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APHC010361302026



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

[3602]

TUESDAY, THE 21st DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

&

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION NO: 19789/2026

Between:

1.SHAIK SHAHIDA, W/O NAZEER, MUSLIM, AGED ABOUT 38 YEARS,
R/O FLAT NO.402, VENUS ENCLAVE APARTMENT, 5TH LINE,
HARANADHAPURAM, NELLORE, SPSR NELLORE DISTRICT - 524
003.

...PETITIONER

AND

1.THE SHRIRAM FINANCE LIMITED, REP., BY ITS BRANCH
MANAGER, MR. VIJAY TELIMETI, R/O.D.NO.26-2-7, 3RD FLOOR,
PADMAVATHI PLAZA, BESIDE SYNDICATE BANK, CURRENT
OFFICE CENTRE, A.K. NAGAR, NELLORE - 524 004. 2.

2.SK KAMAL BEE, W/O KHAJA MASTHAN, MUSLIM, AGED ABOUT 66
YEARS, R/O LAKSHMIMANASA APARTMENT, 5TH FLOOR,
PARAMESWARI AVENUE, NELLORE, SPSR NELLORE DISTRICT -
524 001.

3.SK RAJIYA BEGAM, W/O SK. RAMTHULLAH, MUSLIM, AGED
ABOUT 43 YEARS, R/O LAKSHMIMANASA APARTMENT, 5TH
FLOOR, PARAMESWARI AVENUE, NELLORE, SPSR NELLORE
DISTRICT - 524 001.

4.SK SHARMILA, W/O SK. KHADAR BASHA, MUSLIM, AGED ABOUT 40 YEARS, R/O LAKSHMIMANASA APARTMENT, 5TH FLOOR, PARAMESWARI AVENUE, NELLORE, SPSR NELLORE DISTRICT - 524 001.

5.SK SHAHINAA, W/O SK. JEELANI BASHA, MUSLIM, AGED ABOUT 35 YEARS, R/O LAKSHMIMANASA APARTMENT, 5TH FLOOR, PARAMESWARI AVENUE, NEILORE, SPSR NELLORE DISTRICT - 524 001.

...RESPONDENT(S):

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 an appropriate Writ, Order or Direction, more particularly one in the nature of a Writ of Mandamus, declaring the action of the 1st Respondent in proceeding with the sale of the petition schedule property under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), by conducting the E-Auction scheduled to be held on 15.07.2026, despite the existence of serious, substantial and bona fide disputes relating to the title, ownership and possession of the petition schedule property, which are the subject matter of O.S. No.630 of 2026 pending before the Court of the Principal Civil Judge (Junior Division), Nellore, as illegal, arbitrary, unreasonable, without authority of law, contrary to the well-settled legal principles, violative of the fundamental and constitutional rights guaranteed to the petitioner under Articles 14, 19 and 21 of the Constitution of India, and consequently, grant stay all further proceedings pursuant to the E-Auction Notice issued by Respondent No.1, including the proposed E-Auction of the petition schedule property scheduled to be held on 15.07.2026, and consequently restrain the respondents, their agents, servants or anybody claiming through them from conducting the E-Auction or creating any third-party rights, interests, encumbrances or alienations in respect of the petition schedule property, pending disposal of the above Writ Petition, and pass

IA NO: 1 OF 2026

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 grant stay all further proceedings pursuant to the E- Auction Notice issued by Respondent No.1, including the proposed E Auction of the petition schedule property scheduled to be held on 15.07.2026, and to restrain the

respondents from conducting the auction or creating any third-party rights in respect of the petition schedule property pending disposal of the Writ Petition, and pass

Counsel for the Petitioner:

1. SANTHI KUMAR KAKI

Counsel for the Respondent(S):

- 1.

The Court made the following:

THE HON'BLE SRI JUSTICE BATTU DEVANAND

&

THE HON'BLE SMT JUSTICE SUNITHA GANDHAM

WRIT PETITION No.19789 of 2026

ORDER: *(Per Hon'ble Sri Justice Battu Devanand)*

Heard learned counsel for the petitioner and Mr. O. Udaya Kumar, learned counsel for the Respondent No.1 and perused the material available on record.

