



W.P(MD)No.618 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P(MD)No.618 of 2024
and
W.M.P(MD)No.602 of 2024**

M.S.Mohamed

... Petitioner

vs.

1.The Secretary,
Ministry of Finance Department of Expenditure,
Room No.76, 3rd Floor,
Jeevan Deep Building
Sansad Marg,
New Delhi – 110 001.

2.The Ombudsman,
(Non Banking Financial Company),
Centralized Receipt & Processing Centre (RBI),
4th Floor,
Sector 17-Reserve Bank of India,
Chandigarh – 160 017.



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3. Shriram Finance Limited,
128, Angappa Naicken Street, Chennai.
Having Branch Office at
No.482/2, Victoria Extension Road,
Near Antoniar Church,
Tuticorin – 628 002.

4. Shriram Finance Limited,
No.5 - 2nd Floor,
Ramachandrapuram,
11th Cross East,
(Near Saarathambal Temple),
Tennur, Trichy – 620 017.

5. Shriram Finance Limited,
Administrative Office at,
6th Floor (Level – 2),
Building No.Q2,
Aurum Q Parc, Gen 4/1, TTC,
Thane Belapur Road,
Ghansoli,
Navi Mumbai – 400 710.

6. Shriram Finance Limited,
Registered Office at:
Sri Towers,
Plot No.14A, South Phase,
Industrial Estate,
Guindy,
Chennai – 600 032.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned possession notice issued by the third respondent vide S.F.No.85/2023 dated 28.10.2023 and quash the same as illegal and consequently direct the respondents 1 and 2 to take appropriate legal actions against the respondents 3 to 6 who indulged in fraud and cheating and to return back the original documents of himself also to pay penalty as per the guidelines of the second respondent.

For Petitioner : Ms.T.Sathya Selvi

For R – 1 : Mr.K.Sankararaman

For R – 2 : Mr.K.R.Laxman

For RR 3 to 6 : Mr.J.Barathan

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The possession notice issued by the third respondent/private finance company dated 28.10.2023, is under challenge in the present Writ Petition.



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2.The proceedings under the SARFAESI Act cannot be challenged through writ proceedings and an aggrieved person has to approach the Debts Recovery Tribunal under the SARFAESI Act in the manner contemplated under the relevant rules.

3.The learned standing counsel appearing for the second respondent would submit that the complaint filed by the petitioner was closed by the Reserve Bank of India vide order dated 08.04.2024.

4.The Hon'ble Supreme Court of India in the case of ***Celir LLP Vs. Bafna Motors (Mumbai) Private Limited and others*** reported in ***(2024) 2 SCC 1*** held that the High Court was not justified in exercising the writ jurisdiction under Article 226 of Constitution of India, since efficacious alternative remedy is contemplated under the provisions of the SARFAESI Act. Paragraph Nos.97, 98, 110 and 110.1 would be relevant in this context and have been extracted herein:

“97.This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved



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person under the provisions of the SARFAESI Act. This Court in *Satyawati Tondon [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260]* made the following observations : (SCC pp. 123 & 128, paras 43-45 & 55)

“43. Unfortunately, the High Court [*Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608*] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies



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available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a



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detailed mechanism for redressal of his grievance.

55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the Sarfaesi Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

98.In CIT v. Chhabil Dass Agarwal [CIT v. Chhabil Dass Agarwal, (2014) 1 SCC 603] , this Court in para 15 made the following observations : (SCC p. 611, para 15)

“15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of



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judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [Thansingh Nathmal v. Supdt. of Taxes, 1964 SCC OnLine SC 13] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments 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 still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”

110. We summarise our final conclusion as under:

110.1. The High Court was not justified in exercising its writ jurisdiction under Article 226 of the Constitution more particularly when the borrowers had already availed the alternative remedy available to them under Section 17 of the SARFAESI Act.”

5. In view of the above legal position, granting liberty to the



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petitioner to approach the appropriate forum to redress his grievance, this Writ
Petition stands dismissed. There shall be no order as to costs. Consequently,
connected Miscellaneous Petition is closed.

[S.M.S.,J.] & [A.D.M.C.,J.]
10.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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