

**Constitutional Writ**  
**Present: The Hon'ble Justice Jayanta Kumar Biswas**

Judgment on: May 5, 2010.

C.A.N.No.6115 of 2009

in

W.P.No.15252 (W) of **Constitutional Writ**

**Sri Dina Bandhu Bag & Anr.**

v.

**State of West Bengal & Ors.**

**Points:**

SCOPE OF WRIT- Writ against private body whether maintainable-Constitution of India, Art, 226

**Facts:** Writ petition has been filed against ICICI Bank Limited seeking a direction upon the respondents to forthwith release the vehicle. ICICI Bank Limited is not a State within the meaning of art.12 of the Constitution. ICICI Bank Limited in the pending art.226 petition has filed this application for dismissal of the petition on the ground that it is not maintainable.

**Held:**

ICICI Bank Limited is not a State within the meaning of art.12 of the Constitution and hence it is not amenable to the writ jurisdiction under art.226. It repossessed the vehicle on June 15, 2006 asserting that the private law contract between the parties entitled it to take repossess the vehicle if the petitioners were in default on the loan taking which the petitioners purchased the vehicle. **Para-3**

None of the respondents was under any public or private law obligation to restore the petitioners' possession of the vehicle that was repossessed by the fifth respondent in exercise of its pure private law contractual right flowing entirely from the private law contract between the parties. The alleged actions and inactions did not entitle the petitioners to the public law remedy under art.226. **Para--6**

Mr Amitava Mitra and Ms Dolan Dasgupta, advocates, for the fifth respondent.

**The Court:-** ICICI Bank Limited, the fifth respondent in the pending art.226 petition dated June 21, 2006, has filed this application for dismissal of the petition on the ground that it is not maintainable.

2. It is submitted that the application has been served. Affidavit of service has been filed. None appears to oppose the application.

The principal relief seeking which the petition has been filed is this:

“(a) A writ of Mandamus commanding the Respondents and each one of them to forthwith release the vehicle having Registration No. WB-11A-5340(TATA 407-2003) and handover the possession to the Writ Petitioners forthwith.”

3. ICICI Bank Limited is not a State within the meaning of art.12 of the Constitution and hence it is not amenable to the writ jurisdiction under art.226. It repossessed the vehicle on June 15, 2006 asserting that the private law contract between the parties entitled it to take repossess the vehicle if the petitioners were in default on the loan taking which the petitioners purchased the vehicle.

4. The five respondents in the case are the following: State of West Bengal; the Superintendent of Police, Howrah; the officer in charge of Bally police station; the officer in charge of Uluberia police station; ICICI Bank Ltd.

5. The question is whether the respondents or any one of them was under any public law duty to restore the petitioners’ possession of the vehicle.

6. None of the respondents was under any public or private law obligation to restore the petitioners’ possession of the vehicle that was repossessed by the fifth respondent in exercise of its pure private law contractual right flowing entirely from the private law contract between the parties. Hence I hold that the alleged actions and inactions did not entitle the petitioners to the public law remedy under art.226.

7. For these reasons, I allow the application and dismiss the art.226 petition. No costs. Certified xerox.

(Jayanta Kumar Biswas, J.)