BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition(MD)No.28381 of 2025

D.Senthilkumar ... Petitioner

Vs

1.The Authorized Officer,
Punjab National Bank,
Mylapore Branch,
46-49, Royapettah High Road,
Chennai 600 014.

2.M/s.Punjab National Bank,
rep., by its Head,
Asset Recovery Management Branch,
PNB Towers, Ground Floor,
46-49, Royapettah High Road,
Chennai -600 014. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the second respondent dated 20.09.2025 and quash the same as illegal and ultra-vires and consequently directing the respondents to refund the entire bid amount of Rs.45,25,000/- (Rupees Forty Five Lakhs Twenty Five Thousand only) along with interest at the rate of 12% per annum from 09.09.2022 till the date of actual realization.

For Petitioner : Mr.B.Prasanna Vinoth
for Mr.A.N.Ramanatha

For Respondents : Mr.V.Balasubramanian

ORDER

This writ petition has been filed to quash the impugned order issued by the second respondent dated 20.09.2025 and consequential direction to the respondents to refund the entire bid amount of Rs.45,25,000/- (Rupees Forty Five Lakhs Twenty Five Thousand only) along with interest at the rate of 12% per annum from 09.09.2022 till the date of actual realization.

2. At the outset, this Court had directed the petitioner to argue on the maintainability of the writ petition, since the petitioner is seeking to redress the grievance, for which, there is an effective alternate remedy in the form of an application under Section 17 of the 'Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002', (hereinafter referred to as 'SARFAESI Act' for brevity).

3. The learned counsel would submit that the respondent bank had suppressed the fact that the property on site fell short of the measurement given in the auction notice. He would submit that these facts came to his knowledge

on perusing the revenue records. He would further argue that there are encroachments on the property in question and therefore, in the light of the suppression of facts, which is contrary to Rule 8 of the Security Interest (Enforcement) Rules, the writ petition is maintainable. He would also rely upon the judgment of the Hon'ble Division Bench of this Court reported in ***CDJ 2017 MHC 876*** in the case of ***V.Sambandan Vs., The Punjab National Bank rep., by its Chairman cum Managing Director, New Delhi and another***, by relying upon paragraph No.59, he would submit that since the bank had not described the encumbrance, he was entitled to act out of the contract and seek refund of the amount.

4. Heard the learned counsel on either side.

5. The property in question is a vacant site and the description given in the auction notice is the very same description as shown in the title deeds deposited with the bank and the further allegation that the bank had not handed over the possession of the property, cannot also be countenanced inasmuch as the petitioner could have requested the bank to move necessary application under Section 14 of the SARFAESI Act for taking physical possession. That apart, Section 17 of the SARFAESI Act clearly provides an effective alternate remedy.

6. The Hon'ble Supreme Court in the judgment reported in ***(2010) 8 SCC 110*** in the case of ***United Bank of India Vs., Satyawati Tondon and others*** was considering the case, where the Hon'ble Division Bench of the High Court had restrained the bank from proceeding under Section 13(4) of the SARFAESI Act. The learned judges discussed the scope and ambit of the provisions of the SARFAESI Act and in paragraph No.22 therein, had stated that Section 17 provided the remedies available to any person having grievance against the action taken by the secured creditors under Section 13(4) of the SARFAESI Act. The learned Judges had also discussed the various judicial pronouncements on the extent of the intervention of this Court under Article 226 of the Constitution of India in proceedings initiated under the SARFAESI Act. In paragraph No.47, the learned Judges had relied upon the observation of the Hon'ble Supreme Court in the case of ***Thansingh Nathmal Vs., Supdt of Taxes*** reported in ***AIR 1964 SC 1419,*** wherein they had observed as follows:

> "7.....*The jurisdiction of the High Court under Art. 226 of the Constitution is couched in wide terms and the exercise thereof is not subject to any restrictions except the territorial restrictions which are expressly provided in the Article. But the exercise of the jurisdiction is discretionary; it is not exercised merely because it is lawful to do so. The very amplitude of the jurisdiction demands that it will ordinarily be exercised subject to certain self-imposed limitations. Resort to that jurisdiction is not intended as an alternative remedy for relief which*

may be obtained in a suit or other mode prescribed by statute. Ordinarily the Court will not entertain a petition for a writ under Art. 226, where the petitioner has an alternative remedy which, without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Art. 226 trench upon an alternative remedy provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit, by entertaining a petition under Art. 226 of the Constitution, the machinery created under the statute to be by-passed, and will leave the party applying to it to seek resort to the machinery so set up. "

7. The Bench ultimately expressed their concern about the High Courts continuing to ignore the availability of statutory remedies provided under the SARFAESI Act as follows:

"*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 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.*

56.Insofar as this case is concerned, we are convinced that the High Court was not at all justified in injuncting the appellant from taking action in furtherance of notice issued under Section 13(4) of the Act. In the result, the appeal is allowed and the impugned order is set aside. Since the respondent has not appeared to contest the appeal, the costs are made easy. "

8. In the judgment reported in ***(2023) 17 SCC 311*** in the case of ***South Indian Bank Limited and others Vs., Naveen Mathew Philip and another,*** the Hon'ble Supreme Court was considering the jurisdiction of the High Court under Article 226 to interfere in an action taken by the bank for recovering its dues on the failure of the debtor to comply with the one time settlement agreement entered into between him and the bank. The learned Judges observed as follows:

"*15.Approaching the High Court for the consideration of an offer by the borrower is also frowned upon by this Court. A writ of mandamus is a prerogative writ. In the absence of any legal right, the Court cannot exercise the said power. More circumspection is required in a financial transaction, particularly when one of the parties would not come within the purview of article 12 of the Constitution of India. When a statute* *prescribes a particulare mode, an attempt to circumvent shall not be encouraged by a writ Court. A litigant cannot avoid the non-compliance of approaching the Tribunal which requires the prescription of fees and use the constitutional remedy as an alternative."*

9. The learned Judges had also considered the various judgments. They had relied upon the judgment of the Hon'ble Supreme Court reported in ***(2014) 1 SCC 603*** in the case of ***CIT Vs., Chhabil Dass Agarwal***, wherein the learned Judges had considered the exception to the Rule of alternate remedy in para 15 therein as follows:

"*15. Thus, while it can be said that this Court has recognized 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, Titagarh Paper Mills case 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. "*

10. The learned judges also referred to the statement of objects and reasons of the Act and ultimately observed as follows:

> *"18.While doing so, we are conscious of the fact that the powers conferred under Article 226 of the Constitution of India are rather wide but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature had provided for a specific mechanism for appropriate redressal."*

11. Therefore, in the light of the above pronouncements, the present Writ Petition is dismissed as not maintainable and the remedy available to the petitioner is only to approach the Debt Recovery Tribunal by invoking the provisions of the SARFAESI Act. The tribunal shall exclude the time taken by the petitioner for prosecuting this writ petition while considering the limitation. No costs.

16.10.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes
Rmk

To

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2.M/s.Punjab National Bank,
rep., by its Head,
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P.T.ASHA, J.

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