

APHC010154522026

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

Bench Sr.No:-5
[3575]



WRIT PETITION NO: 8780 of 2026

M/s.Lakshmi Agencies and Others ...Petitioner(s)

Vs.

The Authorised Officer-cum-Chief Manager and Others ...Respondent(s)

**CORAM : HON'BLE MRS JUSTICE LISA GILL
HON'BLE MR JUSTICE NINALA JAYASURYA**

DATE : 06th April 2026

Present: Mr. V.S.R.S. Naidu, Advocate for Petitioners.

Mrs. Vinodhini Ruthu, Advocate,
O/o. Dhara Satyanarayana, Advocate for
Respondent Nos.1 and 2 through online.

LISA GILL, J.

1. Prayer in this Writ Petition is for setting aside order dated 23.04.2024 passed by learned Debts Recovery Appellate Tribunal, Kolkata [for short, 'DRAT'].

2. Learned counsel for petitioners submits that petitioners availed of loan facility from Respondent No.2 / Bank and agricultural land in question was kept as security, for credit facility in question. Loan amount was enhanced from Rs.1,80,00,000/- to Rs.2,85,00,000/- on 22.01.2018. Memorandum of Deposit of Title Deeds was executed on 22.01.2018. Learned counsel for petitioners further submits that customers of 1st petitioner deposited an amount of Rs.1,50,00,000/- to the current account bearing No. 06790200000560. Without consent of 2nd petitioner, the amount of

Rs.1,50,00,000/- was transferred from current account of 1st petitioner on 03.10.2017. In view of said illegal transfer, a complaint was submitted by petitioners before CBI for taking action against bank officials.

3. O.S.No.28 of 2020 was also filed by petitioners, the said suit is still pending. S.A.No.356 of 2021, challenging proceedings under SARFAESI Act initiated by respondents, was filed, however, it was dismissed by learned Debts Recovery Tribunal, Visakhapatnam vide order dated 20.04.2023 holding that property in question had been converted to non-agricultural purposes.

4. Appeal, challenging said decision, was filed by petitioners. However, the same was dismissed by learned DRAT on 23.04.2024, as pre deposit was not made by petitioners. No further extension of time was afforded to petitioners to deposit the amount in terms of Section 18 SARFAESI Act. Aggrieved by this order, present Writ Petition has now been filed in March, 2026.

5. It is to be noted that it is pleaded in writ petition that e-Auction sale notice dated 18.01.2026 was issued by Respondent No.2 / Bank. Petitioners filed S.A.No.128 of 2026, wherein, an interim order was passed by learned Debts Recovery Tribunal on 20.02.2026, which is attached as Ex.P.14 and reads as under:

“Accordingly, there shall be an interim stay of all further proceedings of schedule property pursuant to Sale Notice dated 18.01.2026 fixing the auction on 23.02.2026 subject to the Petitioner depositing a sum of Rs.72.00 lakhs in two instalments. Out of which a sum of Rs.22.00 lakhs to be deposited on or before 22.02.2026 and balance sum of Rs.50.00 lakhs on or before 20.03.2026 to the credit of loan account with the Respondent Bank directly. In the event of failure of compliance of the aforesaid conditions by the petitioner, the interim stay shall stand vacated and the Respondent bank shall be at liberty to proceed further”.

6. Learned counsel for Respondent No.2 / Bank informs that this amount of Rs.50,00,000/- as directed to be deposited on or before 20.03.2026, has not been deposited by petitioners, who have now proceeded to file present Writ Petition in this manner and are only bent upon delaying the proceedings.

7. Learned counsel for petitioners further stated that after passing of said interim order dated 20.02.2026 in I.A.No.770 of 2026 in S.A.No.128 of 2026, petitioners deposited first instalment of Rs.22,00,000/- on 21.02.2026 and that they are only liable to deposit Rs.50,00,000/- on or before 20.03.2026. It is thus prayed that this Writ Petition be allowed.

8. Having heard learned counsel for parties, we do not find any ground to cause for interference at this stage. It is to be noted that as per Section 18 of SARFAESI Act, it is mandatory for a person filing an appeal to make pre deposit. Section 18 of SARFAESI Act, reads as under:

“18. (1) Any person aggrieved, by any order made by the Debts Recovery Tribunal under section 17, may prefer an appeal along with such fee, as may be prescribed to the Appellate Tribunal within thirty days from the date of receipt of the order of Debts Recovery Tribunal.

Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:

Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty percent of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent of debt referred to in the second proviso.

(2) Save as otherwise provided in this Act, the Appellate Tribunal shall, as far as may be, dispose of the appeal in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993) and rules made thereunder.”

9. There is neither any ground available on record nor argued before us as to why the pre deposit was not made by petitioners in terms of statutory provision.

