

WP No. 18409 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

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

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No. 18409 of 2026

and

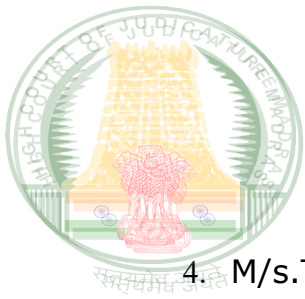
WMP Nos. 19759 & 19760 of 2026

Rangaraja Ramesh Krishna Iyengar,
S/o Late Mr.Sowriraja Pattappa,
8, Manor Gardens, Godalming,
Surrey GU73LL,
England, United Kingdom.

..Petitioner(s)

Vs

1. Union of India,
rep. by the Secretary,
Ministry of Micro, Small and Medium
Enterprises,
Udyog Bhavan, New Delhi 110 011.
2. The Reserve Bank of India,
Rep by its Governor,
Central Office, Shahid Bhagat Singh Road,
Mumbai 400 001.
3. M/s.Aditya Birla Capital Limited,
(formerly Aditya Birla Finance Limited)
rep. by its Authorized Officer,
Unit No.10 and 12, 4th and 6th Floor,
Oval, Venkat Narayan Road,
T.Nagar, Chennai 600 017.



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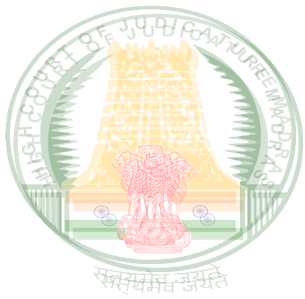
4. M/s.TVSM Communication Pvt. Ltd.,
rep. by its Director, Mr.Sabbarinathan,
No.17A, Vasagam Building,
Pasumpon Muthuramalingam Street,
Rajaji Colony, Chennai 600 093.

..Respondent(s)

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned notice dated 23.02.2026 issued by the 3rd respondent under Section 13(2) of the SARFAESI Act in respect of Loan Account No.ABFLCHNLAP00006797 and quash the same as being premature, illegal, arbitrary and in violation of the MSME Framework, and consequently direct respondents 1 and 2 to enforce the mandatory 'Framework for Revival and Rehabilitation of Micro, small and Medium Enterprises' dated 29.05.2015 and all applicable regulatory guidelines in respect of the loan account bearing No. ABFLCHLAP0000106797.

For Petitioner(s): Ms.Dipthi Munoth.A.

For Respondent(s): Ms.P.J.Anitha
Senior Panel Counsel Central Government
For R1
Mr.C.Mohan
Assisted by Ms.A.Rexy Josephine Mary
For M/s.King & Partridge
For R2
Mr.Abishek Jenasen
For R3.



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ORDER

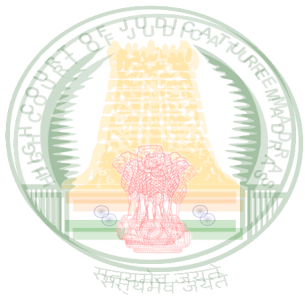
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[Order of the Court was made by G.Arul Murugan J.]

Heard Ms.Dipthi Munoth.A, learned counsel for the petitioner, Ms.P.J.Anitha, learned Senior Panel Counsel for the Central Government appearing for the 1st respondent, Mr.C.Mohan, learned counsel for the 2nd respondent and Mr.Abishek Jenasenar, learned counsel for the 3rd respondent.

2. The petitioner/borrower has preferred the present writ petition challenging the notice dated 23.02.2026 issued by the 3rd respondent under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, [hereinafter referred to as "SARFAESI Act"] and for a consequential direction to the Reserve Bank of India (RBI) to enforce its mandatory regulatory guidelines and the Framework for Revival and Rehabilitation of Micro, Small and Medium Enterprises dated 29.05.2015.

3. At the outset, it is to be noted that the writ petition is filed primarily against the 3rd respondent, which is a private finance company and is not a 'State' within the meaning of the Article 12 of the Constitution of India.



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4. 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 3rd 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 bank 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 Hon'ble 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. ...***

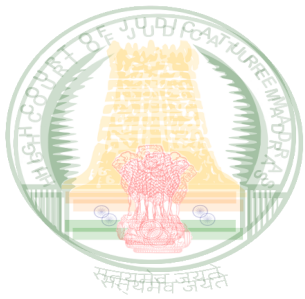
[emphasis supplied]

5. Further, the Hon'ble Supreme Court in its recent decision in ***S.Shobha vs. Muthoot Finance Limited***², held that a private financial institution cannot be called as a public body, as it owes no duty towards public. Its duty is only towards its account holders, which may include borrowers who have availed themselves of loan facility. The Hon'ble Supreme Court summed up the legal position as under:

"8. A body, public or private, should not be categorized as "amenable" or "not amenable" to writ jurisdiction. The most important and vital consideration should be the "function" test as regards the maintainability of a writ application. If a public duty or public function is involved, any body, public or private, concerned or connection with that duty or function, and limited to that, would be subject to judicial scrutiny under the extraordinary writ jurisdiction of Article 226 of the [Constitution of India](#).

