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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-11-2025

CORAM

THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WA No. 2877 of 2023

and

CMP No. 23969 of 2023

S.Mahendran

638011.

Appellant(s)

Vs

1.The Internal Ombudsman,
Canara Bank, Head Office,
No.112, J.C. Road,
Bangalore – 560 002.

2.The Assistant General Manager,
Office of the Banking Ombudsman,



Reserve Bank of India,
Chennai – 600 001.

3.The Branch Manager,
Canara Bank,
Srivilliputtur – 626 125.
Virudhunagar District.

4.The Banking Ombudsman,
Reserve Bank of India,
Chennai – 600 001.

Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed by this Court dated 08.03.2023 made in WP.No.29492 of 2018 and allow the above writ appeal.

For Appellant(s): Mr.T.NarayanasamyGovernment
Advocate

For Respondent(s): Mr.P.Raghunathan
For M/s.T.S.Gopalan And Co
For R1 & R3
No Appearance For R2 & R4



JUDGMENT

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(Judgment was delivered by S.M.Subramaniam J.)

The writ petitioner is the appellant before this Court. The relief sought for in the writ petition is relating to deposit made by the appellant in Canara Bank. It is a banking transaction and the interest claimed is relatable to contractual obligation. The appellant approached the ombudsmen and award has been passed in his favour.

2. The learned counsel for the appellant would submit that the writ petition has been instituted seeking implementation of the award along with the interest.

3. Admittedly, it is a commercial transaction and contractual in nature. In view of the fact that the dispute raised in the present lis related to commercial transaction based on contractual obligation, such disputes are to be resolved by approaching the Banking Ombudsman or competent civil Court of law. However, the writ Court cannot adjudicate disputed facts of this nature.



Thus the Writ Petition per se is not maintainable. The legal principles regarding maintainability of a writ petition under Article 226 of the Constitution

of India has been considered by the Hon'ble Supreme Court of India in

S.Shobha vs. Muthoot Finance Ltd¹, and the principles laid down reads as

under:

“(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 Government 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

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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 to 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 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 country 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."

4. The present case would fall under clause (4) and that being the factum, the writ order is in conformity with the legal position settled.

5. Accordingly, the order passed in the writ petition is confirmed and consequently, this Writ Appeal stands dismissed, granting liberty to the appellant to approach the competent Civil Court of law. However, the period during, which the Writ Petition and Writ Appeal were pending before the High Court is to be taken into consideration for the purpose of condoning the period



of limitation in the event of institution of any suit by the appellant. No costs.

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(S.M.SUBRAMANIAM J.)(P.DHANABAL J.)

21-11-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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To

Reserve Bank of India,
Chennai – 600 001.

3.The Branch Manager,



WA No. 2877 of 2023



Canara Bank,
Srivilliputtur – 626 125.
Virudhunagar District.

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4.The Banking Ombudsman,
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