



WP No.7988 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2026

CORAM

THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

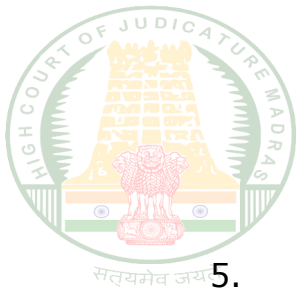
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

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M/s.Team Diva Realtors Pvt. Ltd.,
Rep. By its Authorised Representative,
Mr.G.K.Venkatesh, Door NO.39,
P.S.Sivasami Salai, Mylapore, Chennai 600 004. .. Petitioner

-VS-

1. Omkara Assets Reconstruction Private Limited, Rep. By its Authorised Signatory, No.9, M.P.Naar, First Street, Kongu Nagar Extn., Tiruppur 641 607.
2. M/s.Gemini Industries and Imaging Ltd., Rep. By its Authorised Signatory, No.28, New Bangaru Colony, West K.K.Nagar, Chennai 600 078.
3. Prasad Properties and Investments (P) Ltd., Rep. By its Authorised Signatory, No.2, Sarangapani Street, T.Nagar, Chennai.
4. Gemini FX Rep. By its Authorised Signatory, No.28, New Bangaru Colony, West K.K.Nagar, Chennai 600 078.



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5. Telesat Media Matrix Private Limited
Rep. By its Director, 1st Floor,
Annexe Building, No.28, New Bangaru
Colony, West K.K.Nagar,
Chennai 600 078.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent, Authorised Office, Omkara Assets Reconstruction Private Limited, to forthwith handover physical possession of the property which is the Land admeasuring 23 grounds and 1090 square feet (approx. 56290 sq.ft) or thereabouts and all the building's with compound walls and the entire present and future construction thereon, bearing Old Door No.39-B, New Door No.28, New Bangaru Colony, West K.K.Nagar, Chennai 600 078 and further comprised in Old Survey no.211/Part and T.S.No.27, T.S.No.2/1 and 2/2 situated at Virugambakkam Village, Mambalam-Guindy Taluk, Chennai District to the petitioner, Team Diva Realtors Private Limited, within a month, in pursuance of the auction sale dated 13.02.2023.

For Petitioner : Mr.S.V.Pravin Rathinam
For Respondents : Mr.Madhupreetha Elango
for R-1
: Mr.R.Nikhil Chandar
for RR 4 and 5
* * * * *

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner has approached this court under Article 226 of the Constitution of India seeking a writ of mandamus to hand over physical possession of the property to the petitioner, in pursuance to the auction sale dated 13.02.2023.

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2. At the outset, this writ petition is not maintainable against the first respondent, which is a private Asset Reconstruction Company (ARC) and not a "State" or an "instrumentality of the State" as defined under Article 12 of the Constitution of India.

3. It is a well-settled proposition of law that a writ petition under Article 226 of the Constitution of India can only be issued against a State, its instrumentalities, or a private body discharging a public function or statutory public duty. The first respondent, in initiating proceedings under the SARFAESI Act, is merely enforcing a private contractual right and security interest created by the borrower. It is not discharging any public function or sovereign duty. Therefore, a writ petition against a private ARC enforcing a private debt is not maintainable under Article 226 of the Constitution of India. The said view of ours is fortified by a decision of the Supreme Court in *Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir*¹, wherein it is held as under:

"18. Even otherwise, it is required to be noted that a writ petition against the private financial institution – ARC – the appellant herein under

¹ (2022) 5 SCC 345
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Article 226 of the Constitution of India against the proposed action/actions under Section 13(4) of the SARFAESI Act can be said to be not maintainable. In the present case, the ARC proposed to take action/actions under the SARFAESI Act to recover the borrowed amount as a secured creditor. **The ARC as such cannot be said to be performing public functions which are normally expected to be performed by the State authorities.** During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities. **If proceedings are initiated under the SARFAESI Act and/or any proposed action is to be taken and the borrower is aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the SARFAESI Act and no writ petition would lie and/or is maintainable and/or entertainable. ...”**

[emphasis supplied]

4. Assuming for the sake of argument that the writ petition is maintainable, the petitioner is squarely met with the bar of an



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alternative efficacious remedy. The SARFAESI Act is a self-contained code. Section 18 of the Act provides for an appellate remedy against the order of the Debts Recovery Tribunal.

5. The Supreme Court in an epoch-making judgment in *PHR Invent Educational Society v. UCO Bank*², reiterated that High Courts should decline writ jurisdiction under Article 226 when statutory remedies are available. The Court ruled that a writ petition cannot be entertained if the governing statute already provides a specific grievance redressal mechanism. The relevant observations of the Supreme Court are reproduced hereunder:

“37. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

- (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;*
- (ii) it has acted in defiance of the fundamental principles of judicial procedure;*
- (iii) it has resorted to invoke the provisions which are repealed; and*
- (iv) when an order has been passed in total violation of*

² (2024) 6 SCC 579
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the principles of natural justice.

38. It has however been clarified that the **High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.**

[emphasis supplied]

6. In fine, the writ petition is not maintainable against a private Asset Reconstruction Company and is barred by the availability of an alternative efficacious remedy under Section 18 of the SARFAESI Act.

In view of the above, this writ petition stands dismissed, leaving it open for the petitioner to avail the statutory remedy under Section 18 of the SARFAESI Act before the Debt Recovery Appellate Tribunal, if so advised. No order as to costs. Consequently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ.) (G.ARUL MURUGAN, J.)
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Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN, J.

(sra)

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