA RANI N K  
W/O M.G. SOMASHEKAR  
AGED ABOUT 58 YEARS  
R/AT NO. 57, 9<sup>TH</sup> MAIN  
'F' BLOCK, J.P NAGAR  
MYSURU - 570 008.
5. SMT. BHAVYA SETTY  
D/O M.G. SOMASHEKAR  
AGED ABOUT 38 YEARS  
R/AT NO.57, 9<sup>TH</sup> MAIN  
'F' BLOCK, J.P NAGAR  
MYSURU -570 008.
6. SMT. M.G. ASHA  
W/O S. DIWAKAR  
AGED ABOUT 55 YEARS  
R/AT NO.12, 5<sup>TH</sup> BLOCK  
SHIVASHAKTHI ROAD  
SHAKTHI NAGAR  
MYSURU- 570008.
7. SMT. M.G. MEENA  
W/O H.V. VISHWANATH  
AGED ABOUT 52 YEARS  
R/AT NO.265, SWARNADRI 1<sup>ST</sup> MAIN  
3<sup>RD</sup> CROSS, VIDYATH NAGAR  
HASSAN- 571 203.

...PETITIONERS

(BY SRI. D.R. RAVISHANKAR, SR. COUNSEL FOR  
SRI GIRISH KUMAR B.M., ADVOCATE)

**AND:**

1. CANARA BANK  
ARM-II BRANCH  
AT: 2<sup>ND</sup> FLOOR, CIRCLE OFFICE,  
NO.86, SPENCER TOWERS,  
M.G. ROAD, BENGALURU-560001  
REP. BY ITS CHIEF MANAGER.
2. THE SENIOR MANAGER  
CANARA BANK,



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

NO.442, 6<sup>TH</sup> MAIN  
VIJAYANAGAR I STAGE,  
MYSURU - 570017.

...RESPONDENTS

(BY SRI. VINAY SWAMY C., ADVOCATE)

THIS PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO (A) DECLARE THAT THE CLASSIFICATION OF THE LOAN ACCOUNTS OF THE PETITIONERS AS NPA AS BAD, ILLEGAL AND CONTRARY TO LAW; (B) DECLARE THAT THE PETITIONERS ARE ENTITLED TO THE BENEFITS UNDER THE INSTRUCTIONS FOR FRAMEWORK FOR REVIVAL AND REHABILITATION OF MSMES ISSUED VIDE THE NOTIFICATION DATED 29<sup>TH</sup> MAY, 2015 BY THE MINISTRY FOR MSME, GOVERNMENT OF INDIA VIDE ANNEXURE-W AND ETC.

**IN WP NO.8224/2023**

**BETWEEN:**

1. M/S. P G SETTY CONSTRUCTION  
TECHNOLOGY PVT. LTD.,  
NO.74 SANDESH ARCADE,  
SAUKAR CHENNAIAH ROAD  
17<sup>TH</sup> MAIN, KUVEMPUNAGAR  
NORTH, SARASWATHIPURAM  
MYSORE -570009  
REPRESENTED BY ITS  
AUTHORISED SIGNATORY  
M G SOMASHEKAR.
2. SRI M G SOMASHEKAR  
S/O LATE P GOPAL SHETTY,  
AGE 59 YEARS,
3. SMT. SANDHYA RANI  
W/O SRI M G SOMASHEKAR  
AGE 58 YEARS,
4. MS. BHAVYA SHETTY  
D/O M G SOMASHEKAR



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

AGE 35 YEARS,

PETITIONERS NO.2 TO 4 ARE  
R/AT NO.57, 9<sup>TH</sup> MAIN,  
F BLOCK, J P NAGAR  
MYSURU-570008.

...PETITIONERS

(BY SRI. GOWRISHANKAR S., ADVOCATE)

**AND:**

1. CANARA BANK  
MID CORPORATE BRANCH,  
MYSORE,  
NO.442, 6<sup>TH</sup> MAIN  
VIJAYANAGAR 1<sup>ST</sup> STAGE  
MYSURU-570017  
REP. BY AUTHORISED OFFICER.
2. MS. BHAVYA SHETTY  
D/O M G SOMASHEKAR  
AGE 35 YEARS,  
NO.57, 9<sup>TH</sup> MAIN, F BLOCK  
J P NAGAR  
MYSURU- 570008.
3. SMT. ASHA W/O DIWAKAR,  
AGE 55 YEARS,  
NO 12, 5<sup>TH</sup> BLOCK  
SHIVASHAKTHI ROAD,  
SHAKTHI NAGAR,  
MYSORE-570008.
4. SMT. MEENA  
W/O H V VISHWANATH,  
AGE 53 YEARS  
NO.265, SWARNADRI 1<sup>ST</sup> MAIN  
3<sup>RD</sup> CROSS, VIDYUTH NAGAR  
HASSAN-571203.

