



HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE AHSANUDDIN AMANULLAH
THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN
WRIT PETITION NO: 26551 OF 2021

Between:

1. ARUGOLLA MANI KUMAR Arugolla Mani Kumar, S/o. Late G. Apparao
Age.42 years, Occ. Business,
R/o. D.No.73-9-11, 6th Street from Water Tanks, Narayanapuram, Raj
ahmundry(urban),
East Godavari District, Andhra Pradesh - 533101.

...PETITIONER(S)

AND:

1. UNION BANK OF INDIA (ERSTWHILE ANDHRA BANK) Rep. by its Chief
Manager cum Authorised Officer, Vidyut Colony Branch, Rajahmundry,
Plot No.17, S.No.226/4, AV Appa Rao Road, Rajahmundry, East
Godavari District,
Andhra Pradesh - 533106.

...RESPONDENTS

Counsel for the Petitioner(s): K B RAMANNA DORA

Counsel for the Respondents: V DYUMANI

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**HON'BLE Mr. JUSTICE AHSANUDDIN AMANULLAH
AND
HON'BLE Mr. JUSTICE B. KRISHNA MOHAN**

WRIT PETITION No.26551 OF 2021

Arugolla Mani Kumar, S/o Late G.Apparao,
Age: 42 years, Occ: Business,
R/o D.No.73-9-11, 6th street from Water Tanks,
Narayanapuram, Rajahmundry (urban),
East Godavari District, Andhra Pradesh - 533101

... Petitioner

Versus

Union Bank of India (Erstwhile Andhra Bank),
Rep. by its Chief Manager cum Authorised Officer,
Vidyut Colony Branch, Rajahmundry,
Plot No.17, S.No.226/4, AV Appa Rao Road,
Rajahmundry, East Godavari District,
Andhra Pradesh - 533106

... Respondent

Counsel for the petitioner : Mr.K.B.Ramanna Dora, Advocate

Counsel for the respondent : Ms.V.Dyumani, Advocate

ORAL JUDGMENT

Date: 16.11.2021

(Per Hon'ble Mr. Justice Ahsanuddin Amanullah)

Heard Mr.P.Vivek, learned counsel, representing Mr. K.B.Ramanna Dora, learned counsel for the petitioner, and Ms. V.Dyumani, learned counsel for the respondent.

2. The petitioner has moved the Court for the following relief:

"...to issue a Writ, order or a direction, more particularly one in the nature of Writ of Mandamus, declaring



that the high handed act of the respondent in initiation of proceedings against the deceased mortgagor Smt.Arugollu Alphonsa W/o. Late Appa Rao under SARFAESI Act, 2002 and interfering with the possession of the property house bearing D.No.73-9-11, consisting of Ground Floor and First Floor in Plot No.2, R.S.No.238/1, 2 situated at Narayana Puram, Rajahmundry, East Godavari District on the basis of the warrant issued by the Hon'ble Chief Judicial Magistrate, East Godavari District at Rajamahendravaram in Crl.M.P.No 80 of 2021 appointing an Advocate Commissioner for taking Physical Possession of the said property without issuing notice to the legal heirs the mortgagor as illegal, arbitrary, untenable, unsustainable, deliberate, intentional, mischievous, against law and also against principles of natural justice and consequentially set aside the same and provide an opportunity to repay the pending outstanding loan amounts and pass"

3. The petitioner is aggrieved by the action of the respondent in taking over possession of the mortgaged property, which has been inherited by him only a few months back on the death of his mother.

4. Learned counsel for the petitioner submitted that his mother was the guarantor to the loan taken by him from the respondent and due to illness, he defaulted in making regular payments resulting in overdue for which the Bank had moved against the property owned by his mother, who was the guarantor. It was submitted that prior to issuance of the impugned notice, dated 30.06.2021, his mother had passed away but the possession notice under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 was issued in his mother's name, which is illegal, and cannot be enforced.



5. At this juncture, learned counsel for the petitioner submitted that without going into the technicalities, he was ready to liquidate the entire outstanding dues within three months and the Court may grant one indulgence.

6. Learned counsel for the respondent submitted that the petitioner should clear the dues within the shortest time and the Court may put stringent conditions in case of default.

7. Learned counsel for the petitioner submitted that to show his *bona fide*, he shall deposit 20% of the up-to-date outstanding dues within one week from today and the rest would be paid by him within three months from today.

8. Having considered the facts and circumstances of the case and submissions of the learned counsel for the parties, the Writ Petition stands disposed of in the following terms:

The petitioner shall deposit 20% of the up-to-date outstanding dues by 23.11.2021. Thereafter, he shall keep on depositing money every month; however, the entire remaining outstanding due shall be finally paid by him by 16.02.2022. If the petitioner deposits 20% of the up-to-date outstanding dues by 23.11.2021, the Bank shall not proceed with taking any action in pursuance of the notice issued under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') till 16.02.2022. Further, if the petitioner does not deposit the said 20% within the stipulated time, as also the entire outstanding up-to-date amount by 16.02.2022, in either of the events, it shall be open to the respondent to take further action under the SARFAESI Act for recovery of the dues.



9. The Court indicates that as the order has been passed on the undertaking given by the petitioner, in case of any default, the same shall be treated as breach of such undertaking to the Court and the Court may not grant any further indulgence with regard to the time frame for liquidating the entire outstanding dues.

10. No order as to costs.

11. Miscellaneous petitions, if any pending also stand disposed of.

(AHSANUDDIN AMANULLAH, J)

(B. KRISHNA MOHAN, J)

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**HON'BLE Mr. JUSTICE AHSANUDDIN AMANULLAH
AND
HON'BLE Mr. JUSTICE B. KRISHNA MOHAN**

WRIT PETITION No.26551 of 2021

Date : 16-11-2021

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