APHC010379362026

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

MONDAY, THE 28th DAY OF SEPTEMBER 2026
PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 20525 OF 2026

Between:

1. Saankhya Educational Society, (Regd. No. 226/2007), Rep. by its President / Director, Sri Chava Srinivasa Rao, S/o Sri Krishna Murthy, Office at Door No. 1-30-15(3), Vykuntapuram, Chirala, Prakasam District, Andhra Pradesh - 523155.

...Petitioner

AND

1. State Bank of India, Stressed Assets Recovery Branch (SARB), Rep. by its Authorised Officer / Assistant General Manager, Administrative Unit Campus, Balaji Nagar, Siripuram Junction, Visakhapatnam, Andhra Pradesh - 530003.
2. Sri Puli Venkateswaralu, S/o. Sri Venkata Subbaiah, R/o. D. No. 6-49 A, Main Street, Papayapalem Village, Kothapet (Rural) A, Chirala, Prakasam District, Andhra Pradesh - 523127

...Respondents

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 topleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus calling for the records relating to and quashing the Order No. 14 dated 13.05.2026 passed by the Hon'ble Debts Recovery Appellate Tribunal (DRAT) at Kolkata in Appl. Dy No. 250 of 2025 (LA. No. 143 of 2025), whereby the Petitioner

was directed to make a mandatory pre-deposit of 30 PERCENT of an arbitrary, un-crystallized sum of Rs. 17.00 Crores as an onerous condition precedent to entertain the statutory appeal against the arbitrary dismissal order dated 06.02.2025 passed by the Debts Recovery Tribunal (DRT), Visakhapatnam in S.A. No. 25 of 2024 and to 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 pleased to suspend the Order No. 14 dated 13.05.2026 passed by the Flon'ble Debts Recovery Appellate Tribunal at Kolkata in Appl. Dy No. 250 of 2025 (LA. No. 143 of 2025) pending disposal of the above writ petition and to pass

Counsel for the Petitioner: VENKATA SWAMY BINGI

Counsel for the Respondents: S SATYANARAYANA MOORTHY

Counsel for the Respondents:N A RAMACHANDRA MURTHY

The Court made the following order:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 20525 OF 2026

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

This writ petition is filed seeking a Writ of Mandamus to quash the Order No.14 dated 13.5.2026 passed by the Debts Recovery Appellate Tribunal, Kolkata, in Appl.Dy.No.250 of 2025(I.A.No.143 of 2025) whereby the petitioner was directed to make a mandatory pre-deposit of 30% of a sum of Rs.17.00 crores has to entertain the statutory appeal as arbitrary and sought to quash the same.

2. Heard Sri B.Venkata Swamy, learned counsel for the petitioner and Sri S.Satyanarayana Moorthy, learned counsel for respondent No.1-bank and Sri K.S.Murthy, learned senior counsel for respondent No.2.

3. Having considered the submissions of the respective counsels and upon carefully examining the material available on record, the issue before this Court for consideration is whether the D.R.A.T, Kolkata, is correct in insisting the petitioner to pre-deposit 30% of Rs.17.00 crores as a mandatory pre-condition to file appeal before the DRAT, Kolkatta, or not.

4. To decide this issue, in our considered view, going into all facts of the case is not required as there is no dispute about admitted facts.

5. For proper adjudication of the issue involved here, it is appropriate to look into the relevant provisions of the Securitization and

Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'S.A.R.F.A.E.S.I Act'), and the Recovery of Debts and Bankruptcy Act, 1993 (for short 'R.D.B Act') is herein under:

> ***Section 18 of the SARFAESI Act, 2002:***
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> ***18. Appeal to Appellate Tribunal.***
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> *(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] [Substituted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 12, for "under section 17, may prefer an appeal" (w.r.e.f. 21.6.2002).] 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:] [Inserted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 12 (w.r.e.f. 21.6.2002).][Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. 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.] [Inserted by the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 12 (w.e.f. 11.11.2004).]*
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> *(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.[18-A. Validation of fees levied. [Inserted by the Enforcement of Security Interest and*

Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004), Section 13 (w.e.f. 11.11.2004).]- - Any fee levied and collected for preferring, before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, an appeal to the Debts Recovery Tribunal or the Appellate Tribunal under this Act, shall be deemed always to have been levied and collected in accordance with law as if amendments made to sections 17 and 18 of this Act by sections 11 and 12 of the said Act were in force at all material times.

