

W.P.No.5929 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2026

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CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,  
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

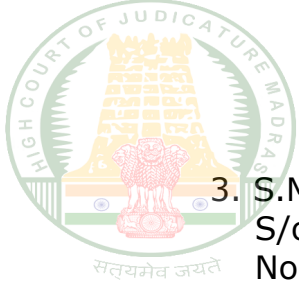
W.P.No.5929 of 2024  
and WMP No.6579 of 2024

Shanmugapriya  
W/o.L.Srinivasan,  
No.90 and 91, Karuneeegara Street,  
Adambakkam, Chennai-600 088.

Petitioner(s)

Vs

1. Phoenix ARC Private Ltd  
Acting in its capacity as Trustee of  
Phoenix Trust - FY09-3, Rep by its  
Authorised Officer, 7th Floor, Dani  
Corporate Park, No.158, C.S.T.Road,  
Santacruz East, Kalina,  
Mumbai-400098  
Also Having Office at Phoenix ARC  
Private Ltd., No.3, Dass India Towers,  
2nd Floor, 2nd Line Beach, Parrys,  
Chennai-01.
2. The Tahsildar  
Sholinganallur Taluk Office,  
Sholinganallur-600 119,  
Kancheepuram District.



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3. S.M.Himayathullah,  
S/o.S.M.Sanaullah,  
No.2/37, 1st Street, Railway Border Street,  
Cauvery Nagar, Saidapet, Chennai-16.  
(R3-impleaded as per order dated 8.3.2024  
in WMP.10159/2024)

Respondent(s)

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to refund the sum of Rs.59,00,000/- being the sale consideration and sum of Rs.4,72,000/- being the registration charges paid by the petitioner with interest at the rate of 18 percent per annum from the date of deposit till the date of realization.

For Petitioner(s): Mr.S.Ravi, Senior Counsel  
for M/s.S.Indumathi

For Respondent(s): Mr.Tarang K.Sancheti  
for M/s.T.Sai Krishnan,  
for R1

Mr.R.Veeramani,  
Government Pleader  
for R2

R-3 (Batta Not Filed)

### ORDER

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

This writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to direct the first respondent to refund a sum of Rs.59,00,000/-



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representing the sale consideration, and a sum of Rs.4,72,000/- towards registration charges paid by the petitioner, along with interest at the rate of 18% per annum from the date of deposit until realization.

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2.1. The case of the petitioner, as detailed in the supporting affidavit, is that the third respondent availed a housing loan from Standard Chartered Bank by mortgaging a vacant land measuring 3,600 sq. ft. comprised in Survey Nos.29 and 30, bearing Plot Nos. 91 and 95 (part) situated at Ram Nagar Extension, Pallikaranai Village. Due to defaults committed by the borrower, Standard Chartered Bank assigned the debt to the first respondent via an assignment agreement dated 17.12.2008. The first respondent invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and conducted a public auction on 20.02.2013. The petitioner was declared the highest bidder, having paid the total consideration of Rs.44,25,000/-, and a Sale Certificate was issued and registered on 11.03.2013.

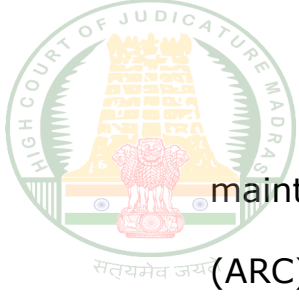


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2.2. It is stated that post-registration, the petitioner discovered that the auctioned property could not be identified or physically demarcated. Revenue survey reports and an Advocate Commissioner's report dated 07.01.2014 indicated that the land under Survey Nos.29 and 30 did not physically accommodate the plots, which were either situated on alternative survey numbers, claimed by third parties, or had already been acquired by the Government for road projects as early as 1987.

2.3. Claiming to be a victim of fraud perpetrated due to the auctioning of a non-existent/unidentifiable property, the petitioner issued a legal notice on 06.10.2015 and, ultimately, filed the present writ petition seeking a full refund of the amount along with statutory charges.

3. Before delving into the merits of the factual allegations concerning the existence or location of the property, this court must first address the foundational legal issue as to whether a writ petition under Article 226 of the Constitution of India is



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maintainable against a private Asset Reconstruction Company (ARC).

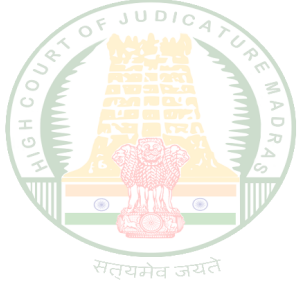
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4. The first respondent, Phoenix ARC Private Ltd, is admittedly a private entity registered under the Companies Act. The question of whether such private ARC is amenable to the writ jurisdiction is no longer *res integra*. The Supreme Court of India handling this exact entity in *Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir*<sup>1</sup>, explicitly analyzed the status of private ARCs enforcing security interests and held that a writ petition against a private bank enforcing a private debt is not maintainable under Article 226 of the Constitution of India. The relevant observations are reproduced hereunder:

**"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**

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<sup>1</sup> (2022) 5 SCC 345



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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. The relief sought by the petitioner arises purely out of a contractual auction transaction executed under the statutory framework of the SARFAESI Act, 2002. The issues raised regarding contractual misrepresentation, non-identification of property, or



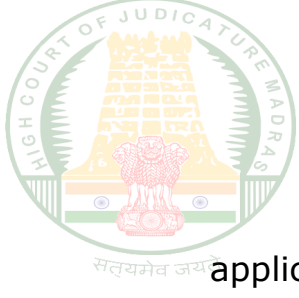
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potential fraud are highly disputed questions of fact that demand appropriate civil or statutory remedies.

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6. As the first respondent is a private Asset Reconstruction Company not exercising any public or statutory duty that falls under public law domain, it is not amenable to the writ jurisdiction of this Court. The appropriate forum for the enforcement of rights or claiming refunds stemming from auction conducted under the SARFAESI Act is the Debts Recovery Tribunal.

7. As a sequel, in light of the definitive ruling of the Supreme Court in *Phoenix ARC Private Limited (supra)*, this writ petition is dismissed as not maintainable against the first respondent. The petitioner is at liberty to approach the appropriate statutory forum to seek redressal for her grievances in accordance with law and if such statutory forum is approached, the period spent in prosecuting this writ petition shall be excluded for the purpose of reckoning the period of limitation.



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There shall be no order as to costs. Consequently, interim application stands closed.

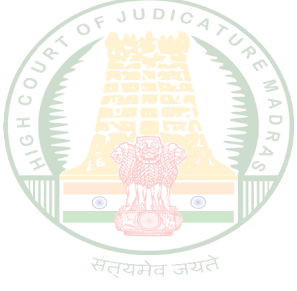
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(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)  
19.06.2026

Index : Yes/No  
Neutral Citation : Yes/No  
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To:

1. The Tahsildar  
Sholinganallur Taluk Office,  
Sholinganallur-600 119,  
Kancheepuram District.



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

(sasi)

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