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W.P.No.7812 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

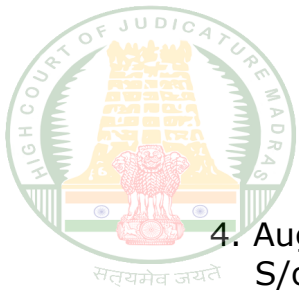
W.P.No.7812 of 2026
and WMP No.8415 of 2026

Jane Gladis Abraham
W/o.Augustin Jebbaraj
No.4/21, Swornambigai Nagar,
Virugambakkam, Chennai-600 092.

Petitioner(s)

Vs

1. Reserve Bank of India
Rep. by its General Manager (Incharge)
Centre No.1, World Trade Centre,
Mumbai-400 005.
2. Edelweiss Asset Reconstruction Company Limited,
Rep. by its Authorized Officer, Harsh Kumar
Edelweiss House, C.S.T. Road, Kalina,
Mumbai-400 098, also having branch office at
Sakthi Towers, Tower-I, Basement, Chennai-600 002.
3. HDB Financial Services Limited
Rep by its General Manager, Office at No.62/2,
Loyal Towers, Fourth floor, Greaves Road,
Chennai-600 006.



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4. Augustin Jebbaraj
S/o.Chitirai Swamiadian,
No.4/21, Swornambigai Nagar,
Virugambakkam, Chennai-600 092.

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Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration that the act of the 2nd respondent in issuance of notice invoking Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 dated 28.04.2023 in reference No.Edel ARC/Retail 165/2023-2024 and the subsequent notice dated 06.03.2024 in reference No.Edel/ARC/Retail 4456/2023-2024 is ultra vires the provisions under SARFAESI Act, unconstitutional, lacks sanction of law, non-est, void ab-initio.

For Petitioner(s): Mr.Aditya Sarangarajan and
Mr.Taran Kumar

For Respondent(s): Mr.C.Mohan
Assisted by Ms.A.Rexy Josephine Mary
for M/s.King and Partridge
for R1

ORDER

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

The petitioner has approached this court invoking its extraordinary jurisdiction under Article 226 of the Constitution of India seeking a declaration to declare the statutory notice dated 28.04.2023 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security

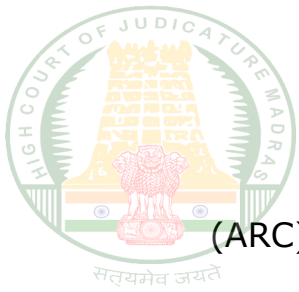


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Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act"), and the subsequent notice dated 06.03.2024 issued by the second respondent, as ultra vires, unconstitutional, and void ab initio.

2. The facts germane to the disposal of this writ petition are that the petitioner along with the fourth respondent availed financial assistance to the tune of Rs.35,00,000/- from the third respondent, HDB Financial Services Limited. Due to alleged defaults in repayment, the third respondent initiated arbitration proceedings, which culminated in an award dated 10.06.2016. Execution proceedings were subsequently triggered. In the interregnum, the third respondent transferred the debt in favour of the second respondent, which is a private Asset Reconstruction Company (ARC). Armed with the assignment deed, the second respondent initiated recovery enforcement measures by issuing the impugned demand notice under Section 13(2) of the SARFAESI Act.

3. At the threshold, it is imperative to address the maintainability of the present writ petition against the second respondent, which is a private Asset Reconstruction Company



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(ARC). The second respondent is not a "State" or an "instrumentality of the State" as defined under Article 12 of the Constitution of India.

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 second 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 Article 226 of the Constitution of India against the proposed

¹ (2022) 5 SCC 345



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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]

5. Furthermore, the SARFAESI Act provides a complete, self-contained and efficacious statutory machinery under Section 17 of the SARFAESI Act for any person aggrieved by the measures adopted by a secured creditor. The petitioner's grievances regarding



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the quantum of debt, the validity of the assignment, the satisfaction of the arbitral award, or the lack of compliance with RBI circulars are questions of fact and law that can be properly ventilated before the competent Debts Recovery Tribunal for adjudication. The petitioner cannot bypass this statutory forum by styling commercial disputes as constitutional infractions to invoke the extraordinary writ jurisdiction of this Court against a private entity.

6. In the result, the writ petition is dismissed as not maintainable. No costs. Consequently, connected interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
10.07.2026

Index : Yes/No
Neutral Citation : Yes/No
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To:

1. The General Manager (Incharge)
Reserve Bank of India
Centre No.1, World Trade Centre,
Mumbai-400 005.



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

(sasi)

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