IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WP No.20749 of 2026
and WMP No.22363 of 2026

R.Kumar
S/o.Ramasamy,
No.161A, Ayyanar Koil Street,
Poomudayan Kudi kadu, Thular,
Sendurai Taluk,
Ariyalur District - 621 719.

Petitioner(s)

Vs

1. The Authorised Officer
   JM Financial Asset Reconstruction
   Company Ltd, Corporate Identity
   Number U67190MH2007LC174287
   Registered Office, 7th Floor, Cnergy,
   Appasaheb Marathe Marg,
   Prabhadevi, Mumbai-400 025.

2. The Managing Director
   Poonawala Finance Corporation Limited,
   2nd Floor, Oval Building Tower,
   Venkat Narayana Road, T.Nagar,
   Chennai-600017.

Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to call for the records in Ref. No.JMFARC/PRE SALE 25-26/MARCH 25/PFL/237, dated 17.03.2026 on the file of first respondent and quash the same as illegal and direct the respondents to participate in the proceedings in EIOP No.47/2025 on the file of IX Assistant City Civil Court, Chennai, to adjudicate the same fairly in accordance with law to discharge the loan against the writ petition in a fair manner and the secure the end of justice.

For Petitioner(s): Mr.R.Sankarasubbu
(Thru Video Conferencing)

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

The petitioner has approached this court under Article 226 of the Constitution of India seeking a writ of mandamus to call for the records and quash the impugned pre-sale auction notice bearing Ref No.JMFARC/Pre-sale/25-26/Mar-2026/PFL/237, dated 17.03.2026, issued by the first respondent. The petitioner further seeks a direction upon the respondents to participate in the proceedings pending in EIOP No.47 of 2025 on the file of the IX Assistant Judge, City Civil Court, Chennai.

2.1. The petitioner avers that he had availed a financial facility wherein the principal amount was Rs.25,00,000/-. He claims to have paid a sum of Rs.38,02,609/- towards the said facility. Alleging that the secured creditor charged exorbitant interest, the petitioner filed an original petition in EIOP No.47 of 2025 before the IX Assistant Judge, City Civil Court, Chennai, invoking the provisions of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. It is stated that the financier has entered appearance and filed a counter in the said proceedings. The petitioner states that the matter is currently under mediation and is adjourned to 08.06.2026.

2.2. It is further stated that, in the meanwhile, the first respondent issued the impugned pre-sale auction notice dated 17.03.2026. The petitioner submitted a representation on 15.05.2026 requesting the first respondent to keep the auction in abeyance pending the adjudication of the civil court proceedings. Having received no favorable response, the petitioner has filed the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner is an ex-serviceman and has already paid Rs.38,02,609/- against a principal amount of Rs.25,00,000/-. It was vehemently argued that the issuance of the impugned auction sale notice is unwarranted, oppressive, and violative of fair play, especially when the matter regarding exorbitant interest is *sub judice* before the competent civil court under the State Act.

4. The core issues for consideration are the maintainability of the writ petition against a private entity, the legal validity of the prayer sought, and whether the petitioner can invoke the extraordinary writ jurisdiction of this Court to stall statutory proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "*the SARFAESI Act*"] on the ground of pending proceedings under a State Act before the Civil Court.

5. At the threshold, it is imperative to address the maintainability of the present writ petition against the first

respondent, which is a private Asset Reconstruction Company (ARC). A perusal of the Corporate Identity Number (U67190MH2007LC174287) and the nature of the entity makes it manifestly clear that the first respondent is a private corporate entity and not a "State" or an "instrumentality of the State" as defined under Article 12 of the Constitution of India.

6. 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. The first respondent, in initiating proceedings under the SARFAESI Act, 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 private ARC enforcing a private debt is not maintainable under Article 226 of the Constitution of India. The said view of ours is fortified by a decision of the Supreme Court in *Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir*[1], wherein it is held as under:

1 *(2022) 5 SCC 345*

*"18.* ***Even otherwise, it is required to be noted that a writ petition against the private financial institution — ARC — the appellant herein under Article 226 of the Constitution of India against the proposed action/actions under Section 13(4) of the SARFAESI Act can be said to be not maintainable****. In the present case, the ARC proposed to take action/actions under the SARFAESI Act to recover the borrowed amount as a secured creditor.* ***The ARC as such cannot be said to be performing public functions which are normally expected to be performed by the State authorities.*** *During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities.* ***If proceedings are initiated under the SARFAESI Act and/or any proposed action is to be taken and the borrower is aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the SARFAESI Act and no writ petition would lie and/or is maintainable and/or entertainable****. ..."*

