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W.P.2467 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2026

C O R A M

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.2467 of 2026

and

W.M.P.No.2717 of 2026

M/s.Muthoot Fincorp Limited
Rep. by its Authorised Signatory
Head Office, Muthoot Centre,
TC No.27/3022, Punnen Road,
Trivandrum, Kerala – 695001.

... Petitioner

-VS-

1.Union of India,
Rep. by its Secretary,
Ministry of Corporate Affairs,
5th Floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi – 110 001.

2.Mahalingam Suresh Kumar,
Liquidator,
M/s.Ganga Foundations Private Limited
(In Liquidation)
SPP Insolvency Professionals LLP, 2nd Floor,
CODISSIA, G.D.Naidu Towers, Huzur Road,
Coimbatore – 641 018.

... Respondents



W.P.2467 of 2026

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to praying to issue a Writ of Mandamus, directing the 2nd respondent to consider petitioner's representation dated 07.01.2026 and to direct the 2nd respondent

a) not to proceed with the confirmation of sale and issuance of any sale certificate in respect of the property described in LOT – 3 of the sale notice dated 03.12.2025 and to await the orders of the NCLAT, Chennai in Company Appeal (AT) (CH) (INS) No.244 of 2025.

b) not to bring the property for further sale until orders are passed in Company Appeal (AT) (CH) (INS) No.244 of 2025 before the NCLAT, Chennai wherein orders were reserved on 04.06.2025.

For Petitioner : Dr.Father Xavier Arul Raj,
Senior Counsel
for Mr.T.Sai Krishnan

For Respondents : Dr.V.Venkatesan, SPC for R1
Mr.A.G.Sathiyanaarayana for R2



W.P.2467 of 2026

ORDER

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

The lis on hand has been instituted under Article 226 of the Constitution of India seeking the following reliefs:

Directing the 2nd respondent to consider petitioner's representation dated 07.01.2026 and to direct the 2nd respondent

a) not to proceed with the confirmation of sale and issuance of any sale certificate in respect of the property described in LOT – 3 of the sale notice dated 03.12.2025 and to await the orders of the NCLAT, Chennai in Company Appeal (AT) (CH) (INS) No.244 of 2025.

b) not to bring the property for further sale until orders are passed in Company Appeal (AT) (CH) (INS) No.244 of 2025 before the NCLAT, Chennai wherein orders were reserved on 04.06.2025.

2. The learned Senior Counsel appearing on behalf of the petitioner would mainly contend that the petitioner being a secured creditor is empowered to exercise its discretion to realize the loan dues by invoking Section 52 of the Insolvency and Bankruptcy Code, 2016. A request was made by the petitioner to the Liquidator / 2nd respondent expressing unwillingness to participate in the liquidation process and to opt out from the proceedings. The said request was not considered.



W.P.2467 of 2026

3. The learned counsel appearing on behalf of the 2nd respondent would strenuously oppose by stating that the Writ Petition is not maintainable. Company Appeal No.244 of 2025 is now pending before the National Company Law Appellate Tribunal [NCLAT], Chennai. Final arguments were concluded and the Tribunal reserved for passing orders on 04.06.2025. That apart, the request of the secured creditor/ petitioner was not considered by the Liquidator, since they have failed to comply with the requirements. Further, in respect of the earlier sale notice issued under Insolvency and Bankruptcy Code, the writ petitioner filed I.A.No.627 of 2025 to set aside the sale and the National Company Law Tribunal [NCLT] dismissed the petition on 26.05.2025. All these facts though stated in the affidavit, none of the orders passed by the NCLT or NCLAT have been enclosed.

4. This Court is of the considered view that the secured creditor is empowered to opt out from the liquidation process and realize their dues under Section 52 of the Insolvency and Bankruptcy Code, however, by following the procedures as contemplated under the Code. That apart, in the present case, earlier auction sale notice came to be challenged by the writ petitioner in I.A.No.627 of 2025 and it was dismissed by the NCLT on 26.05.2025.



W.P.2467 of 2026

WEB COPY

5. Regarding maintainability of the present Writ Petition, Section 61 of the Insolvency and Bankruptcy Code contemplates appeals and appellate Authority. Section 62 provides appeal to the Hon'ble Supreme Court. Therefore, any order passed by NCLAT is appealable before the Hon'ble Supreme Court of India under Section 62 of the Insolvency and Bankruptcy Code. This being the distinct and special provision contemplated under the Insolvency and Bankruptcy Code, the High Court is not expected to exercise the power of judicial review under Article 226 of the Constitution of India.

6. Therefore, entertaining the Writ Petition under Article 226 of the Constitution of India would fall beyond the realm of the power of judicial review and not in consonance with the scheme contemplated under Insolvency and Bankruptcy Code. Admittedly, the final arguments in CA.No.244 of 2025 is over and now reserved for passing orders by the NCLAT. That being so, the present Writ Petition is unnecessary and if entertained would derail the liquidation process, which has already commenced under the provisions of Insolvency and Bankruptcy Code.



W.P.2467 of 2026

7. Thus, the Writ Petition is not maintainable. Granting liberty to the petitioner to workout their remedy in the manner known to law, the present Writ Petition stands **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(S.M.S,J.,) (C.K,J.,)
30.01.2026

Index: Yes / No
Internet: Yes / No
dsa



W.P.2467 of 2026

To:

1. The Secretary,
Union of India,
Ministry of Corporate Affairs,
5th Floor, 'A' Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi – 110 001.
2. Mahalingam Suresh Kumar,
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W.P.2467 of 2026

S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

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