

A.No.6179 of 2017
in
C.S.No.345 of 2012

R.SUBRAMANIAN,J.

This Application has been filed seeking rejection of the plaint on the ground that it is barred under provisions of the Recovery of Due to Bank and Financial Institution Act, 1986.

2. Heard Mr.V.Bheeman, learned counsel appearing for the Applicant. Despite several adjournments either the respondent or the learned counsel for the respondent have not appeared.

3. The prayers in the suit is as follows:

“a) Declaring that the Document dated 07.01.2009 claimed as a guarantee, executed by the plaintiff in favour of the 1st defendant in respect of the debts of the 2nd defendant company as void ab initio and unenforceable.

b) For a permanent injunction restraining the first defendant bank or any other person claiming through or under them from in any manner making or pursuing a claim against the plaintiff in connection with the deed of guarantee dated 07.01.2009 executed by the plaintiff in favour of the 1st defendant in respect of the loans granted by the 1st defendant to the 2nd defendant which is void ab initio.”

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4. The first defendant is a Banking Company covered by the Recovery of Debts Due to Banks and Financial Institutions Act. Therefore, Mr.V.Beeman, learned counsel for the Applicant would contend the Civil Court has no jurisdiction to entertain the suit. He would also rely upon the judgment of this Court in A.No.1845 of 2012, where a similar issue was considered by this Court and this Court had held that in view of the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, the civil suit filed challenging the documents executed in favour of the Bank will not lie. The remedy of the plaintiff would lie before the Debt Recovery Tribunal and not before a Civil Court.

5. In view of the said decision wherein the other decisions of this Court as well as the Hon'ble Supreme Court has been referred to and followed. I do not think the suit is maintainable. Hence, this Application is allowed and the plaint will stand rejected.

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