



WEB COPY



WP No.20899 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2026

CORAM

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

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No.20899 of 2024
and WMP No.22835 of 2024

Good Knit Exports,
Rep. By its Proprietor, Mr.P.Saminathan,
No.284/1-A, Aruljothi Garden,
Kuppandampalayam, Veerapandi Post,
Tirupur 641 605.

.. Petitioner

-vs-

1. The Authorised Officer,
Canara Bank, Tirupur Main Branch,
No.304, Palladam Road,
L.M.Building, Tirupur 641 602.

2. Rahul

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent to accept the entire claim amount with regard to the Loan account of the petitioner and cancel the sale certificate dated 10.08.2023 registered as Document No.7308 of 2023 at the Joint-I SRO, Thiruppur.

For Petitioner : Mr.T.Arulselvan

For Respondents : Mr.P.Raghunathan
for M/s.T.S.Gopalan & Co., for R-1
: No appearance for R-2

* * * * *



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ORDER

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

This petition filed under Article 226 of the Constitution of India seeks for a direction to the first respondent to accept the claim amount with regard to the loan amount of the petitioner and cancel the sale certificate dated 10.08.2023.

2. This writ petition, at the outset, is not maintainable. The law is well settled 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 and/or bank to positively grant the benefit of OTS to a borrower. In ***Bijnor Urban Cooperative Bank Limited, Bijnor and another v. Meenal Agarwal and others***¹, the Supreme Court 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*

¹(2023) 2 SCC 805
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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 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)



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3. Further, the petitioner is squarely met with the bar of an alternative efficacious remedy. As per Section 17 of the SARFAESI Act, any person aggrieved by the measures taken under the provisions of the SARFAESI Act must challenge the same before the jurisdictional Debts Recovery Tribunal.

4. 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;

² (2024) 6 SCC 579



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(iii) it has resorted to invoke the provisions which are repealed; and
(iv) when an order has been passed in total violation of 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]

5. In view of the above, this writ petition is dismissed. However, the petitioner is granted liberty to challenge the sale, if not already challenged, before the Debts Recovery Tribunal in accordance with law, subject to limitation as well.

With the aforesaid liberty, this writ petition is disposed of. There shall be no order as to costs. Consequently, the interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN, J.)
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN, J.

(sra)

To

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