...RESPONDENTS

(BY SRI. VIGNESH SHETTY, ADVOCATE FOR R1  
R3 IS SERVED)



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTING THE RESPONDENT BANK TO RESTRUCTURE THE LOAN ACCOUNT VIDE REF PGS/A AND F/22-23/956 DATED 5.12.2022 AS PER ANNEXURE-J AND QUASH THE POSSESSION NOTICE DATED 08.03.2023 PUBLISHED IN KANNADA PRABHA AS PER ANNEXURE-N.

**IN WP NO.13365/2023**

**BETWEEN:**

1. M/S. P G SETTY CONSTRUCTION  
TECHNOLOGY PVT. LTD.,  
(CERTIFICATE OF IN CORPORATION)  
NO.74, SANDESH ARCADE,  
SAUKAR CHENNAIAH ROAD,  
17<sup>TH</sup> MAIN, KUVEMPUNAGAR NORTH,  
SARASWATHIPURAM  
MYSORE - 570009  
REP. BY ITS AUTHORISED SIGNATORY/  
MANAGING DIRECTOR  
M.G. SOMASHEKAR  
S/O LATE P. GOPAL SHETTY  
AGED 59 YEARS.
2. SRI. M G SOMASHEKAR  
S/O LATE P. GOPAL SHETTY  
AGED 59 YEARS  
R/AT NO.57, 9<sup>TH</sup> MAIN F BLOCK,  
J P NAGAR  
MYSURU - 570008.

...PETITIONERS

(BY SRI. R CHANNAKESHA, ADVOCATE)

**AND:**

1. CANARA BANK  
MID CORPORATE BRANCH,  
MYSORE,  
NO.442, 6<sup>TH</sup> MAIN,  
VIJAYANAGAR, 1<sup>ST</sup> STAGE,



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

MYSURU - 570017  
REP. BY AUTHORISED OFFICER/  
SR. MANAGER

2. SMT. SANDHYA RANI  
W/O SRI. M G SOMASHEKAR  
AGED 58 YEARS

3. MS. BHAVYA SHETTY  
D/O M G SOMASHEKAR  
AGED 35 YEARS

ALL ARE R/AT NO.57,  
9<sup>TH</sup> MAIN F BLOCK  
J P NAGAR  
MYSURU - 570008.

4. SMT. ASHA W/O DIWAKAR  
AGE 55 YEARS  
NO.12, 5<sup>TH</sup> BLOCK  
SHIVASHAKTHI ROAD  
SHAKTHI NAGAR  
MYSORE-570008.

5. SMT. MEENA  
W/O H V VISHWANATH  
AGED 53 YEARS  
NO.265, SWARNADRI 1<sup>ST</sup> MAIN  
3<sup>RD</sup> CROSS, VIDYUTH NAGAR  
HASSAN - 571203.

6. P.G. SETTEE HABITAT SYSTEM PVT. LTD.,  
O/AT NO.74, SANDESH ARCADE  
SAUKAR CHENNAIAH ROAD  
17<sup>TH</sup> MAIN, KUVEMPUNAGAR NORTH  
SARASWATHIPURAM  
MYSURU - 570009  
REP. BY ITS AUTHORISED SIGNATORY  
MANAGING DIRECTOR.

...RESPONDENTS

(BY SRI. VIGNESH SHETTY, ADVOCATE FOR R1  
R4 AND R6 ARE SERVED)



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

THIS PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 22/06/2023 PASSED BY I ADDL. SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE, MYSURU IN C.MISC NO. 192/2023 AT ANNEXURE-P AND TO AWARD THE COSTS OF THIS PETITION.

THESE PETITIONS, COMING ON FOR HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

### **ORAL ORDER**

The writ petitioner has filed three writ petitions i.e., WP.Nos.8224/2023, 25833/2025 and 13365/2023. All these writ petitions are by the same petitioner against same respondent, this court is disposing the three writ petitions by way of common orders.

