



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2026

WEB COPY

CORAM:

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

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.2375 of 2024

and

W.M.P.Nos.2578 & 2579 of 2024

1. M/s.MSE Industries,  
Represented by its Managing Partner,  
No.57-B, Anamalai Amman Kovil Street,  
L & T Bye Pass Road, Vellalore,  
Coimbatore-641 111.
2. Mahesh Kumar  
Represented by its Managing Partner,  
No.57-B, Anamalai Amman Kovil Street,  
L & T Bye Pass Road, Vellalore,  
Coimbatore-641 111.

..Petitioner(s)

Vs

1. The Board Of Directors of the  
Canara Bank Ltd.,  
Head Quarters at  
J.C.Road,  
Bengaluru-560 001.
2. The Chairman of Stressed  
MSME Committee,  
Canara Bank, Regional Office,  
Asset Recovery Branch, 1<sup>st</sup> Floor,  
TV Samy Road, RS Puram,  
Coimbatore-641 002.
3. The Authorized Officer,  
Canara Bank, Regional Office,  
Asset Recovery Branch, 1<sup>st</sup> Floor,  
TV Samy Road, RS Puram,  
Coimbatore-641 002.



WEB.COM

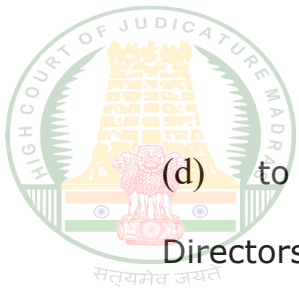
4. Ministry of Micro Small And Medium Enterprises  
Represented by Secretary,  
Udyog Bhawan, Rafi Marg,  
New Delhi-110 001.
5. Union of India  
Represented by the Secretary,  
Department of Financial Services,  
Ministry of Finance, 3<sup>rd</sup> Floor,  
Jeevan Deep Building, Sansad Marg,  
New Delhi-110 001.
6. Reserve Bank of India,  
Represented by the Executive Director,  
Shahid Bhagat Singh Road,  
Fort, Mumbai-400 001.
7. The Finance Secretary,  
Government of Tamil Nadu,  
Namakkal Kavinaga Maligai,  
Fort Saint George,  
Chennai-600 009.
8. Government of Tamil Nadu  
Department of Industries and Commerce,  
District Industries Center,  
Coimbatore-641 001.
9. P.Kullaswamy,  
No.1/865C, Prakash Gardens,  
Pine Tamil Nagar, Chettipalayam Road,  
Malumichampatti, Coimbatore South,  
Coimbatore-641 050.
10. Thangamani,  
No.1/865C, Prakash Gardens,  
Pine Tamil Nagar, Chettipalayam Road,  
Malumichampatti, Coimbatore South,  
Coimbatore-641 050.
11. K.Dharma Prakash  
No.1/865C, Prakash Gardens,  
Pine Tamil Nagar, Chettipalayam Road,  
Malumichampatti, Coimbatore South,  
Coimbatore-641 050.

..Respondent(s)



**PRAYER** : Petition filed under Article 226 of the Constitution of India seeking the following reliefs:

- WEB COPY
- (a) to issue a writ of declaration to declare that the petitioner is an MSME within the meaning of the MSMED Act of 2006 and Ext.B/ notification issued by the Central Government under Section 9 thereof, as also the circulars and guidelines issued by the Reserve Bank of India under Section 10 thereof, which provides for a mechanism of resolution of stress and that no proceedings for recovery under the SARFAESI Act, RDB Act or the IBC will lie, in as much as the MSMED Act being a Special law qua the aforesaid Acts, and a later law in relation to the RDB Act and SARFAESI Act, its provisions will prevail over the aforesaid enactments;
- (b) to issue a writ of declaration to declare that the MSME Act in so far as it has not created a special forum/tribunals to enforce the inter-se rights and obligations/ remedies, which it has created in addition to those rights / obligations / remedies recognized by the common law the jurisdiction of the Civil Court is not ousted, for it is impossible to oust the jurisdiction of the Civil Court without providing for an alternative forum/tribunal to adjudicate the inter se disputes between parties who are governed by the Act;
- (c) to issue a writ of declaration to declare that the entire proceedings at the hands of the Authorized Officer of the respondent No.1 Bank and the Additional Chief Judicial Magistrate, Coimbatore, under Sections 13(2), 13(4) and 14 of the SARFAESI and the Security Interest (Enforcement) Rules are illegal and void;



