



W.P.No.4884 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.4884 of 2024
& W.M.P.Nos.5345 to 5343 of 2024

1. A.Martin
S/o. Appale, Advocate
Door No 14, Venkatachalam Street
Cholapuram, Ambattur
Chenani 600 053.

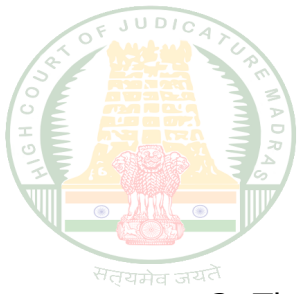
2. C.Sathy Kumar
W/o A. Martin
Door No.14, Venkatachalam Street
Cholapuram, Ambattur
Chenani 600 053.

Petitioner(s)

Vs

1. The Branch Manager
Equitas Small Finance Bank Limited
No.43, Perumal Kovil Street &
South Mada Street, Ponnur Village,
Villivakkam, Chenani 600 046.

2. M/s. Equitas Small Finance Bank Limited
Public Limited Company and a Small
Finance Bank
Represented by its Manager
Phase - II, 4th Floor, Spencer Plaza
No.769 Anna Salai, Chenani 600 002.



W.P.No.4884 of 2024

3. The CNICA

Viz. Advocate Muthukumaran
(Sole Arbitrator)
Flat No.A1, Block A, Neelakandan Palace,
Mandapam Cross Street
Land Mark Regina Nursing Home
Kilpauk, Chennai 600 010.

4. The Sub Registrar

Avadi Sub Registrar Office
Near Sekkadu, Avadi
Chennai 600 071.

Respondent(s)

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus to direct 1st to 2nd Respondent to not initiate any proceedings against the petitioner for the same and be please pass a direction order to the 1st and 2nd Respondent to issue / release the 3rd Pre closure Full & Final Settlement letter with N.O.C. to the petitioner to deposit the 3rd Pre closure loan Rupees 12 Lakh to the 1st Respondent bank to Redeem the mortgage property for the petitioner daughter MBBS education and be please permit the petitioner to Deposit the 3rd Pre closure full and final settlement loan Rupees 12 Lakh before this honourbale court to redeem the mortgage property, and be please pass a direction order to the 4th Respondent (S.R.O Avadi) to Release the Mortgage deed bearing Document No. 18943/2021 dated 18.12.2021 from the 4th Respondent office Record, and be please pass a direction order to the 1st and 2nd respondent to pay the suitable compensation amount to the petitioner under section 73, 74 of the Indian contract Act R/W Section 19 of the SARFAESI Act for the same.



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W.P.No.4884 of 2024

For Petitioner(s): No Appearance

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

None appears for petitioners.

2. Petitioners pray for a direction to respondents 1 and 2 not to initiate any proceedings against petitioners.

3. On perusal of cause-title, we find that the direction is sought to be issued to Equitas Small Finance Bank Limited, which is a private bank and not amenable to writ jurisdiction and as such, this writ petition is not maintainable.

4. At the outset, we must address a fundamental jurisdictional issue that goes to the root of the maintainability of this writ petition. Respondent bank is a private Non-Banking Financial Company (NBFC). It is not an instrumentality of the State as defined under Article 12 of the Constitution of India.



W.P.No.4884 of 2024

WEB COPY

5. It is a well-settled proposition of law that a writ petition under Article 226 of the Constitution of India can only be issued against a State, its instrumentalities, or a private body discharging a public function or statutory public duty. Respondent bank is merely enforcing a private contractual right and security interest created by the borrower. It is not discharging any public function or sovereign duty. Therefore, a writ petition against a Non-Banking Financial Institution is not maintainable under Article 226 of the Constitution of India. The said view is fortified by a decision of the Supreme Court in *S.Shobha v. Muthoot Finance Ltd*¹, wherein it was held thus:

"9. *We may sum up thus:*

(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 Governmental or closely associated therewith by being of public importance or being fundamental to the life of the people and hence Governmental.

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W.P.No.4884 of 2024

(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 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 it to perform some public duty cast



WEB COPY



W.P.No.4884 of 2024

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 statue 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 county 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."



W.P.No.4884 of 2024

[emphasis supplied]

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6. From the law enunciated by the Supreme Court, it is lucid that a private entity, such as an NBFC, cannot be subjected to writ jurisdiction unless there is a clear violation of public law duties or statutory obligations imposed by the State.

7. In view of the above, the writ petition is not maintainable against a NBFC and accordingly, the same is dismissed. W.M.P.No.5343 of 2024 seeking to permit petitioners to join together and file a single writ petition is ordered subject to payment of individual court fee. The other interim applications are also dismissed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
29.06.2026

Index : Yes/No
Neutral Citation : Yes/No

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W.P.No.4884 of 2024

WEB COPY

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THE HON'BLE CHIEF JUSTICE
AND
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