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CRP No. 313 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-07-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

CRP No. 313 of 2025

AND

CMP No. 2032 of 2025

Tamil Nadu Mercantile Bank (TMB),
Rep. by its Branch Manager,
Nerkundram Branch,
No.29, Kamaraj High Road,
Devi Karumariamman Nagar,
Mettukuppam, Nerkundram, Chennai – 600 107.

..Petitioner

Vs

G. Aravindha Raja Adhidan

..Respondent

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the order of decreetal order in I.A.No.3 of 2024 in O.S.No.216 of 2022 dated 02.09.2024 on the file of Additional Subordinate Judge, Chengalpattu.

For Petitioner:

Mr.V.Chandrasekaran

For Respondent:

Mr.B.Aravind Srevatsa



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ORDER

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This Civil Revision Petition has been filed challenging the order, dated 02.09.2024 passed by the Additional Sub Court, Chengalpattu in I.A.No.3 of 2024 in O.S.No.216 of 2022.

2. The petitioner is the defendant and the respondent is the plaintiff in O.S.No.216 of 2022. The suit was filed for the refund of advance amount said to have been paid by the respondent/plaintiff to the petitioner/defendant towards purchase of a property in an auction conducted by the petitioner/defendant under the SARFAESI Act. The petitioner claims that the respondent/plaintiff claimed in the plaint that he had been misled by the petitioner/defendant in parting with the money for the purchase of the property by falsely assuring the respondent/plaintiff that the possession of the property is with the petitioner/defendant. In the said suit, the petitioner has filed an application under Order VII Rule 11 CPC in I.A.No.3 of 2024 seeking rejection of plaint on the following grounds :-

(a) There is no cause of action against the petitioner/defendant since only in accordance with the terms and conditions of the auction, the



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respondent/plaintiff had parted with the money and the petitioner/defendant did not refund the advance amount to the respondent/plaintiff.

(b) the suit is barred u/s 34 of the SARFAESI Act, 2002 as it is only the debt recovery tribunal which has got jurisdiction to decide the dispute and not a civil court.

3. Under the impugned order, dated 02.09.2024, the application filed by the petitioner under Order VII Rule 11 CPC has been dismissed on the ground that the suit is maintainable, since the suit has been filed only for refund of Earnest Money Deposit of Rs.5,50,000/- and the trial court has also relied upon the judgment of the Hon'ble Supreme Court in the case of *Leealamma Mathew Vs. Indian Overseas Bank & Ors.* reported in **2023 (20) SCC 459** rendered in Civil Appeal No.7128 of 2022, for dismissing the petitioner's application. Aggrieved by the same, this revision has been filed by the defendant in the suit.

4. Learned counsel for the petitioner/defendant would submit that the dispute raised by the respondent/plaintiff falls within the purview of Section 17 of the SARFAESI Act and therefore, it is only the debt recovery tribunal which can decide the dispute and not the civil court. He

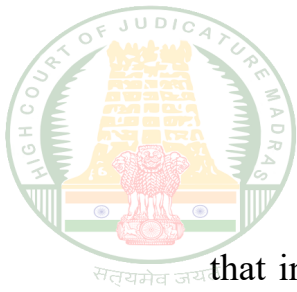


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would also submit that the decision relied upon by the trial court under the impugned order has no applicability to the facts of the instant case.

According to him, the suit filed by the respondent/plaintiff is not a suit for damages, but it is a suit simpliciter for recovery of money. He would further submit that despite there being an averment made by the respondent/plaintiff in the plaint that a fraud has been committed by the petitioner/defendant on the respondent/plaintiff on account of suppression of material facts that would not suffice for a civil court to entertain a dispute of the nature pleaded in the plaint when Section 17 of the SARFAESI Act empowers the Debt recovery tribunal to decide the dispute of the nature pleaded in the plaint.

5. On the other hand, learned counsel for the respondent/plaintiff drew the attention of this Court to the very same decision relied upon by the trial court for dismissing the petitioner's application, namely ***Leealamma Mathew Vs. Indian Overseas Bank & Ors.*** reported in **2023 (20) SCC 459** and drew the attention of this Court to the relevant paragraphs of the said judgment, more particularly, paragraph Nos.14.4 and 20, wherein it has been made clear by the Hon'ble Supreme Court



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that in case of fraud or misrepresentation, Section 34 of the SARFAESI Act does not get attracted and therefore, he would submit that it is only the civil court, which can decide the dispute and not the debt recovery tribunal. He also drew the attention of this Court to the various averments made in the plaint and would submit that a specific averment has been made that the petitioner has played fraud upon the respondent/plaintiff and that the petitioner/defendant has misrepresented to the respondent/plaintiff and made him part with the money for the purchase of the property under the SARFAESI proceedings. Therefore, he would submit that the trial court had rightly rejected the application under Order VII Rule 11 CPC as there is a cause of action for the respondent/plaintiff to sue the petitioner/defendant and the civil court has got jurisdiction to decide the dispute.

