**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 04.08.2025**

**CORAM:**

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

**W.P(MD)No.6050 of 2024**
**and**
**W.M.P(MD)Nos.5680 & 5681 of 2024**

1.M/s.Sri Meenakshi Educational and Social Welfare Trust,
Represented by its Trustees,
B.Karthikeyan (Chairman),
S/o.Balakrishnan,
No.4/35/2, Rajaji Street,
Paramakudi Town,
Ramanathapuram District. ... Petitioner

vs.

1.M/s.Karur Vysya Bank Limited,
Madurai Main Branch,
No.28 74, Amman Sannathi St.Madurai,
Represented by its Authorized Officer/Chief Manager,
Senthilkumaran.

2.The Authorized Officer,
Karur Vysya Bank Limited, Madurai Main Branch,
44, West Tower Street, Madurai 625 001.

3.The Authorised Officer,
Assistant Recovery Branch,
R.S.No.170/9, Uthamgudi Village,
Near Mathuthavani Bus Stand,
Madurai. ... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order of the Chief Judicial Magistrate, Madurai in Cr.M.P.No. 251 of 2023 dated 17.04.2023 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.D.Senthil
for Mr.V.Malaiyendran

For Respondents : Mr.V.Sukumar

**ORDER**

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

The writ on hand has been instituted challenging the order of the learned Chief Judicial Magistrate, Madurai in Cr.M.P.No.251 of 2023, dated 17.04.2023.

2.The said order issued under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter, referred to as "the SARFAESI Act") is susceptible to an appeal under the provisions of the said Act. Thus, no writ petition is maintainable.

3.The legal position in this regard has been upheld by the Honourable Supreme Court of India in the case of ***Celir LLP Vs. Bafna Motors (Mumbai) Private Limited and others,*** reported in ***(2024) 2 SCC 1***. Paragraph Nos.97, 98, 110 and 110.1 of the said decision would be relevant in this context and they have been extracted hereunder:-

> *"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 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)*
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> > *"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 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 detailed mechanism for redressal of his grievance.*

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*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 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."*

4.In view of the above legal position, granting liberty to the petitioner to approach the Debts Recovery Tribunal to redress his grievance, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**[S.M.S.,J.] & [A.D.M.C.,J.]**
**04.08.2025**

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

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**S.M.SUBRAMANIAM, J.**
**and**
**DR.A.D.MARIA CLETE, J.**

ps

**ORDER MADE IN**
**W.P(MD)No.6050 of 2024**

**DATED : 04.08.2025**