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APHC010076542025



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

[3545]

FRIDAY, THE 10th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT PETITION NO: 3973/2025

Between:

1.M/s.BHEEM ECO BUILD TECH, REP. BY ITS PROPRIETOR,
 SMT.POLLA NAGA SUDHA RANI, W/O. POLLA AMAR, AGED ABOUT
 35 YEARS, OCC:Business, O/o. R.S. NO. 514 AND 515, TURLAPADU
 VILLAGE, CHANDARLAPADU MANDAL, KRISHNA DISTRICT, NOW
 NTR DISTRICT, A.P., PIN 521183

...PETITIONER

AND

1.UNION OF INDIA, REP. BY ITS SECRETARY, DEPARTMENT OF
 FINANCE AND PLANNING, SECRETARIAT, NEW DELHI, INDIA.

2.CANARA BANK, HEAD OFFICE, REP. BY ITS EXECUTIVE
 DIRECTOR, 112, J.C. ROAD, BANGIORE-560002, KARNATAKA
 STATE.

3.CANARA BANK, CIRCLE OFFICE, REP. BY ITS DIVISIONAL
 MANAGER, SRINIVASAILAGAR BANK COLONY, VIJAYAWADA,
 KRISHNA DISTRICT, NOW NTR DISTRICT, A.P.

4.CANARA BANK, REP. BY ITS SENIOR MANAGER, JAGGAYYAPET
 BRANCH, JAGGAYYAPET, KRISHNA DISTRICT, NOW NTR
 DISTRICT, A.P.

5.SRI VATTIKUNTA SAMBASIVA RAO, S/O. SURYANARAYANA, AGED
 ABOUT 69 YEARS, OCC BUSINESS, R/O. KOMMINENI ESTATES,
 NEAR GANDHI STATUE, KORITEPADU VILLAGE, GUNTUR-522007,
 GUNTUR DISTRICT, A.P.

...RESPONDENT(S):

Counsel for the Petitioner:

1.M KISHORE BABU

Counsel for the Respondent(S):

1.AISHWARYA NAGULA

2.Pasala Ponna Rao, DEPUTY SOLICITOR GENERAL OF INDIA

3.T B L MURTHY

The Court made the following:

**THE HONOURABLE SRI JUSTICE BATTU DEVANAND
AND
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA**

W. P. No.3973 of 2025

ORDER: *(Per Hon'ble Sri Justice A. Hari Haranadha Sarma)*

Introductory:-

This Writ Petition is filed with a prayer to issue an order or direction, preferably in the nature of Writ of Mandamus, declaring the action of the respondent-Bank in issuing the letter, dated 29.01.2025 and trying to sell or shift by dismantling the Non-hypothecated Machinery etc., items belonging to the petitioner, pending S.A. proceedings vide application Reference No. 5604963017, dated 29.01.2025 before the Debts Recovery Tribunal (DRT), Visakhapatnam, A.P., , without considering representation of the petitioner, dated 07.02.2025 as illegal, arbitrary, unconstitutional and also violative of provisions of SARFAESI Act and Rules, and consequently, direct the respondent-Bank not to Sell or shift by dismantling the Non-hypothecated Machinery and etc., items, belonging to the petitioner.

Case of the petitioner:-

2. [i] The petitioner is Proprietor of M/s.Bheem Eco Build Tech., Turlapadu Village, Chandarlapadu Mandal, NTR District., A.P., and absolute owner of the subject property i.e., land admeasuring 8905.60 Sq. Yds. along with shed and machinery, in Survey Nos. 514 and 515 situated at Turlapadu

Village. The petitioner availed (3) loans vide MSME Loan Account No. 3973201000070, dated 25.03.2017 i.e.. (1) Rs. 1.25 Crores, (2) Rs. 20 Lakhs and (3) Rs.20 Lakhs, in total Rs.1.65 Crores from the 4th respondent Bank.

(ii) All of sudden, MSME loan account of the writ petitioner was treated as NPA and possession Notice, dated 11.01.2024 was issued and E-Auction Sale Notice, dated 28.03.2024 was served to the petitioner, fixing the value of the immovable properties at Rs.66,59,044/- as against actual value of more than Rs.5 Crores.

(iii) The petitioner paid more than Rs.2 Crores by way of instalments to the 4th Respondent Bank, there is outstanding amount of Rs.66,59,044/- as on 29.04.2024. She requested for regularising her account by submitting a letter dated 22.01.2024 to the 4th respondent Bank. She has also made a representation, dated 23.04.2024 indicating the Market Value of the property as Rs.5 Crores, and the Card Value is Rs.2,08,59,980/- without machinery cost, but the Bank has proceeded to fix the Reserve Price is Rs.1,14,25,000/-, which is very low.

