



W.P.No.27975 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.27975 of 2026
and W.M.P.No.30640 of 2026

G.Vijayaraj
S/o.Gnanasekaran,
Door No.3/247, Venkateswara Layout,
S.V.Puram, Kanakkapalayam,
Coimbatore.

Petitioner

Vs

- 1.Aadar Housing Finance Limited
Rep. by its Manager,
2nd Floor, No.3, JVT Tower,
8th "A" Main Road,
Sampanigiraman Nagar,
Near Hudson Circle, Bangalore.
- 2.Aadar Housing Finance Limited Branch
Rep. by its Manager,
Shop No.5,6 and 7, 1st Floor
No.31, Antony Complex,
Venkatesa Colony, Pollachi.

Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for records relating to the sale notice proceedings of the respondents 1 in Sale Notice of Assets by Aadar Housing Finance Limited under SARFAESI Act-2002 dated 14.04.2026, quash the same and consequently direct the respondents 1 to consider the petitioner's request for One time settlement (OTS) as per the demand notice amount of Rs.29,21,719/- and take appropriate action accordance with law.

For Petitioner: Mr. K.Hariprakash

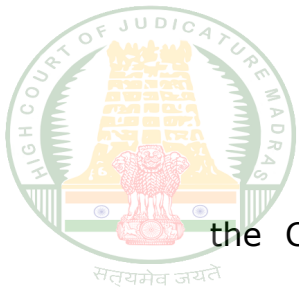
ORDER

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

Challenging the sale notice dated 14.04.2026 issued by the respondent finance company, the petitioner has filed this writ petition. In the writ petition, the petitioner has also sought a direction to the respondent finance company to consider the petitioner's request for One-Time Settlement (OTS).

2. At the outset, it is to be noted that the respondent is a private finance company and is not a 'State' within the meaning of the Article 12 of the Constitution of India.

3. It is a well settled law that a writ petition under Article 226 of



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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 respondent finance company, in initiating proceedings under the SARFAESI Act, is merely enforcing a private contractual right and security interest created by the borrower. They are not discharging any public function or sovereign duty. Therefore, a writ petition against a private finance company 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 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

¹ (2022) 5 SCC 345



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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. Furthermore, the impugned sale notice mentions the date of sale as 04.05.2026, which had already lapsed and further development has not been placed on record.

5. Coming to the prayer to direct the respondent finance company to consider the petitioner's request for OTS, it needs to be reiterated that the Supreme Court in the case of ***Bijnor Urban Cooperative Bank Limited, Bijnor and another v. Meenal Agarwal and others***² has held that no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India directing a financial institution/bank to positively

²(2023) 2 SCC 805



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grant the benefit of OTS to a borrower. In paragraphs 14 and 15, it has been held thus:

"14. The sum and substance of the aforesaid discussion would be that **no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India, directing a financial institution/bank to positively grant the benefit of OTS to a borrower.** The grant of benefit under the OTS is always subject to the eligibility criteria mentioned under the OTS scheme and the guidelines issued from time-to- time. If the bank/financial institution is of the opinion that the loanee has the capacity to make the payment and/or that the bank/financial institution is able to recover the entire loan amount even by auctioning the mortgaged property/secured property, either from the loanee and/or guarantor, the bank would be justified in refusing to grant the benefit under the OTS scheme. Ultimately, such a decision should be left to the commercial wisdom of the bank whose amount is involved and it is always to be presumed that the financial institution/bank shall take a prudent decision whether to grant the benefit or not under the OTS scheme, having regard to the public interest involved and having regard to the factors which are narrated hereinabove.

15. In view of the aforesaid discussion and for the reasons stated above, **we are of the firm opinion that the High Court, in the present case, has materially erred and has exceeded in its jurisdiction in issuing a writ of**



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mandamus in exercise of its powers under Article 226 of the Constitution of India by directing the appellant Bank to positively consider/grant the benefit of OTS to the original writ petitioner. The impugned judgment and order, Meenal Agarwal v. State of U.P., 2021 SCC OnLine All 989, passed by the High Court is hence unsustainable and deserves to be quashed and set aside and is accordingly quashed and set aside."

(emphasis supplied)

In light of the above, the writ petition is not maintainable and the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
21.07.2026

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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