10. It is to be noted at this stage, Hon'ble the Supreme Court in the case of **Kotak Mahindra Bank Private Limited vs. Ambuj A, Kasliwal and others**¹ has held that statutory condition of pre deposit cannot be waived. Waiver of pre deposit in its entirety of its statutory provision are not sustainable.

11. As noted in the forgoing para, there is no reason forthcoming for non deposit of amount, in question in terms of Section 18 of SARFAESI Act and neither is there any reference to an application filed by the petitioner for reduction in the percentage of pre deposit in question.

12. Learned counsel for petitioners is unable to inform and neither is there any reason forthcoming as to why petitioners did not approach this Court for such a long period after passing of impugned order on 23.04.2024 by learned DRAT.

13. Doubtlesly, there is no limitation for filing Writ Petition, but it is equally well settled that a litigant has to approach the Court for redressal

¹ 2021 (3) SCC 549

of his grievance within a reasonable time. There can be no straight jacket formula for defining reasonable period which necessarily vary from case to case depending on the facts and circumstances of each matter. In the present case, we do not find any reason whatsoever forthcoming for explaining the delay in approaching this Court after passing of impugned order wayback on 23.04.2024. In regard to delay in filing of a Writ Petition, gainful reference can be made to Judgments of Hon'ble the Supreme Court in **Bharat Coking Coal Ltd. and others vs. Shyam Kishore Singh (2020)3 SCC 411; Union o India and others vs. N. Murugesan and others (2020) 2 SCC 25; State of Orissa and another vs. Laxmi Narayan Das (Dead) through LRs and others 2023 LiveLaw (SC) 527 and Bichitrananda Behera vs. State of Orissa and others 2023 AIR (SCC) 5064.**

14. It has been held by Hon'ble the Supreme Court in **Chairman, State Bank of India vs. M J James, (2022) 2 SCC 301** as under:-

“What is a reasonable time is not to be put in a straitjacket formula or judicially codified in the form of days, etc. as it depends upon the facts and circumstances of each case. A right not exercised for a long time is nonexistent. Doctrine of delay and laches as well as acquiescence are applied to non-suit the litigants who approach the court /appellate authorities belatedly without any justifiable explanation for bringing action after unreasonable delay. In the present case, challenge to the order of dismissal from service by way of appeal was after four years and five months, which is certainly highly belated and beyond justifiable time. Without satisfactory explanation justifying the delay, it is difficult to hold that the appeal was preferred within a reasonable time.”

15. This position has been reiterated by Hon'ble the Supreme Court in the case of Bichitrananda Behera (supra). In the case of **Rikhab Chand Jain Vs. Union of India, 2025 SCC Online SC 2510**, Hon'ble the Supreme Court referred to its earlier decision in **A.V. Venkateswaran, Collector of Customs, Bombay Vs. Ramchand Sobhraj Wadhvani and another, 1961 AIR Supreme Court 1506** as under :-

"12. That apart, the majority view in a previous constitution Bench in A. V Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhvani AIR 1961 SC 1506 reads thus:

"14....., we must express our dissent from the reasoning by which the learned Judges of the High Court held that the writ petitioner was absolved from the normal obligation to exhaust his statutory remedies before invoking the jurisdiction of the High Court under Article 226 of the Constitution. If a petitioner has disabled himself from availing himself of the statutory remedy by his own fault in not doing so within the prescribed time, he cannot certainly be permitted to urge that as a ground for the Court dealing with his petition under Article 226 to exercise its discretion in his favour. Indeed, the second passage extracted from the judgment of the learned C.J. in Mohammed Nooh case with its reference to the right to appeal being lost 'through no fault of his own' emphasizes this aspect of the Rule."

In essence, this Court was of the opinion that once a petitioner has due to his own fault disabled himself from availing a statutory remedy, the discretionary remedy under Article 226 may not be available."

16. It was further held as under:-

"13. Although there is no period of limitation for invoking the writ jurisdiction of a High Court under Article 226, all that the courts insist is invocation of its jurisdiction with utmost expedition and, at any rate, within a "reasonable period". What would constitute "reasonable period" cannot be put in a straight-jacket, and it must invariably depend on the facts and circumstances of each particular case. Nonetheless, the period of limitation prescribed by an enactment for availing the alternative remedy AIR 1961 SC 1506 provided thereunder in certain cases does provide indication as to what should be the "reasonable period" within which the writ jurisdiction has to be invoked."

17. No other argument has been addressed.

18. Keeping in view the facts and circumstances as above, this writ petition is dismissed. It is, however, clarified that the observations in this order shall not be taken as any reflection on merits of the matter qua pending S.A. No. 128 of 2026, which would be decided by learned Debts Recovery Tribunal, Visakhapatnam, on its own merits, in accordance with law. No costs. Pending application(s), if any, stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(NINALA JAYASURYA)
JUDGE

Date: 06.04.2026
MS

HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR JUSTICE NINALA JAYASURYA

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