



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

**CRP No. 3148 of 2025 and
CMP.No.17536 of 2025**

The Branch Manager,
Tyson Complex, Opposite Minjur Police Station,
Thiruvallur – 601 203.

..Petitioner(s)

Vs

1. C. Kalaiarasau
S/o Chockkalingam, 3E, G-1, Hansa Abhinav
Apartment, Glass Factory Road, Thiruvottiyur,
Chennai – 600 019.
2. The Managing Director,
Union Bank Bhavan,
239, Vidhan Bhavan Marg, Nariman Point,
Mumbai – 400 021.
3. Central Vigilance Officer,
Union Bank Bhavan,
239, Vidhan Bhavan Marg, Nariman Point,
Mumbai – 400 021.
4. The General Manager,
Tyson Complex,
Opposite Minjur Police Station,
Thiruvallur – 601 203.
5. The General Manager,
Union Bank of India, Union Bank Bhavan,
2nd Floor, 139, Prakasam Salai,
Broadway, Chennai - 600108.
6. Parrabhi Rama Rao,
Authorised Officer, Union Bank of India,
21/86, Naniappa Naicken Street,
Chennai – 600 003.



7. C. Vijayan

Union Bank of India, Union Bank Bhavan,
2nd Floor, 139, Prakasam Salai, Broadway,
Chennai – 600 108.

..Respondent(s)

Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the order dated 05.08.2024 in I.A No.4 of 2023 in O.S No.5094 of 2022 on the file of the Hon'ble Principal City Civil Court, Chennai.

For Petitioner(s):	Mr.W.M.Abdul Azeez
For Respondent(s):	Mr.S.S.Rajesh (R1)
	No appearance (R5 to R7)

ORDER

This Civil Revision Petition has been filed challenging the impugned order dated 05.08.2024 passed by the Principal City Civil Court, Chennai in I.A.No.4 of 2023 in O.S.No.5094 of 2022.

2. In the aforesaid order, the application filed by the petitioner who is the 5th defendant in the suit in O.S.No.5094 of 2022, seeking for rejection of plaint on the ground that the suit filed by the 1st respondent/plaintiff is barred by law has been dismissed. The suit has been filed by the 1st respondent seeking for recovery of a sum of Rs.15,51,250/- from the defendants and the said sum is claimed on account of the alleged non refund of the advance amount paid by the petitioner towards the purchase of the property through auction proceedings conducted under the SARFAESI Act by the defendant bank and for recovery of



interest for the delayed payment of the said sum.

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3. Learned counsel for the petitioner would submit that the suit filed by the 1st respondent/plaintiff is barred by the provisions of Section 34 of the SARFAESI Act, 2002. Therefore, he would submit that the suit ought not to have been entertained by the Trial Court at the first instance.

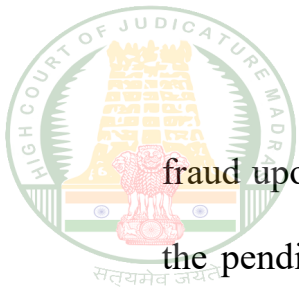
3.1. Learned counsel for the petitioner also submits that only in case of fraud committed by the defendant bank, a suit can be entertained, but in the plaint averments, no fraud has been pleaded by the 1st respondent/plaintiff against the petitioner and other defendants in the suit. Learned counsel for the petitioner also drew the attention of this Court to a decision of the Hon'ble Supreme Court in the case of *Agarwal Tracom Pvt. Limited versus Punjab National Bank and Others*, reported in *Manu/SC/1494/2017* and would submit that in an identical case to that of the case on hand, the Hon'ble Supreme Court has held that when an alternative statutory remedy is available, the party has to approach the Debt Recovery Tribunal and not file a writ petition. Therefore, he would submit that the suit filed by the 1st respondent/plaintiff is legally barred as per the provisions of Section 34 of the SARFAESI Act. Learned counsel for the petitioner would also submit that the Trial Court has erroneously relied upon decisions for dismissing the petitioner's application filed under Order VII Rule



11 CPC, which are not applicable to the facts of the instant case.

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4. On the other hand, learned counsel for the 1st respondent/plaintiff drew the attention of this court to the plaint averments and would submit that specific averments have been made by the 1st respondent/plaintiff in the plaint that the defendants have adopted unethical practice and have misrepresented to the 1st respondent/plaintiff by making the 1st respondent/ plaintiff part with an advance amount for the purchase of the property through a SARFAESI auction. He also drew the attention of this Court to the averment made in the plaint wherein the 1st respondent/ plaintiff has averred that he is entitled to be compensated by way of damages for the misrepresentation and unethical practice adopted by the defendants. He would submit that it is only a Civil Court which can adjudicate the dispute raised by the 1st respondent/ plaintiff as the dispute can be adjudicated only through oral and documentary evidence placed before a Civil Court and by following the Code of Civil Procedure and the Indian Evidence Act. The learned counsel appearing for the 1st respondent/plaintiff also drew the attention of this Court to the impugned order and would submit that the Trial Court only after giving due consideration to the various decisions has come to the right conclusion that the suit filed by the 1st respondent/plaintiff before the Civil Court is maintainable. He also also drew the attention of this Court to the counter filed by the 1st respondent/ plaintiff to I.A.No.4/2023, wherein the 1st respondent/ plaintiff has categorically stated that the defendants have played



