

SARFAESI Act - Constitution of India, Art. 226 - A writ petition against the private financial institution - ARC - 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.

[2022 SCeJ 0505 , 2022 PLRonline 1605](#)

[Phoenix Arc Private Limited v. Vishwa Bharati Vidya Mandir](#)