2. WP.No.8224/2023 is filed seeking the following relief:

***"WHEREFORE, the Petitioner pray that this Hon'ble Court be pleased to:***

***i. Issue a writ of Mandamus directing the Respondent Bank to Restructure the loan account vide Ref:PGS/A&F/22-23/956 dated 5.12.22 as per ANNEXURE-J.***

***ii. Issue a writ of Certiorari i.e., to Quash the Possession Notice dated 8.3.2023 Published in Kannada Prabha as per ANNEXURE-N.***

***iii. To award the costs of this Petition; and  
iv. To pass such other order or orders, as this Hon'ble court deems fit to grant in the circumstances of the case in the interest of justice and equity."***



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

3. WP.No.13365/2023 is filed seeking the following prayer:

***"WHEREFORE, the Petitioner pray that this Hon'ble court be pleased to***

***i). Issue a writ of Certiorari i.e., to Quash the orders dated 22.6.2023 passed by I Additional Senior Civil Judge and Chief Judicial Magistrate, Mysuru in C.Misc No.192/2023 at Annexure-P.***

***ii) To award the costs of this Petition; and***

***iii) To pass such other order or orders, as this Hon'ble court deems fit to grant in the circumstances of the case in the interest of justice and equity."***

4. WP.No.25833/2025 is filed seeking the following prayer:

***"WHEREFORE, the Petitioners most humbly and respectfully prays that this Hon'ble Court may be pleased to:***

***(a) Declare that the classification of the loan accounts of the Petitioners as NPA as bad, illegal and contrary to law;***

***(b) Declare that the Petitioners are entitled to the benefits under the Instructions for Framework for Revival and Rehabilitation of MSMEs issued vide the Notification dated 29th May, 2015 by the Ministry for MSME, Government of India vide Annexure - W;***

***(c) Issue a Writ in the nature of Certiorari or any other Writ setting aside the Order dated 22.07.2025 passed in Crl.Misc No. 87/2025 passed by the Senior Civil Judge & CJM, Kodagu, at Madikeri vide Annexure - A;***

***(d) Issue a Writ in the nature of Certiorari or any other Writ quashing the Demand Notice dated 12.12.2022 bearing No.4966/MCB/PGS/DN/2022-23 vide Annexure - B and Possession Notice dated 08.03.2023 bearing No. 4966/MCB/PGS/PN/2022-23 issued by the Respondents vide Annexure C as bad, arbitrary and contrary to law;***



**NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023**

***(e) Consequently, direct the Respondents to withdraw all actions/decisions taken pursuant to the passing of the Order at Annexure - A, B and C;***

***(f) Pass such other order as this Hon'ble Court deems fit to grant, in the facts and circumstances of the case."***

5. WP.No.8224/2023 is filed by the petitioners seeking a direction to the respondent/Bank to restructure the loan account and to quash the Possession Notice dated 08.03.2023. In the said writ petition, petitioner No.1 is a company established under the Companies Act. The company is engaged in the business of construction and is associated with respondent No.1/Bank for over a period of 50 years routing all their transactions through the accounts maintained at respondent No.1/Bank. Petitioner No.1 is a company doing the business since 50 years and more than 100 employees are depending directly on the company for their livelihood and more than 200 members are indirectly dependent on the business of petitioner No.1 for their livelihood. It is stated that petitioner No.1 during the course of their business had availed the credit facilities from respondent No.1/Bank to an extent of Rs.31,41,00,000/- including Rs.8,00,00,000/- as Bank guarantee limit from respondent No.1/Bank and now they are



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

due to the extent of Rs.27,52,67,725/-. Petitioner No.1 have utilized to the extent of Rs.6,28,87,560/- from the Bank Guarantee and an amount of Rs.1,30,15,391.62/- and Rs.2,62,80,254.00/- from the Government Emergency Credit Line.

6. It is stated that they were punctual in servicing the loan accounts and their commitment towards repayment of outstanding dues to the Bank up to the year 2021 which is evident from the fact that petitioner No.1 company during the course of past 10 years has paid about Rs.21 crores by way of interest and other charges towards the loan facilities. It is stated that they are in constant touch with respondent No.1/ Bank for restructuring the loan account from the beginning of 2022. They are paying the installment amounts with great difficulties. On 19.05.2022, they approached respondent No.1 for enhancement of Overdraft facility to the extent of Rs.3.5 crores, but respondent No.1 has not enhanced the Overdraft facility and also reduced the Bank guarantee from Rs.15 crores to Rs.8 crores.



