WEB COPY

Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2026

CORAM :

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

WP No. 42922 of 2026
CNR:{HCMA012320972026}

and

WMP No. 48247 of 2026

Narmata Prakash Sadhwani
W/o.Prakash Jaikishin Sadhawani
Flat No.14, Third Floor,
Door No.44/1 (456) Pantheon Road
Egmore, Chennai-600 008.

Petitioner

Vs

1.M/s.J.M.Financial Asset Reconstruction
Company Limited
(Acting in its Capacity as trustee of
Aranya-Trust) (JMFARC)
Reg. Office, 7th Floor,
Cnergy Appansaheb Maratha,
Prabhadevi,
Mumbai-400 25.

https://www.mhc.tn.gov.in/judis

WEB COPY

2.The Authorized Officer
M/s.Piramal Capital and Housing
Finance Ltd
(Formerly known as Dewan Housing
Finance Corporation Limited)
Kalpalathika Towers,
New No.36, Old No.24,
Dr.Ambedkar Road,
Ashok Nagar Main Road,
Kodambakkam, Chennai-600 024.

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents not to enforce the order dated 16.09.2026 passed by the Honourable Chief Metropolitan Magistrate at Egmore in Crl.M.P.No.1280 of 2026 till the disposal of S.A.496 of 2025 on the file of DRT-II, Chennai.

For Petitioner: Mr.P.R.Raman
Senior Counsel
for Mr.J.Suresh

ORDER
(Order of the Court was made by *G.Arul Murugan,J.*)

This writ petition is filed seeking a writ of mandamus directing the respondents not to enforce the order dated 16.9.2026 passed by the Chief Metropolitan Magistrate, Egmore in Crl.M.P.No.1280 0f 2026 under Section 14 of the SARFAESI Act till the disposal of S.A.No.496 of 2025 pending on the file of Debts Recovery Tribunal-II, Chennai.

https://www.mhc.tn.gov.in/judis

WEB COPY

2. Learned Senior Counsel appearing for the petitioner submitted that, when already an appeal has been filed as against the Sarfaesi proceedings and is pending, the respondents ought not to have initiated separate proceeding under Section 14 of the Act and obtained an order and, in such circumstances, the petitioner has approached this Court seeking not to enforce the order dated 16.9.2026.

3. We have considered the submissions made by learned Senior Counsel for the petitioner and perused the materials available on record.

4. At the outset, the writ petition filed seeking a negative prayer not to enforce the order passed under Section 14 of the Act is *per se* not maintainable. If at the petitioner is aggrieved by the order passed under Section 14 of the Act, the remedy open to the petitioner is to file an appeal under Section 17 of the Act before the jurisdictional Debts Recovery Tribunal. Further, we find that the respondents in this writ petition are private entities.

5. It is a well-settled law that a writ petition under Article 226 of

https://www.mhc.tn.gov.in/judis

WEB COPY

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 respondents, in initiating proceedings under the SARFAESI Act, are 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 Bank enforcing a private debt is not maintainable under Article 226 of the Constitution of India. The said view of this Court is supported by a decision of the Hon'ble Supreme Court in *Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir*[1], wherein it is held as under:

> *"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*

[1] *(2022) 5 SCC 345*

https://www.mhc.tn.gov.in/judis

WEB COPY

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]

6. In view of the above, the writ petition is not maintainable and, accordingly, the same is dismissed, leaving it open to the petitioner to workout the remedy in accordance with law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

28.10.2026

Index : Yes/No
Neutral Citation : Yes/No
bbr

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

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

bbr

W.P.No.42922 of 2026

28.10.2026

https://www.mhc.tn.gov.in/judis