2. The case of the petitioner is that she is the daughter of respondent No.2 and the sister of respondent Nos.3 to 5. Her father, during his lifetime, purchased the petition schedule property out of his earnings and got the same registered in the name of respondent No.2. Thereafter, her parents constructed a residential building consisting of four separate portions and intended that each of the four daughters should enjoy one separate portion of the said property.

3. On 07.12.2005, respondent No.2 executed a Hibba (Gift) in favour of the petitioner and respondent Nos.3 to 5, whereby the property was divided into four equal portions, said measuring about 288 square feet each and possession of the respective portions was delivered to each beneficiary. Ever since then, the petitioner is in peaceful possession and enjoyment of her portion continuously and without any interruption.

4. Respondent No.3, in collusion with her husband, taking advantage of illiteracy and vulnerability of the Respondent No.2 procured a

Registered Settlement Deed, dated 30.06.2006 in her favour in respect of the entire property. The validity, legality and binding nature of the said Settlement Deed are seriously disputed by the petitioner and accordingly the petitioner approached to file a suit in O.S.No.630 of 2026, on the file of the learned Principal Civil Judge (Junior Division), Nellore, seeking partition and separate possession of the petitioner's lawful share in the petition schedule property. Along with the suit, the petitioner also filed I.A.No.304 of 2026, seeking interim protection. The said proceedings are pending for adjudication. As such, the dispute relating to title, ownership and entitlement is already sub judice before a competent Civil Court.

5. Learned Counsel for the petitioner submits that the respondent No.3 basing on the Settlement Deed dated 30.07.2006, created a mortgage in favour of the Respondent No.1 and availed financial aspects. The mortgage was created suppressing the pre-existing rights, possession and interest of the petitioner and other family members in the property. As respondent No.3 failed to discharge the loan amount, the respondent No.1 issued demand notice dated 08.02.2024, under the provisions of the SARFAESI Act, alleging default by respondent No.3. Thereafter, respondent No.1 initiated proceedings under Section 14 of the SARFAESI Act and filed a petition in CrI.M.P.No.40 of 2026, before the learned Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Nellore and consequently, an Advocate Commissioner was appointed and possession was taken on 28.03.2026. Subsequently, an e-Auction Notice

has been issued proposing sale of the petition schedule property on 15.07.2026.

6. Learned Counsel for the petitioner contends that a mortgage created in favour of respondent No.1 by respondent No.3 cannot bind in a lawful share of the petitioner in the property. He further contends that the action of the respondent No.1 in proceeding against the entire property without considering the competing rights and claims of the petitioner and other family members is arbitrary, unreasonable and contrary to law. Accordingly, he sought to allow the writ petition by declaring the action of the respondent No.1 in proceeding with the sale of the petition scheduled property under provisions of the SARFAESI Act 2002 as illegal, arbitrary, unreasonable and against to the well-settled legal principles and violation of principles of natural justice.

7. On the other hand, Mr. O. Uday Kumar, learned Counsel appearing for the respondent No.1, on instructions, would submit that already an auction was conducted on 15.07.2026, the sale has been confirmed and issuance of the sale certificate in favour of the auction purchaser is in progress. He further submits that, as the petitioner's right over the subject property and her entitlement is already the subject matter of the suit pending before the competent Civil Court, only after declaration of her title, ownership and entitlement over the subject property by the competent Civil Court, the petitioner is entitled to raise all her grievances before the appropriate forum. Accordingly, he sought to dismiss the writ petition.

8. Having considered the submissions of the respective counsel and upon careful consideration of the material available on record, as admittedly, the petitioner has approached the competent Civil Court by filing a suit in O.S.No.630 of 2026 for partition and separate possession of her lawful share in the petition schedule property, at this stage, this Court is not inclined to express any opinion on the merits of the case or to interfere with the proceedings initiated by respondent No.1 under the SARFAESI Act. The petitioner can raise all her contentions before the appropriate forum, after declaration of her title, ownership and entitlement over the petition schedule property. As the e-Auction was already completed on 15.07.2026 and third-party interests have already arisen, we are not inclined to interfere with this writ petition at this stage.

9. Accordingly, this Writ Petition fails and is hereby dismissed. There shall be no order as to costs.

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

JUSTICE BATTU DEVANAND

JUSTICE SUNITHA GANDHAM

Date: 21.07.2026
SA

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

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THE HON'BLE SRI JUSTICE BATTU DEVANAND

&

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