9. We may sum up thus:

² 2025 SCC Online SC 177



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(1) For issuing writ against a legal entity, it would have to be an instrumentality or agency of a State or should have been entrusted with such functions as are Governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence Governmental.

(2) A writ petition under Article 226 of the [Constitution of India](#) may be maintainable against (i) the State Government; (ii) Authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.

(3) Although a non-banking finance company like the Muthoot Finance Ltd. with which we are concerned is duty bound to follow and abide by the guidelines provided by the Reserve Bank of India for smooth conduct of its affairs in carrying on its business, yet those are of regulatory measures to keep a check and provide guideline and not a participatory dominance or control over the affairs of the company.

(4) A private company carrying on banking business as a Scheduled bank cannot be termed as a company carrying on any public function or public duty.

(5) Normally, mandamus is issued to a public body or authority to compel it to perform some public duty cast upon it by some statute or statutory rule. In exceptional cases a writ of mandamus or a writ in the nature of mandamus may



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issue to a private body, but only where a public duty is cast upon such private body by a statute or statutory rule and only to compel such body to perform its public duty.

(6) Merely because a statute or a rule having the force of a statute requires a company or some other body to do a particular thing, it does not possess the attribute of a statutory body.

(7) If a private body is discharging a public function and the denial of any rights is in connection with the public duty imposed on such body, the public law remedy can be enforced. The duty cast on the public body may be either statutory or otherwise and the source of such power is immaterial but, nevertheless, there must be the public law element in such action.

(8) According to Halsbury's Laws of England, 3rd Ed. Vol.30, p.682, "a public authority is a body not necessarily a county council, municipal corporation or other local authority which has public statutory duties to perform, and which perform the duties and carries out its transactions for the benefit of the public and not for private profit". There cannot be any general definition of public authority or public action. The facts of each case decide the point."

6. Therefore, the writ petition filed challenging the notice issued by the 3rd respondent is not maintainable, as the 3rd respondent is a private finance company. Further, notice issued under Section 13(2) of the SARFAESI Act, is not open to challenge and it is for the petitioner/borrower to submit an appropriate reply. However, it is now



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stated that a possession notice under Section 13(4) of the SARFAESI Act has also been issued. Once the possession notice has been issued, the remedy open to the petitioner/borrower is to file statutory appeal under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal (DRT). The Hon'ble Supreme Court in the case of **South Indian Bank Limited and Others vs. Naveen Mathew Philip and Another**³, while considering the maintainability of writ petitions in the matters arising under the SARFAESI Act, cautioned the High Courts against entertaining such writ petitions and held as under:

"14. The object and reasons behind Act 54 of 2002 are very clear as observed by this Court in Mardia Chemicals Ltd. v. Union of India [Mardia Chemicals Ltd. v. Union of India, (2004) 4 SCC 311] . While it facilitates a faster and smoother mode of recovery sans any interference from the Court, it does provide a fair mechanism in the form of the Tribunal being manned by a legally trained mind. The Tribunal is clothed with a wide range of powers to set aside an illegal order, and thereafter, grant consequential reliefs, including re-possession and payment of compensation and costs. Section 17(1) of the SARFAESI Act gives an expansive meaning to the expression "any person", who could approach the Tribunal.

15. Approaching the High Court for the consideration of an offer by the borrower is also frowned upon by this Court. A writ of mandamus is a prerogative writ. In the absence of any legal right, the court cannot exercise the said power. More circumspection is required in a financial transaction, particularly when one of the parties would

³ (2023) 17 SCC 311



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not come within the purview of Article 12 of the Constitution of India.

When a statute prescribes a particular mode, an attempt to circumvent shall not be encouraged by a writ court. A litigant cannot avoid the non-compliance of approaching the Tribunal which requires the prescription of fees and use the constitutional remedy as an alternative."

7. In view of the law enunciated by the Hon'ble Supreme Court, the Writ Petition is dismissed, leaving it open to the petitioner to work out his rights before the appropriate forum. There shall be no order as to costs. Consequently, the miscellaneous petitions are closed.

(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN J.)

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Index: Yes/No

Speaking/Non-speaking order

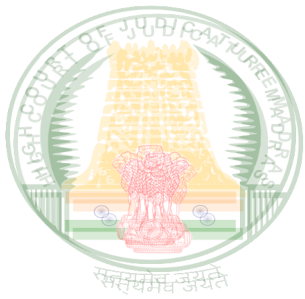
Neutral Citation: Yes/No

Jeni

To

1.The Secretary, Union of India,
Ministry of Micro, Small and Medium Enterprises,
Udyog Bhavan, New Delhi 110 011.

2.The Governor, The Reserve Bank of India,
Central Office, Shahid Bhagat Singh Road,
Mumbai 400 001.



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

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