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

7. Again on 05.12.2022, they approached the Bank for restructuring the loan account. The petitioners have instituted four suits for recovery of the final dues for the projects undertaken from the State Government to the tune of Rs.19.08 crores and they are pending for adjudication before several courts. It is stated that the Bank without giving an opportunity of restructuring the loan have taken the drastic steps for recovery and classified the loan account as non performing assets and issued Demand Notice. In support of the grounds, it is stated that the act of respondent No.1/Bank is in violation of the principles of natural justice. It is stated that respondent No.1/ Bank has violated the statutory provisions, as per the law declared by the Hon'ble Supreme Court of India in the Judgment reported in 2007 AIR SCW 1533. It is stated that they are ready to compromise the case and ready to restructure the loan account as per the guidelines of the RBI.

8. In this case, no interim order is passed. In WP.No.13365/2023, the relief sought by the petitioner is to quash the order dated 22.06.2023 passed by the I Additional Senior Civil Judge and Chief Judicial Magistrate, Mysore in C.Misc.No.192/2003. Under Section 14 of the Securitisation and



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act'). In this writ petition also, the petitioners has stated the same facts and raised the same grounds as raised in WP.No.8224/2023 which is referred in the preceeding paragraphs.

9. In this case, an interim order was passed by a Co-ordinate Bench of this Court on 28.06.2023 which reads thus:

***"Issue Emergent Notice.***

***Stay of impugned order till next date of hearing, subject to petitioners depositing with the respondent-Bank, a sum of Rs.9,00,00,000/- (Rupees Nine Crore) only, as under:***

***(i) Rs.3,00,00,000/- (Rupees Three Crore) only, within two weeks,***

***(ii) Rs.3,00,00,000/- (Rupees Three Crore) only, within next two weeks,***

***(iii) Rs.3,00,00,000/- (Rupees Three Crore) only, in the two weeks next following,***

***failing which not only the interim order stands rescinded on its own but it will cast its shadow on the merits of the main matter too."***

10. The petitioner has not complied with the interim order dated 28.06.2023. Thereafter, the petitioners had filed WP.No.25833/2025. In this writ petition, the petitioner for the



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

first time has raised the ground that the petitioner is an MSME and the Bank has failed to follow the procedure while declaring the account as NPA and it is contrary to several judgments of the Hon'ble Apex Court and the same needs to be set aside. In this case, the relief that is sought is to declare that the classification of the loan accounts of the petitioners as NPA as bad, illegal and contrary to law, to declare that the petitioners are entitled to the benefits under the Instructions for Framework for Revival and Rehabilitation of MSMEs issued vide the Notification dated 29<sup>th</sup> May 2015, to set aside the order dated 22.07.2025 passed in Crl.Misc.No.87/2025 passed by the Senior Civil Judge & CJM, Kodagu, at Madikeri and to quash the Demand Notice dated 12.12.2022. Consequently, direct the respondents to withdraw all actions/decisions taken pursuant to the passing of the order.

11. In this writ petition, the petitioners have stated that the Bank has declared the account of the petitioner No.1 as NPA on 29.11.2022. It is stated that in order to overcome its obligations to realign and restructure the accounts in order to revive MSME, appears to have issued Demand Notice on 12.12.2022 under Section 13(2) of the SARFAESI Act stating



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

that allegedly the accounts were classified as NPA on 29.11.2022. This shows the highhandedness of the Bank. All the proceedings that are initiated under the SARFAESI Act are contrary to the guidelines issued by the RBI and the law laid down by the Hon'ble Apex Court from time to time.

