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W.P.No.38547 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.38547 of 2024
and W.M.P.Nos.41752 and 42753 of 2024

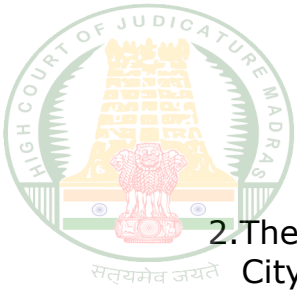
1.K.V.Lakshmipathy
S/o.K.G.Varadarajan,
655/4,Vallalar Nagar,
Pachal Village,
Vaniyambadi Road,
Tirupattur-635601.

2.L.Jayasree
W/o.V.Lakshmipathy,
No.655/4, Vallalar Nagar,
Pachal Village,
Vaniyambadi Road,
Tirupattur- 635 601.

Petitioners

Vs

1.The Authorised Officer
City Union Bank Limited,
Credit Recovery and
Management Department,
Administrative Office,
No.24-B, Gandhi Nagar,
Kumbakonam- 612 001.



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2.The Branch Manager
City Union Bank Ltd.,
Tirupattur Branch,
Tirupattur 635 601.

3.Ragavendran Padmanaban
D.No.61, Krishnappa Nagar,
Hosur 635 109
Krishnagiri District.

4.Babu Gopalo
No.105, Hariharanatha
Swamy Koil Street,
Dharmapuri 636 701.

5.Rajesh
S/o.Gururajan,
4/1, Raj Nivas Rama Anjineya Street,
Nehru Nagar Extension,
Hosur 635 109
Krishnagiri District.

6.Ashika Krishnamoorthy
W/o.Arunkumar,
421/1, Saibaba Nagar,
Pachal Post,
Tirupattur-635 602.

Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus restraining the 1st and 2nd respondents from proceeding with recovery proceedings initiated against secured assets of the petitioners in respect of the their loan accounts bearing Account numbers 512020010021820, 501312030020336 and 501812080065979 with 2nd respondent till the disposal of the S.A.No.566 of 2024 on the file of the Debt Recovery Tribunal, Chennai- II.



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For Petitioners: No Appearance

For Respondent(s): Mrs.S.Anuradha Balaji
for R1 and R2

R3 to R6 - No Appearance

ORDER

(Order of the Court was made by *G.Arul Murugan, J.*)

This writ petition has been filed by the petitioners seeking a writ of mandamus restraining respondents 1 and 2 from proceeding with recovery proceedings initiated against the secured assets of the petitioners in respect of their loan accounts, bearing Nos. 512020010021820, 501312030020336 and 501812080065979, maintained with the second respondent till the disposal of S.A.No.566 of 2024 pending on the file of Debts Recovery Tribunal-II, Chennai.

2. Learned Standing Counsel for the respondent bank submitted that already proceedings were initiated under SARFAESI Act and sale notice was issued and pursuant to the sale notice, the property was sold. Challenging the auction, the petitioners have filed S.A.No.566 of 2024, which is pending.



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3. Since challenging the auction the petitioners have filed SA, which is also pending consideration before the jurisdictional Debts Recovery Tribunal, the present writ petition is not maintainable.

4. That apart, the respondent bank is a private bank and not a "State" or an "instrumentality of the State" as defined under Article 12 of the Constitution of India. 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 respondent bank, 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 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

¹ (2022) 5 SCC 345



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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 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]



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5. In light of the above, the writ petition is not maintainable and, therefore, the same is dismissed. There shall be no order as to costs. Consequently, W.M.P.No.41753 of 2024 is closed. W.M.P.No.41752 of 2024 filed to permit the petitioners to file a single writ petition is allowed, subject to payment of separate court fee within two weeks.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
03.07.2026

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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