(iv) The 5th (un-official) respondent was declared as successful bidder. The circular instructions of the Bank are that the employees of the Bank or panel advocates of the bank, even ex-employees cannot participate in the E-auction, whereas the 5th respondent is an ex- employee of the bank, debarred from participating in the auction. The representation of the petitioner

was not considered by the 4th respondent and the machinery value is more than Rs.42,00,000/-.

(v) The 4th respondent issued a letter dated 29.01.2025 received on 30.02.2025 proposing to sell or shift by dismantling the non-hypothecated Machinery etc., without considering representation of the petitioner. Hence, constrained to file the present Writ Petition.

3. Respondent No.1 is a proforma party.

Contention of the respondents 2 to 4:-

4. [i] The loans availed by the petitioner are as follows:

<u>Sl. No.</u>	<u>Loan A/c</u>	<u>Nature of loan/limit</u>	<u>Loan amount</u>
1	3973766000001	MSME-TL	Rs.1,25,00,000.00
2	3973746000002	MSME-TL	Rs.20,00,000.00
3.	3973755000244	MSME-TL	Rs.20,00,000.00
4	3973603000033	CANARA VEHICLE	Rs.6,65,000.00

[ii] The accounts were irregular since 11.08.2022, hence, slipped into NPA. Demand Notice dated 15.09.2023, possession Notice, dated 11.01.2024 and thereafter, a Sale Notice dated 28.03.2024 were issued. Sale Certificate 27.05.2024 was issued to the successful bidder-Sri Vattikunta Sambasiva Rao, [respondent No.5] on payment of the entire amount. An amount of Rs.35 lakhs was adjusted towards the borrower's accounts. A letter was addressed to the writ petitioner to collect his non-hypothecated goods, machinery etc., but the petitioner did not collect the same.

[iii] Writ petitioner submitted a letter informing that movable property situated in the Factory premises were also sold to Vattikunta Sambasiva Rao on 27.05.2024 and received an amount of Rs.5,00,000/- in full and final settlement stating she has no claim over the movable property. The petitioner also submitted a letter to the auction Purchaser which was executed on Non-Judicial Stamp Paper worth Rs. 100/- duly attested by Notary.

[iv] Subsequently, the successful bidder submitted a letter dated 01.09.2024 to the bank, informing that the Agreement made between him and the borrower for purchasing the movable property was cancelled and requested the bank to remove the machinery and movable items lying in the Unit and hand over the physical possession.

[v] The Branch has written a letter dated 29.01.2025 to the petitioner requesting her to remove the un-hypothecated machinery and movable items, otherwise the Bank will shift/sell the machinery by conducting a Panchanama and adjust the sale amount to the credit of loan account and towards the charges incurred by the Bank.

[vi] The 4th respondent – Bank had credited the surplus amount of Rs.42,47,000/- on 28.05.2024 into the account of the petitioner. Out of the said surplus amount, an amount of Rs.32,40,000/- was debited on 01.06.2024 and utilized by the petitioner (*amount transferred to the account of the husband of the proprietor of the Petitioner*) without any objection, which clearly establishes that the petitioner had accepted the sale of immovable property to

the respondent No.5. It is also submitted by the Bank that the petitioner has submitted a written, stamped and notarized declaration dated 27.05.2024 for handing over the premises along with movables situated in the premises. Hence, the present Writ Petition is liable to be dismissed.

[viii] Further, the S.A. referred by the petitioner, is un-numbered and un-admitted by the DRT is contrary to the notarized and stamped affidavit dated 27.05.2024 of the petitioner. The petitioner is duty bound to collect his non-hypothecated goods and machinery. Therefore, prayed that petition is liable to be dismissed.

Contention of the respondent No.5:-

5. The contention of the respondent No.5 is that sale consideration was parted with the Bank, which was adjusted towards the loan dues, and possession of the subject property was handed over to the respondent No.5. In respect of the objection raised by the registering authorities in refusing to register the subject property, respondent No.5 has filed the Writ Petition Nos.14184 of 2024, in which the petitioner has filed an application for impleadment for impleading himself. The petitioner has also filed another Writ Petition i.e., W.P.No.18523 of 2024 and the same was disposed of, observing that the petitioner does have remedy before the DRT, which can be availed by him.

Rejoinder of the Writ Petitioner:-

6. The writ petitioner in the rejoinder did not state anything new except admitting the sale conducted and the letter issued by the Bank for removal of un-hypothecated machinery and submission of a declaration on non-judicial stamp paper attested by a Notary.