(d) to issue a writ of mandamus, directing respondent no.1, Board of Directors of the Canara Bank to constitute a committee for the resolution

of the stress of the unit of the instant petitioner, an MSME as contemplated in paragraph 2 of the notification dated 29.05.2015 issued under the MSMED Act, and further to direct the committee to resolve the stress in accordance with the said notification and such other relevant notifications/ regulations framed by the RBI;

(e) to issue a writ of prohibition, restraining and prohibiting the respondent Bank from initiating or continuing any measures for recovery under any law and in particular, the recovery of Debts and Bankruptcy Act, 1993, the SARFAESI Act, 2002 and the rules made thereunder;

(f) to issue a writ of mandamus, directing and commanding the respondent Bank to restore possession of the petitioners' properties which it took forceful possession under Sections 13(4) and 14 of the SARFAESI Act, 2002.

For Petitioner(s): Mr. Shameem Fayiz

For Respondent(s): Mr. R.Veeramani  
Government Pleader for RR7 & 8  
Mr. R.Sanjay  
for RR4 & 5  
Mrs. V.Ramya  
for Mr. R.Bharath Kumarfor RR9 to 11

ORDER

(Made by G.ARUL MURUGAN, J.)

The petitioners/borrowers have preferred the writ petition seeking the aforementioned reliefs.



2. According to the petitioners, the first petitioner is a partnership firm registered under the Micro, Small and Medium Enterprises Development Act, 2006 (in short "MSMED Act") on 11.03.2009. The petitioners are engaged in the manufacture of general fabrication and heavy structural fabrication products and they availed financial assistance from Canara Bank/respondents 1 to 3, by mortgaging their properties.

3. Due to default in the repayment of dues, the account was classified as a Non-Performing Asset (NPA) on 06.08.2018 and the bank/ secured creditor, initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act"). Demand notice under Section 13(2) was issued on 06.08.2018, followed by a possession notice under Section 13(4) on 05.02.2019. Subsequently, an auction sale notice dated 09.09.2021 was issued, which the petitioners challenged in W.P.No.22822 of 2021. Since the sale did not materialise, the said writ petition was closed.

4. Subsequently, a further sale notice dated 09.03.2022 was issued, under which the properties were auctioned and the respondents 9 to 11 were the successful bidders and a sale certificate was issued in their favour on 30.05.2022. It is further submitted that by virtue of Section 7(1)(b) of the MSMED Act, the enterprises rendering 'services' were brought under the MSMED Act. As the petitioners enterprise is a

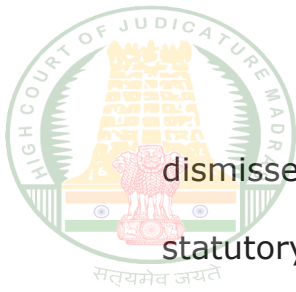


registered MSME unit, no recovery proceedings could be initiated or continued without a Committee being constituted by the bank in terms of the notification dated 29.05.2015.

5. Heard the learned counsel for the parties and considered the materials available on record.

6. At the outset, it is to be noted that even earlier, the petitioners had preferred W.P.No.25250 of 2022 before this Court seeking implementation of the directions of the Committee under MSMED Act. This Court, by an order dated 12.10.2022, dismissed the writ petition, however, since the sale was already concluded and the petitioners challenging the sale had filed S.A.No.607 of 2022 before the DRT Coimbatore, directed the Tribunal to dispose of the matter expeditiously. In compliance to the directions, after contest, the Tribunal, by an order dated 25.11.2022, dismissed S.A.No.607 of 2022 preferred by the petitioners.

7. The petitioners did not choose to file appeal before the DRAT under Section 18(1) of the SARFAESI Act challenging the order of the DRT. Admittedly, when the similar relief sought by the petitioners earlier has been dismissed by this Court by order dated 12.10.2022 relegating the petitioners to adjudicate the issues before the DRT in the pending appeal in S.A.No.607 of 2022 and when the said S.A. was heard and



dismissed on merits, it was only open to the petitioners to prefer a statutory appeal under Section 18 of the SARFAESI Act and adjudicate all

the claims, however, without availing the statutory appellate remedy, the present writ petition filed by the petitioners is totally misplaced and not maintainable.