*[emphasis supplied]*

7. Furthermore, a careful reading of the prayer clause in the affidavit reveals a fundamental legal defect that vitiates the maintainability of the writ petition. The petitioner has ostensibly sought a 'Writ of Mandamus' to "call for the records... and quash the same as illegal". This reflects a gross misunderstanding of the prerogative writs. A writ of mandamus is a command issued to a public authority directing it to perform a public or statutory duty which it has failed to perform. On the other hand, the act of calling for the records and quashing the same is the specific domain of a writ of certiorari. The petitioner cannot seek the extraordinary remedy of quashing an action under the garb of a writ of mandamus.

8. Assuming for the sake of argument that the writ petition is maintainable, the petitioner is squarely met with the bar of an alternative efficacious remedy. The SARFAESI Act is a self-contained code. Section 17(1) of the SARFAESI Act explicitly provides that any person (including borrower), aggrieved by any of the measures referred to in Section 13(4) of the SARFAESI Act may make an application to the Debts Recovery Tribunal having jurisdiction.

9. The Supreme Court in an epoch-making judgment in *PHR Invent Educational Society v. UCO Bank*[2], reiterated that High Courts should decline writ jurisdiction under Article 226 when statutory remedies are available. The Court ruled that a writ petition cannot be entertained if the governing statute already provides a specific grievance redressal mechanism The relevant observations of the Supreme Court are reproduced hereunder:

> *"37. I**t could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy**. Some of them are thus:*
>
> ***(i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;***
>
> ***(ii) it has acted in defiance of the fundamental principles of judicial procedure;***
>
> ***(iii) it has resorted to invoke the provisions which are repealed; and***

2 *(2024) 6 SCC 579*

***(iv) when an order has been passed in total violation of the principles of natural justice.***

*38. It has however been clarified 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****."*

*[emphasis supplied]*

10. In the present case, the petitioner's grievance regarding the calculation of dues and the allegation of exorbitant interest are pure questions of fact that require examination of accounts. The Debts Recovery Tribunal is fully equipped to undertake this fact-finding exercise. It is for the petitioner to avail the statutory remedy, if so advised.

11. The petitioner heavily relies on the pending proceedings in EIOP No.47 of 2025 before the City Civil Court. However, this argument lacks legal merit in the face of the SARFAESI Act. Section

34 of the SARFAESI Act expressly bars the jurisdiction of Civil Courts in respect of matters which a Debts Recovery Tribunal or an Appellate Tribunal is empowered to determine. Furthermore, Section 35 of the SARFAESI Act gives the Central Act an overriding effect over any other law for the time being in force. Therefore, the provisions of the SARFAESI Act will prevail over the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, insofar as they are inconsistent. The mere pendency of a petition under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 before the Assistant City Civil Court does not confer jurisdiction upon the Civil Court to adjudicate the legality of the proceedings under the SARFAESI Act, nor does it operate as an automatic stay against the first respondent's statutory rights under the Central enactment.

12. In fine, the writ petition is not maintainable against a private Asset Reconstruction Company; suffers from a fundamentally defective prayer seeking quashing under the guise of mandamus; and is barred by the availability of an alternative efficacious remedy under Section 17 of the SARFAESI Act.

In view of the foregoing discussions and the settled proposition of law, the writ petition is dismissed as not maintainable, leaving it open for the petitioner to avail the statutory remedy under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal, if so advised. No order as to costs. Consequently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
02.06.2026

Index : Yes
Neutral Citation : Yes
sasi

To:
1. The Authorised Officer
JM Financial Asset Reconstruction
Company Ltd, Corporate Identity
Number U67190MH2007LC174287
Registered Office, 7th Floor, Cnergy,
Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400 025.

2. The Managing Director
Poonawala Finance Corporation Limited,
2nd Floor, Oval Building Tower,
Venkat Narayana Road, T.Nagar,
Chennai-600017.

THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

(sasi)

WP No.20749 of 2026

02.06.2026