7. Heard both sides extensively.

8. Perused the record.

Analysis:-

9. From the above written and oral contentions, the following aspects are clear:-

- (i) The writ petitioner is the borrower.
- (ii) The loan account of the writ petitioner was declared as a Non-Performing Asset (NPA).
- (iii) Proceedings under the provisions of the SARFAESI Act were initiated for enforcement of sale etc., of the secured property.
- (iv) The writ petitioner has earlier moved this Court by way of Writ Petition No.18523 of 2024 and the same were disposed of, observing that the petitioner has alternative remedy.
- (v) There was movable property (un-auctioned) available in the premises and between the borrower and the auction purchaser there was a dealing and the same could not be materialised.

(vi) The Bank advised the borrower/writ petitioner to remove the unhypothecated movable property from the premises, putting an alternative that the same will be removed or sold, and the sale proceeds will be adjusted towards charges etc., and thereafter, balance will be credited to the account.

(vii) The petitioner could have taken away his un-hypothecated movables as advised.

(viii) The petitioner is referring to un-numbered S.A., filed before the DRT. This suggests that the petitioner is aware of alternative remedy.

10. From the above factual position, it is evident that an alternative remedy is available and the petitioner has even opted the same and that the petitioner had sufficient opportunity to ventilate his case in proper forum. With regard to the scope of interference in the matters pertaining to the SARFAESI Act, the Hon'ble Apex Court in **PHR Invent Educational Society v. UCO Bank**¹, while deciding an appeal challenging the orders passed by the Division Bench of the High Court of Telangana in a writ petition, exhaustively considered various several judgments from paragraph 22 onwards. In para 41 of the judgment of the Hon'ble Apex Court, observed as follows:-

“41. While dismissing the writ petition, we will have to remind the High Courts of the following words of this Court in **Satyawati Tondon [United Bank of India v. Satyawati Tondon]** (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260 : 2010 INSC 428] since we have come across various matters wherein the High Courts have been entertaining

¹ (2024) 6 SCC 579

petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy : (SCC p. 128, para 55)

“55. 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.”

11. The observations of the Hon’ble Apex Court in ***Satyawati Tondon’s***² case are referred to in paragraph 22 of ***PHR Invent Educational Society v. UCO Bank’s case*** [cited 1 surpa], which reads as follows:

“22. The law with regard to entertaining a petition under Article 226 of the Constitution in case of availability of alternative remedy is well settled. In *Satyawati Tondon* [*United Bank of India v. Satyawati Tondon*, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260 : 2010 INSC 428] , this Court observed thus : (SCC p. 123, paras 43-45)

“43. Unfortunately, the High Court [*Satyawati Tondon v. State of U.P.*, 2009 SCC OnLine All 2608] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves

² (2010) 8 SCC 110

inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.”

12. In view of the observations of the Hon’ble Supreme Court in **Satyawati Tondon's** case, reiterated in **PHR Invent Educational Society v. UCO Bank**, and in the facts and circumstances of the present case, it can be unhesitatingly concluded that the relief prayed for by the petitioner cannot be granted and that there are no grounds to invoke extraordinary jurisdiction of this Court under Article 226 of Constitution of India. Hence, we are of the considered view that the Writ Petition is devoid of merit and is consequently, liable to be dismissed.

13. Accordingly, the Writ Petition is dismissed. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

Date: 10.07.2026

Pnr

Whether the order is:

Speaking	√	Non-speaking	-
Reportable	√-	Non-reportable	-

THE HONOURABLE SRI JUSTICE BATTU DEVANAND
AND
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA
WRIT PETITION NO: 3973 of 2025

M/s.Bheem Eco Build Tech, Rep. by its Proprietor, Smt. Polla Naga Sudha Rani, W/o. Polla Amar, Aged about 35 years, Occ: Business, O/o. R.S. No.514 and 515, Turlapadu Village, Chandarlapadu Mandal, Krishna District, Now NTR District, A.P., Pin 521183.

.... Appellant

Versus

\$ Union of India, rep. by its Secretary, Department Of Finance and Planning, Secretariat, New Delhi, India And 04 Others.

.... Respondent

DATE OF ORDER PRONOUNCED: 10.07.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND
AND
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

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|---|--------|
| 1. Whether Reporters of Local Newspapers may be allowed to see the Order? | Yes/No |
| 2. Whether the copies of Order may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Order ? | Yes/No |

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

*** THE HONOURABLE SRI JUSTICE BATTU DEVANAND
AND
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA
WRIT PETITION NO: 3973 of 2025**

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Versus

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.... Respondent

! Counsel for the Petitioner : Sri M.Kishore Babu

! Counsel for the Respondents : Sri AISHWARYA NAGULA
Sri Pasala Ponna Rao,
Dep. Solicitor general of india
Sri T. B. L. MURTHY

< Gist:

> Head Note:

? Cases referred:

(2024) 6 SCC 579

(2010) 8 SCC 110

THE HON'BLE SRI JUSTICE BATTU DEVANAND
and
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

W.P. No.3973 of 2025

Dt. 10 .07.2026

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