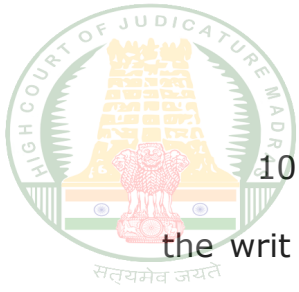
8. At this juncture, it is useful to refer to a decision of the Hon'ble Supreme Court in the case of ***Pro Knits vs. Board of Directors of Canara Bank and Others***, reported in **(2024)10 SCC 292**, wherein the Hon'ble Supreme Court while declaring that the notification dated 29.05.2015 issued by MSME is mandatory in nature, which is to be adhered to, prior to any action under the SARFAESI Act, made it clear that if at the stage of classification of the loan account of the borrower as NPA, the borrower does not bring to the notice of the bank that the concern was registered under the MSME Act and if such an enterprise allows the entire process for enforcement of security interest under the SARFAESI Act to be over or having challenged such action, the same had failed, the enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the SARFAESI Act. The relevant portion of the judgment is extracted hereunder:

*"21. It is also pertinent to note that sufficient safeguards have been provided under the said Chapter for safeguarding the interest of the defaulters-borrowers for giving them opportunities to discharge their debt. However, if at the stage of classification of the loan account of the borrower as NPA, the borrower does not bring to the notice of the bank/creditor concerned that it is a Micro,*



*Small or Medium Enterprise under the MSMED Act and if such an Enterprise allows the entire process for enforcement of security interest under the SARFAESI Act to be over, or it having challenged such action of the bank/creditor concerned in the court of law/tribunal and having failed, such an Enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the SARFAESI Act by raising the plea of being an MSME at a belated stage. Suffice it to say, when it is mandatory or obligatory on the part of the Banks to follow the Instructions/Directions issued by the Central Government and the Reserve Bank of India with regard to the Framework for Revival and Rehabilitation of MSMEs, it would be equally incumbent on the part of the MSMEs concerned to be vigilant enough to follow the process laid down under the said Framework, and bring to the notice of the Banks concerned, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework.”*

9. Admittedly, the petitioners failed to submit any material evidence demonstrating that they are registered under the MSMED Act bringing to the notice of the bank/secured creditor at the stage of the classification of the loan account as an NPA. They have not even raised this objection by filing a reply to the notice issued under Section 13(2) of the SARFAESI Act. Furthermore, their earlier writ petition seeking identical relief was dismissed and the property was sold through auction and the sale certificate was also issued to the successful bidders. When the SARFAESI appeal challenging the sale also failed and the sale since attained finality, the petitioners cannot be allowed to abuse the process of law to thwart the actions taken under the SARFAESI Act by raising this plea at such a belated stage.



10. In view of the above, we find no merits in the relief sought in the writ petition. Accordingly, the writ petition stands dismissed. There

shall be no order as to costs. Connected interim applications are closed.

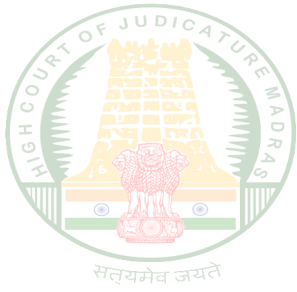
(SUSHRUT ARVIND DHARMADHIKARI, C.J.) (G.ARUL MURUGAN J.)

22.06.2026

Index: Yes/No

Neutral Citation: Yes/No

gya



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

gya

WEB COPY

To

1.The Secretary,  
Ministry of Micro Small And Medium Enterprises,  
Udyog Bhawan, Rafi Marg,  
New Delhi-110 001.

2.The Secretary,  
Union of India  
Department of Financial Services,  
Ministry of Finance, 3<sup>rd</sup> Floor,  
Jeevan Deep Building, Sansad Marg,  
New Delhi-110 001.

3.The Executive Director,  
Reserve Bank of India,  
Shahid Bhagat Singh Road,  
Fort, Mumbai-400 001.

4.The Finance Secretary,  
Government of Tamil Nadu,  
Namakkal Kavinaga Maligai,  
Fort Saint George,  
Chennai-600 009.

5.The Government of Tamil Nadu  
Department of Industries and Commerce,  
District Industries Center,  
Coimbatore-641 001.

W.P.No.2375 of 2024

22.06.2026