6. Admittedly, the following averments have been made by the respondent/plaintiff in the plaint filed in support of O.S.No.216 of 2022 pertaining to fraud and misrepresentation :-

8. The plaintiff further submits that defendant cannot withhold the EMD amount of Rs.5,50,000/- (Rupees Five Lakhs and fifty thousand only) paid by him,



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the defendant is providing false information, played a fraud upon him. The defendant never allowed the plaintiff to withdraw the Earnest Money Deposit Rs.5,50,000/- (Rupees Five Lakhs and fifty thousand only) now there is a due a sum of Rs.5,88,500/- (Rupees Five Lakhs and Eighty eight thousand and Five Hundred only) but the defendant did not pay the principal with interest, in spite of repeated the demands under the representation the defendant failed and neglected to the repay the dues up date as there was no other go to filed the suit. Hence the plaintiff filed suit for recovery against the defendant as mentioned in the memo of calculation the plaintiff has issued legal Notice to the Defendant on 19.06.2022 claiming the refund of Rs.5,50,000/- (Rupees Five Lakhs and fifty thousand only) with 24% interest per annum acknowledged the same but no reply no payment issued by the defendant.”

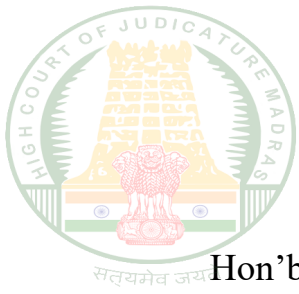
7. The suit has been filed for recovery of the advance amount paid to the petitioner/defendant by the respondent/plaintiff towards purchase of the property under the SARFAESI proceedings together with interest. Therefore, the respondent/plaintiff has not only filed the suit for recovery of the advance amount, but also claimed interest for the delayed refund. The trial court, while dismissing the application filed by the



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petitioner/defendant had taken note of the fact that it is the specific case of the respondent/plaintiff that the petitioner/defendant has wilfully misled the respondent/plaintiff by providing false information about the possession of the property and lured the respondent/plaintiff to participate in the auction. While deciding an application under Order VII Rule 11 CPC, the court will have to only look into the plaint averments. The payment of the advance amount by the respondent/plaintiff to the petitioner/defendant for the purchase of property through auction conducted under the SARFAESI proceedings has also not been disputed by the petitioner/defendant. When there is a specific averment made in the plaint that the petitioner/defendant has played fraud upon the respondent/plaintiff on account of misrepresentation of the petitioner/defendant, the said contention cannot be adjudicated by a debt recovery tribunal through an application filed u/s 17 of the SARFAESI Act. It requires oral and documentary evidence to be produced by both the parties, and therefore the adjudication cannot be done summarily under the SARFAESI Act by the Debt recovery tribunal as the adjudication requires elaborate trial which the civil court alone has the power. The trial court has also rightly followed the decision of the



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Hon'ble Supreme Court in *Leealamma Mathew's case* (referred to *supra*), wherein, in paragraph No.14.4 of the said decision, it has been made clear that there is an exception to the applicability of Section 34 of the SARFAESI Act and the said exception is in case the plaintiff is able to show fraud or misrepresentation against the defendant. In the case on hand, when a specific averment has been made by the respondent/plaintiff that fraud has been played upon the respondent/plaintiff on account of misrepresentation by the petitioner/defendant while advertising the property for sale, the exception to Section 34 of the SARFAESI Act will get attracted and the civil court will have jurisdiction to decide the dispute. Therefore, the trial court has rightly applied the ratio laid down by the Hon'ble Supreme Court in *Leealamma Mathew's case* (referred to *supra*) and has rightly rejected the application filed by the petitioner/defendant under Order VII Rule 11 CPC.

8. Learned counsel for the petitioner during the course of his submissions had relied upon Section 17 of the SARFAESI Act and would submit that the dispute raised by the respondent/plaintiff would fall within the purview of Section 17 of the SARFAESI Act. But, as seen



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from Section 13(4) of the SARFAESI Act, the dispute of the nature, which is the subject matter of the suit in O.S.No.216 of 2022 is not reflected therein. Anyway, it is a matter for trial and at this stage, this Court need not make a roving enquiry with regard to the respective contentions. Since the trial court has rightly rejected the application, this Court is not interfering with the impugned order.

9. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

06-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The Additional Sub Court, Chengalpattu.



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ABDUL QUDDHOSE J.

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