



A. No. 407 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2026

CORAM

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

A No. 407 of 2026

in

C.S. No. 282 of 2025

Bernard Sahaya Mary
139 Old No.71, East Madha Church Street,
Royapuram, Chennai-600013

..Applicant(s)

Vs

1. M.S.K. Rameshraj
S/o.Kumaraswamy,
188, Dr.Ambedkar Street,
Vallur Village and post,
Ponneri Taluk,
Thiruvallur District.
2. R.Kokila
W/o.M.S.K.Rameshraj,
188, Dr.Ambedkar Street,
Vallur Village and Post,
Ponneri Taluk, Thiruvallur District.
3. K.Srinivasan
S/o.Kumaraswamy,
188, Dr.Ambedkar Street,
Vallur Village and Post,
Ponneri Taluk, Thiruvallur District.



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4. Indian Overseas Bank

Rep by Mr.Ravi, Authorised Officer/ Chief Manager,
Asset Recovery Management Branch,
1st Floor, Central Office Building,
763, Anna Salai, Chennai-600002.

5. Float Glass Centre

130-477, Mint Street,
Sowcarpet, Chennai-600079.

..Respondent(s)

Prayer: To Reject the Complaint in C.S.No.282 of 2025 with exemplary costs.

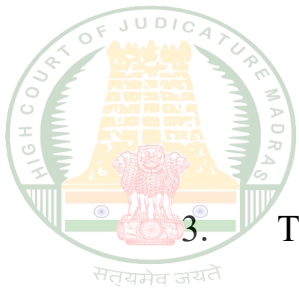
For Applicant(s): Mr.R.Srinivasan

For Respondent(s): Ms.Selvi George for R1 to R3.
Mr.P.V.Muralidhar for R4.
Mr.M.Nirmal Kumar for R5.

ORDER

The third defendant has filed this application under Order VII Rule 11(c) and (d) of the Code of Civil Procedure, 1908, seeking rejection of the complaint because (i) the suit is barred by Section 34 of the SARFAESI Act, 2002; (ii) the complaint does not disclose a cause of action; and (iii) the suit has been undervalued and insufficient court fee has been paid.

2. Heard the learned counsel for the applicant/third defendant and the learned counsel for the plaintiffs. This court also perused the complaint, the affidavit in support of the application, and the materials placed on record.



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3. The settled principle governing an application under Order VII Rule 11 CPC is that the Court must confine itself exclusively to the averments in the plaint and the documents relied upon by the plaintiff. However strong the defendants' defence may be, it cannot be examined when deciding an application to reject the plaint.

4. A reading of the plaint shows that the plaintiffs have admitted the borrowing of the loan and the creation of a mortgage in favour of the first defendant Bank. However, the principal relief sought in the suit rests on the specific plea that the suit schedule property is agricultural land. Therefore, by virtue of Section 31(i) of the SARFAESI Act, the provisions of the Act are inapplicable, and the proceedings initiated by the Bank are void and without jurisdiction.

5. The learned counsel for the applicant contended that the plaintiffs had obtained permission from the competent authority to construct a godown/shed on the property, thereby converting the land to non-agricultural or commercial use. It was further argued that the suit is barred under Section 34 of the SARFAESI Act and that the plaintiffs had previously approached the Debt Recovery Tribunal and this Court.



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6. This Court is unable to accept the said contention at this stage.

Whether the suit property retains its agricultural character or has been converted into non-agricultural land is essentially a disputed question of fact.

The mere grant of planning permission, or permission to construct a warehouse or shed, does not, by itself, conclusively establish that the land has ceased to be agricultural. Such questions require the appreciation of oral and documentary evidence and cannot be decided on an application under Order VII Rule 11 CPC.

7. Equally untenable is the contention that the suit is barred by Section 34 of the SARFAESI Act. The plaint does not challenge liability arising from the loan transaction. The plaintiffs seek adjudication of an independent issue, namely, whether the secured asset is agricultural land exempt from the operation of the SARFAESI Act under Section 31(i). Such a question necessarily depends on the true character of the property and cannot be answered merely based on the defence advanced by the applicant. Consequently, on a plain reading of the plaint, no law bars the suit.



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8. The contention that the suit is undervalued and that the court fee is insufficient is also without merit. The plaintiffs have not sought a declaration of title to the property. The reliefs claimed are based on the alleged inapplicability of the SARFAESI Act to the suit property. Therefore, at this stage, it cannot be held that the plaint ought to have been valued at the property's market value. The valuation adopted by the plaintiffs cannot be said to be patently erroneous to warrant rejection of the plaint under Order VII Rule 11(c) of the CPC.

9. The other contentions raised by the applicant, including alleged suppression of facts, the effect of earlier proceedings before the Debt Recovery Tribunal and this Court, the validity of the auction sale, the nature of the construction on the property, and alleged conversion of the land, are matters touching the merits of the dispute. Those questions can be adjudicated only after the parties adduce evidence at trial and, on their own, cannot constitute grounds for rejecting the plaint at the threshold.

10. Thus, on a meaningful reading of the plaint, this Court is unable to hold that it does not disclose a cause of action or that any law bars any suit.



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Likewise, no ground is made out to reject the plaint on the ground of non-payment of the proper court fee.

11. Accordingly, this Application is dismissed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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