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W.P.No.14289 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

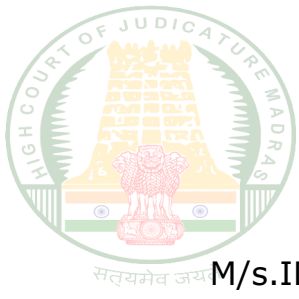
W.P.No.14289 of 2020

and W.M.P.Nos.17763, 17765, 17767 and 17768 of 2020

- 1.The Box Factory
Partnership Firm,
Rep. by its Managing Partner
Mrinal Mehta,
37, KMA Garden,
Chinnadimadam, Kodangiyur Bus Stop,
Chennai-600 118.
- 2.Mrinal Mehta,
Managing Partner,
The Box Factory,
9011, TVH Lumbini Square,
127A, Brick Kiln Road, Puruswakkam,
Chennai-600 007.
- 3.Rekha Mehra
Partner, The Box Factory,
9011, TVH Lumbini Square,
127A Brick Kiln Road, Puruswakkam,
Chennai-600 007.

Petitioners

Vs



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M/s.IDFC First Bank Limited
Having Registered Office at
Capital First Limited,
India Bulls Centre,
Tower 2A & 2B, 10th Floor,
Senapati Baapat Marg,
Lower Parel (W), Mumbai-400 013

Also at,
KRM Tower, 7th Floor,
No.1, Harrington Road, Chetpet,
Chennai-600 318.

Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records relating to the impugned order dated 25.02.2020 made in CrI.M.P.No.5787 of 2020 passed by the Hon'ble CMM, Egmore and quash the same.

For Petitioners: No Appearance

ORDER

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

None appears for the petitioners when the matter is called out.

2. This writ petition under Article 226 of the Constitution of India has been filed by the petitioners challenging the order dated 25.02.2020 passed in CrI.M.P.No.5787 of 2020 by the learned Chief Metropolitan Magistrate, Egmore.



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3. At the threshold, it is pertinent to point out the maintainability of the present writ petition against the respondent, which is a private Bank and not a "State" or an "instrumentality of the State" as defined under Article 12 of the Constitution of India.

4. It is a well-settled 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 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 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 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

¹ (2022) 5 SCC 345



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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]

5. Assuming for the sake of argument that the writ petition is maintainable, the petitioners are squarely met with the bar of an alternative efficacious remedy. As per Section 17 of the SARFAESI Act, any person aggrieved by the measures taken under Section 14 of the SARFAESI Act must challenge the same before the jurisdictional Debts Recovery Tribunal.



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6. 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. It 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**
- (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

² (2024) 6 SCC 579



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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]

7. In light of the above, we are of the view that the present writ petition is not maintainable and, therefore, the same is dismissed. There shall be no order as to costs. Consequently, WMP Nos.17765, 17767 and 17768 of 2020 are closed. WMP No.17763 of 2020 filed to permit the petitioners to file a single writ petition is allowed, inasmuch as the petitioners have paid separate court-fee.

(SUSHRUT ARVIND DHARMADHIKARI, CJ) (G.ARUL MURUGAN,J)
16.06.2026

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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