



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2026

CORAM

**THE HON'BLE MR.SUSHRUT ARVIND DHARMADHIKARI, CHIEF
JUSTICE**

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No. 21008 of 2023

M/s. Vistaar Financial Services Pvt Ltd,
Reg.Of At Plot 59 And 60-23, 22nd Cross
29th Main, BTM Layout 2nd Stage,
Bengaluru 560 076
Branch Office at 387, I Floor, TI Cycle Road,
Opp. to Ambattur Post Office, Varadharajapuram,
Ambattur Chennai-600 053
Rep By Authored Signatory Mr.Baskaran

..Petitioner(s)

Vs

1. Mr. Kumaresan Ganesan
2. Ganeshan Kaniyapan
3. Angayi Ganeshan

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of writ of certiorarified amndamus to call of the records of the orders passed in CRLMP No.479 of 2022 dated 29.11.2022 by the Hon'ble Chief Judicial Magistrate, Salem and quash the same and direct the Learned Magistrate to pass suitable orders in appointing an advocate commissioner thereby assisting the petitioner to take possession of the secured asset mentioned in the section 14 petition.



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For Petitioner(s):

Ms.M.Magalakshmi
(Through Video Conferencing).

ORDER

(Order of the Court was made by The Chief Justice)

Assailing the order dated 29.11.2022 passed in CrI.M.P.No.479 of 2022 by the Chief Judicial Magistrate, Salem, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the present writ petition is filed by the borrower.

2. In *Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir*¹, the Supreme Court emphatically held that the remedy against an order passed under Section 14 of the Act is under Section 17 of the Act before the Debts Recovery Tribunal and a writ petition is not maintainable. The observations of the Supreme Court are extracted herein below:

"10. In United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110, it was observed and held by this Court that the remedies available to an aggrieved person against the action taken under Section 13(4) or Section 14 of the SARFAESI Act, by way of appeal under Section 17, can be said to be both expeditious

¹ (2022) 5 SCC 345



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and effective. On maintainability of or entertainability of a writ petition under Article 226 of the Constitution of India, in a case where the effective remedy is available to the aggrieved person, it is observed and held in the said decision in paras 43 to 46 as under : (SCC pp. 123-24)

'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



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person must exhaust the remedies available under the relevant statute.

...

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.**

46. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. **In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which (sic will) ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. ...'**



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...
12. In *Kanaiyalal Lalchand Sachdev v. State of Maharashtra*, (2011) 2 SCC 782, after referring to the earlier decisions of this Court in *Sadhana Lodh v. National Insurance Co. Ltd.*, (2003) 3 SCC 524, *Surya Dev Rai v. Ram Chander Rai*, (2003) 6 SCC 675 and *SBI v. Allied Chemical Laboratories*, (2006) 9 SCC 252 **while upholding the order passed by the High Court dismissing the writ petition on the ground that an efficacious remedy is available under Section 17 of the SARFAESI Act, it was observed that ordinarily relief under Articles 226/227 of the Constitution of India is not available if an efficacious alternative remedy is available to any aggrieved person."**

[emphasis supplied]

In view of the law enunciated by the Supreme Court, the writ petition is dismissed leaving it open to the petitioner to work out its rights before the appropriate forum. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN J.)

18-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

ssk

To

Chief Judicial Magistrate,
Salem



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**SUSHRUT ARVIND DHARMADHIKARI, C.J.
AND
G.ARUL MURUGAN, J.**

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