12. It is further stated that, petitioner No.1 is an MSME and the respondent/Bank could not have classified the loan accounts of petitioner No.1 as NPA. It is stated that the Bank has filed O.A.No.1222/2023 before the DRT-II, Bangalore against the petitioners which is pending consideration. Further, in relation to one of the sale notices issued by the respondent/Bank, the petitioners have filed S.A.No.253/2025, wherein the confirmation of the sale is stayed by the DRT, subject to the remittance of an amount of Rs.2 crores with the respondent. It is stated that the petitioner had filed WP.No.13365/2023 challenging the order passed in Crl.Misc.No.192/2023 which is pending consideration before this Court and in the said petition, a conditional order of stay was passed which has automatically been rescinded as petitioner No.1 could not pay the money as it is in severe financial constraints, its accounts were blocked and the source



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

of financial income was curtailed. It is stated that the Bank has issued Sale Notice dated 27.05.2025, 03.06.2025, 25.06.2025 and 24.07.2025. It is stated that the petitioner gave a representation on 13.08.2025 expressing its intentions to settle the claim through OTS and it was brought to the notice of the Bank about non-compliance of the Notification dated 29.05.2015 and to reconsider its action. It is the case of the petitioners that the entire proceedings that are initiated under the SARFAESI Act are bad.

13. Learned counsel appearing for the petitioners has argued in line with the pleadings that are discussed in the preceding paragraphs and has drawn the attention of this Court to the judgment of the Hon'ble Apex Court in case of ***M/s. Pro Knits Vs. The Board Of Directors Of Canara Bank & Others***<sup>1</sup> and submits that following the framework is mandatory and the Bank ought to have followed the proceedings before classifying the account of MSME as the petitioner NPA. It is submitted that in the present case, the respondent No.1/Bank has not exercised and followed the framework as mandated. Hence, the entire action of the

---

<sup>1</sup> (2024) 10 SCC 292



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

respondent/Bank in initiating the proceedings under the SARFAESI Act is arbitrary and illegal. The Magistrate without even verifying the documents produced by the respondent/Bank and without assigning any reasons has mechanically allowed the petition filed by the Bank and hence, the proceedings under Section 14 of the SARFAESI Act have to be set aside. It is argued that the respondent/Bank has infringed the canons of natural justice besides circumventing the guidelines and directives of the RBI under law laid down by the Hon'ble Apex Court.

14. The respondent No.1/Bank has filed its objections. In the objections, it is stated that earlier, the petitioners had filed SA.No.253/2025 challenging the Sale Notice dated 24.07.2025 before DRT II Bangalore. The DRT had granted interim order of stay on confirmation of sale till 28.08.2025 on condition of deposition of the amount. They came to know that one of the scheduled properties is successfully sold, without complying with the interim order passed in SA.No.253/2025. There after petitioners have come before this Court and filed this instant writ petition and obtained stay of all further proceedings. In the SA that is filed before the DRT, they have raised all the grounds



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

of MSME. It is stated that the petitioners are approaching, different forums, by filing different writ petitions and seeking interim orders and after the interim orders are granted, they are not complying with the same. It is submitted that both in SA.No.253/2025 as well as in WP.No.13365/2023. Interim order is passed directing to pay an amount of Rs.9 crores, without complying with the said orders, they are filing the writ petitions one after the other. It is submitted that it is a pure abuse of process of law. It is also stated that the petitioner's account was declared as NPA on 12.12.2022. Immediately after that they have filed WP.No.8224/2023 seeking for restructuring of their account. The respondent/Bank has entered appearance and filed their objections with proof that the accounts of the petitioners were restructured on 26.06.2021.

15. Thereafter, WP.No.13365/2023 was filed on 24.06.2023 challenging Section 14 order and that interim order is also not complied with. Further, it is stated that they have not raised the plea of it being MSME and its entitlement to the benefits of MSME in any of their earlier writ petitions or the letters to the Bank though they have registered themselves as MSME in 2021. It is stated that it is the duty of the MSME to



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

approach the Bank with verifiable documents along with affidavits by authorized official of the MSME to avail the benefit of the same. It is stated that the Hon'ble Apex Court in ***Celir LLP Vs. Sumathi Prasad*** and in ***Sanjay Sharma Vs. Kotak Mahindra*** has clearly held that once the sale takes place, it cannot be set aside or stalled unnecessarily without any material irregularities. Though the petitioners have filed three writ petitions, they have failed to point out any irregularities in the recovery proceedings. It is further submitted that when Notice under Section 13(2) of the SARFAESI Act is issued, the petitioners have never replied to the same.