Section 21 of the R.D.B. Act, 1993:

21. Deposit of amount of debt due, on filing appeal.

- Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal [fifty per cent.] [Substituted by Act No. 44 of 2016.] of the amount of debt so due from him as determined by the Tribunal under section 19:Provided that the Appellate Tribunal may, for reasons to be recorded in writing, [reduce the amount to be deposited by such amount which shall not be less than twenty-five per cent. of the amount of such debt so due] [Substituted by Act No. 44 of 2016.] to be deposited under this section.

6. A bare perusal of Section 18 of the S.A.R.F.A.E.S.I Act, it provides that the borrower has to deposit 50% of the amount of debt due from him as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less to entertain the appeal before D.R.A.T.

7. In Section 21 of the R.D.B Act, it is provided that the appeal shall not be entertained by the appellate tribunal unless such person has deposited an amount with the appellate tribunal i.e., 50% of the amount of

debt due from him as determined by the Tribunal under Section 19 of R.D.B Act.

8. In both, Section 18 of S.A.R.F.A.E.S.I Act, and Section 21 of R.D.B Act, it provides that the appellate tribunal by recording the reasons in writing can reduce the amount to be deposited by such amount which shall not be less than 25% of the amount of such debt so due.

9. In the present case, the Debts Recovery Appellate Tribunal, Kolkata, imposed condition to entertain the appeal filed by the appellant to pre-deposit 30% of Rs.17.00 crores within a period of six (06) weeks.

10. On perusal of the material available on record, in the Section 13(2) notice of the S.A.R.F.A.E.S.I Act issued by the secured creditor to the petitioner, the outstanding amount mentioned as Rs.14,05,16,524.77/-. It is an admitted fact that in the present case, debt is not determined by the DRT.

11. As such, as provided under Section 18 of the S.A.R.F.A.E.S.I Act, the lesser amount is the outstanding amount which was mentioned in the 13(2) notice. It has to be considered as pre-deposit amount to entertain the appeal. As such, in our considered view, the order of the DRAT, Kolkata, in considering an amount of Rs.17.00 crores to direct the petitioner to make pre-deposit is contrary to the second proviso of Section 18 of the SARFAESI Act, 2002.

12. The next point to be considered is whether the petitioner is entitled to seek further reduction of pre-deposit amount from 30% to 25%. In both

provisions under S.A.R.F.A.E.S.I Act, and R.D.B Act, it is provided that it is for the appellate tribunal to decide the amount to reduce not less than 25%. Admittedly, in the present case, the D.R.A.T, Koltaka, reduced pre-deposit amount from 50% to 30% by exercising 'its' discretion. As such, in our considered view, there is no illegality or infirmity in the order passed by the DRAT, Koltaka, in its order dated 13.5.2026 in directing the petitioner to pre-deposit 30% amount.

13. For aforesaid reasons, we clarify that the petitioner shall pre-deposit 30% of the amount mentioned in the 13(2) notice i.e., Rs.14,05,16,524.77/-. Upon depositing the said amount as directed herein above within a period of six (06) weeks from the date of receipt of this Order, the D.R.A.T, Koltaka, shall entertain the appeal filed by the petitioners.

14. Accordingly, this writ petition is disposed of. There shall be no order as to costs.

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

BATTU DEVANAND, J

TUHIN KUMAR GEDELA, J

Dated:28.09.2026
TJN