



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (PD) (MD) No.963 of 2017

and

C.M.P (MD) No.4252 of 2017

Saroja Ammal : 1st Defendant/Petitioner

Vs.

1.D.Murugesan : 1st Respondent/ Plaintiff

2.Indian Overseas Bank,
Thanjavur Main Branch,
Thanjavur. : 2nd Respondent/2nd Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, for striking off the plaint in O.S.No.57 of 2017 on the file of the District Munsif Court, Thanjavur.

For Petitioner : Mr.D.Rajagopal

O R D E R

This Civil Revision Petition is directed for striking off the plaint in O.S.No.57 of 2017 on the file of the District Munsif Court, Thanjavur. The said suit is pending before the District Munsiff Court, Thanjavur, wherein the revision petitioner herein arrayed as the first defendant.

2. The learned counsel for the petitioner contends that the entire subject matter is seized of by the Debt Recovery Tribunal under SARFAESI Act, 2002, so the Civil Court has no jurisdiction under Section 34 of the SARFAESI Act, 2002.

3.Despite the specific bar under the Act, the Trial Court has taken the suit on file, which amounts to abuses of process of law indulged by the plaintiff. It is submitted by the learned counsel for the revision petitioner that in such a case of patent abuse of Court, under Article 227 of the Constitution of India High Court can interfere and struck off the plaint.

4.In support of the said submission the learned counsel has cited the Judgment of the Hon'ble High Court reported in 1997-2-L.W.761 **Ranipet Municipality Represented by its Commissioner & Special Officer, Ranipet Vs. M.Shamsheerkhan.**



5.No doubt under the supervisory power conferred on the High Court, this Court can interfere with the matters of this nature. However, when there is provision under CPC to get redressal under Order 7 Rule 11 of CPC, it is appropriate for the revision petitioner to first approach the Trial Court and file a petition under Order 7 Rule 11 of C.P.C. and highlight to the Court below about the bar for Civil Court to entertain suits which fall within SARFAESI Act. It is suffice to direct the trial court if any application is filed to reject the plaint, it may be taken up at the earliest and dispose of it after giving opportunity to both sides within a period of 60 days.

6.With the above observation, this Revision Petition is disposed of. No costs. Consequently the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To:

The District Munsif,
Thanjavur.

+1 CC to M/s.D.RAJAGOPAL, Advocate, SR No. 59199.

LS/MYR

PSM/KKR/SAR1/16.06.2017/2P/3C

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