



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

[3558]

**TUESDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 29401/2025

Between:

1. SRINIVASA RAO GUNDUBOGULA, S/O. VENKATA RAMANA, AGED ABOUT 51 YEARS, R/O.D.NO.39-27(2), VENKUNAIDU PETA NARSIPATNAM VILLAGE AND MANDAL, ANAKAPALLI DISTRICT.

...PETITIONER

AND

1. SRIRAM CITY UNION FINANCE LTD, MAHARANIPETA BRANCH, VISAKHAPATNAM. REP. BY ITS AUTHORIZED OFFICER.

2. THE COLLECTOR AND DISTRICT MAGISTRATE, ANAKAPALLI, ANAKAPALLI DISTRICT.

3. THE SUPERINTENDENT OF POLICE, ANAKAPALLI, ANAKAPALLI DISTRICT.

...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 a writ of mandamus or any other appropriate writ or direction declaring the action of the respondents in trying to take physical possession of the property i.e., residential house in an extent of 2045 Sq.Yds in SY.No.349 bearing D.No.39-27 (2) situated at Narsipatnam Village and Mandal, Anakapalli District pursuant to the orders passed in D.Dis.No.1607/2025/DT dated 19.09.2025 by the 2nd respondent directing the 3rd respondent to arrange necessary police protection for taking possession

of the asset belonging to the petitioner is illegal, arbitrary and one without jurisdiction and consequently direct the respondents not to interfere with the peaceful possession of the subject property by setting aside the orders of the 2nd respondent D.Dis.No.1607/2025/DT dated 19.09.2025 and pass

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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 direct the respondents not to interfere with the peaceful possession of the subject property by suspending the orders of the 2nd respondent D.Dis.No.1607/2025/DT dated 19.09.2025, pending disposal of the Writ Petition and pass

Counsel for the Petitioner:

1.C SUBODH

Counsel for the Respondent(S):

1.GP FOR HOME

2.GP FOR REVENUE

3.O UDAYA KUMAR

The Court made the following:

ORDER: (Per Hon'ble Sri Justice Cheekati Manavendranath Roy)

This Writ Petition for a mandamus is filed to declare the action of respondents in trying to take possession of the property in question, which is a secured asset, as illegal, arbitrary and without jurisdiction, and consequentially sought direction to the respondents not to interfere with the peaceful possession of the petitioner in respect of the property in question.

2. Heard Mr.C.Subodh, learned counsel for the petitioner, Mr.O.Udaya Kumar, learned Standing Counsel for the 1st respondent-financial institution, learned Government Pleader for Revenue for the 2nd respondent and learned Government Pleader for Home for the 3rd respondent.

3. Challenging the measures initiated by the 1st respondent by way of issuing notice under Section 13(2) of the SARFAESI Act to take possession of the secured asset for realization of the borrowed amount from the petitioner, who is the principal borrower, the instant writ petition has been filed. The main ground on which the writ petition was filed is that, in the affidavit filed in support of the application filed under Section 14 of the Act before the learned Magistrate, the payments made by the borrower towards repayment of the loan amount are not mentioned, and the facts which are required to be stated in the affidavit as required under law are not stated, and as such, the application filed under Section 14 of the Act is not maintainable under law.

4. Learned Standing Counsel for 1st respondent-financial institution vehemently opposed the petition, contending that it is not mandatory to mention about the payments that are made by the borrower in the affidavit filed in support of the application filed under Section 14 of the Act. But the said contention is not tenable and it is against to the tenor and spirit of Section 14 of the Act, as per the language employed in the section.

5. A perusal of Clause VIII of proviso to Section 14(1) of the Act makes it clear that, when the borrower has not made any payment inspite of the notice given, the authorized officer is entitled to take possession of the

secured asset under Section 13(4) read with Section 14 of the Act. But the said fact of non-payment shall be affirmed in the affidavit to be filed along with the application under Section 14 of the Act.

6. According to the contention of the petitioner, he has paid certain amounts from 14.07.2023 to 30.09.2025 after issuance of notice under Section 13(2) of the Act. But the said fact pertaining to the said payments has not been mentioned in the affidavit, as required under the Act.

7. Apparently, as can be seen from the affidavit filed in support of the application filed under Section 14 of the Act, the payments made by the principal borrower between the period from 14.07.2023 to 30.09.2025 are not mentioned in it. Therefore, the requirement contemplated under Section 14(1) of the Act has been contravened. So it vitiates the proceedings initiated under Section 14 of the Act.

8. Therefore, the Writ Petition is allowed. The impugned proceedings dated 19.09.2025 is hereby set aside for non-compliance with the requirements contemplated under Section 14 of the Act. However, the 1st respondent-financial institution is at liberty to file a fresh application under Section 14 of the Act by mentioning the details as required under Section 14 of the Act in the affidavit filed in support of the said application. There shall be no order as to costs.

9. As a sequel, Miscellaneous Applications pending, if any, shall stand closed.

CHEEKATI MANAVENDRANATH ROY, J

TUHIN KUMAR GEDELA, J