16. Learned counsel appearing for respondent No.1/Bank had reiterated the stand that is taken in the objections. Relying on the judgment of the Hon'ble Apex Court in ***United Bank of India Vs. Satyawati Tondon & ors***<sup>2</sup> and ***Celir LLP VS. Bafna Motors (Mumbai) Pvt Ltd & ors***<sup>3</sup> submits that when the petition has an efficacious alternative remedy, when they have already availed the said remedy, they cannot come before this Court by filing the writ petition. As already a Sale Notice was challenged before the DRT and has obtained an interim

---

<sup>2</sup> (2010) 8 SCC 110

<sup>3</sup> (2024) 2 SCC 1



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

order, having raised all these issues, it is not open for the petitioners to come before this Court. It is submitted that it is nothing but forum shopping and pure abuse of process of law. The outstanding amount is running into crores of Rupees.

17. In response to the argument of the learned counsel for respondent No.1/Bank, learned Senior counsel appearing for the petitioner submits that question of bringing to the notice of the Bank about the MSME is not required and in fact it is registered as an MSME in the year 2021 itself. Hence, this ground is not available to the Bank.

18. Having heard the learned Senior counsel for the petitioners and the learned counsel appearing for respondent No.1/Bank, perused the entire material on record. The petitioner's account is declared as NPA way back in the year 2022. Thereafter, he has filed two writ petitions before this Court i.e., WP.No.13365/2023 and WP.No.8224/2023. In both the writ petitions, petitioners have only stated about the financial difficulties that are faced by the petitioners and what are the repercussions of these proceedings that are initiated by the Bank against the petitioners. Except that, he has not taken



**NC: 2025:KHC:53317**  
**WP No. 25833 of 2025**  
**C/W WP No. 8224 of 2023**  
**WP No. 13365 of 2023**

any other ground. In fact, when the Notice under Section 13(2) of the SARFAESI Act was issued to the petitioners, the petitioners have not issued reply to the same and in the earlier rounds of litigation, they have not raised the plea of MSME and they kept quiet. When a Sale Notice was issued, he went before the DRT and obtained an interim order and that order was not complied with. Even in WP.No.13365/2023, an interim order was granted which was not complied with. Then WP.No.25833/2025 is filed and in that also interim order was passed. In the writ petitions, very cleverly, the petitioners have stated about filing of the SA before the DRT but they never stated about the interim order that is granted by the DRT and about the ground of MSME that is raised before the DRT. The conduct of the petitioners right from the first writ petition to the subsequent petitions appears to be that the petitioners wants to drag on the proceedings on one ground or the other.

19. Even assuming that there is an illegality in the proceedings initiated by the Bank, still all these grounds can be raised before the DRT which the petitioners have already done by filing the SA where the Sale Notice was questioned. After filing that, why they have again come before this Court by filing



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

this writ petition is not known. The Hon'ble Apex Court has time and again laid down the law with regard to the scope of interference by this Court in the proceedings initiated under the SARFAESI Act. The Hon'ble Apex Court in case of ***Phr Invent Educational Society Vs. Uco Bank and Others***<sup>4</sup> arising out of ***SLP(C) No.8867/2022 dated 10.04.2024*** had categorically observed about the power of the High Court under Article 226 of the Constitution in SARFAESI proceedings. Paragraph No.29 of the order reads as follows:

***"29. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:***

***(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;***

***(ii) it has acted in defiance of the fundamental principles of judicial procedure;***

***(iii) it has resorted to invoke the provisions which are repealed; and***

***(iv) when an order has been passed in total violation of the principles of natural justice."***

20. In the light of the judgment of the Hon'ble Apex Court and considering the conduct of the petitioners who is approaching different forums by filing different petitions, this is

---

<sup>4</sup> 2024 INSC 297



NC: 2025:KHC:53317  
WP No. 25833 of 2025  
C/W WP No. 8224 of 2023  
WP No. 13365 of 2023

not a case where this Court has to exercise the jurisdiction under Article 226 of the Constitution of India. The petitioners having already approached the DRT is at liberty to prosecute the pending SA. In the light of the settled law, this Court cannot entertain these writ petitions. Hence, this Court deems it appropriate to pass the following:

**ORDER**

- i. Accordingly, WP.Nos.8224/2023, 13365/2023 and 25833/2025 are ***dismissed.***
- ii. All I.As if any, in these petitions shall stand closed.

SD/-  
**(LALITHA KANNEGANTI)**  
**JUDGE**

MEG  
CT:bms  
List No.: 1 Sl No.: 65