fraud upon the 1st respondent/ plaintiff by misrepresenting facts with regard to the pending attachments over the property which is the subject matter of the auction conducted under the SARFAESI proceedings. Therefore, he would submit that when adequate plaint averments have been made by the 1st respondent/ plaintiff to enable the Civil Court to exercise jurisdiction, the question of rejecting the plaint Order VII Rule 11 CPC does not arise.

Discussion:

(5) It is settled law that while deciding an application under Order VII Rule 11 of CPC seeking for rejection of plaint, the Court will have to only look into the plaint averments. In the instant case, the 1st respondent/ plaintiff has categorically stated in the plaint that on account of the misrepresentation and unethical practice adopted by the defendants, the 1st respondent/ plaintiff has to be compensated. Only under those circumstances, the 1st respondent/ plaintiff who had participated in the auction conducted under the SARFAESI Act had to forfeit the advance amount paid by him which according to the plaintiff is incorrect and the said amount has to be refunded to him. Since he had parted with the said money on account of the alleged misrepresentation by the defendants with regard to the various pending attachments pending over the property which was the subject matter of the auction, whether there was misrepresentation and whether the defendants adopted unethical practice as pleaded in the plaint cannot be adjudicated through an application under Order VII Rule 11 of CPC, as it requires oral and documentary evidence to be placed



on record by both the plaintiff and the defendants which requires adjudication by strictly following the Code of Civil Procedure and the Indian Evidence Act.

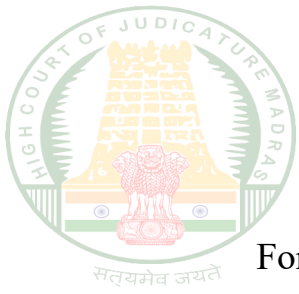
The Trial Court, while dismissing an application filed by the 7th defendant through the impugned order has rightly rejected the application after giving due consideration to the two decisions rendered by this Court and the Hon'ble Supreme Court respectively. In the case of ***Punjab National Bank represented by its authorized officer versus R. Lalitha & Ors*** reported in ***2023 SCC Online Madras 6260***, it has been made clear that insofar as the allegation of fraud is concerned, especially when the fraud has been alleged against the bank itself, Civil Court has got jurisdiction and the suit is not barred under Section 34 of the SARFAESI Act. In the case of, ***Leelamma Mathew versus Indian Overseas Bank and Others*** reported in ***2022 SCC Online SC 1601***, the Hon'ble Supreme Court has held that the suit for damages/compensation with respect to the balance land, cannot be decided by the Debt Recovery Tribunal and therefore it is not hit by Section 34 of the SARFAESI Act. The aforesaid decisions were relied upon by the Trial Court for dismissing the application filed by the 7th defendant in the suit seeking for rejection of the plaint.

(6) Even though only in the counter filed in I.A No.4/2023, the 1st respondent/plaintiff had made a specific averment that fraud has been committed by the defendants, it can be inferred from the averments made in the plaint that the ingredients of fraud has been prima facie made out by the 1st



respondent/plaintiff for suing the petitioner/Defendant. When the 1st respondent/plaintiff has made a specific averment that the defendants have misrepresented and have adopted unethical practice for making him part with money for the purpose of buying the property through an auction conducted under the SARFAESI Act, that would suffice for the Trial Court to dismiss the application filed under “Order VII Rule 11” CPC. The Trial Court under the impugned order has rightly observed that the remedy sought by the 1st respondent/plaintiff in the suit can be addressed only before the Civil Court and cannot be addressed before the DRT.

(7) Further it is to be noted that in the plaint, a categorical statement has been made by the 1st respondent/plaintiff that he has to be compensated for the misrepresentation and unethical practice adopted by the defendants. The Hon’ble Supreme Court in Leelamma Mathew case referred to supra has also held that in case of claim for compensation/damages, though it may be a case involving a claim for balance land, the suit for damages/compensation is maintainable. In the case on hand, apart from claiming the refund of the advance amount paid by the 1st respondent/plaintiff, the 1st respondent/plaintiff also claimed interest in the suit. Therefore, only by letting in oral and documentary evidence and by giving the respective parties the right to cross examine witnesses, the truth can be unearthed and it cannot be decided through an application filed under Order VII Rule 11 CPC.



For the foregoing reasons, this Court does not find any merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. Since the suit is pending from 2022, a direction is issued to the Principal City Civil Court, Chennai to dispose of O.S.5094 of 2022 within a period of *eight months* from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

03-07-2026

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

The Principal City Civil Court, Chennai.



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ABDUL QUDDHOSE, J.

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