IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 23.08.2021

Orders Pronounced on : 21.10.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Application No.1299 of 2021 and O.A.No.715 of 2020
in
C.S.No.383 of 2020
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1. Mr.C.Ramachandran, S/o Mr.Chakrapani
2. Mr.C.Radhakrishnan, S/o Mr.Chakrapani

.. Plaintiffs in C.S.No.383 of 2020

Vs.

1. Mr.A.Chakrapani, S/o Mr.S.Adhimoola Mudaliar

2. Mr.C.Shanker, S/o Mr.A.Chakrapani

3. Mrs.C.Hemalatha, D/o Mr.A.Chakrapani

4. M/s.Canara Bank,
Represented by its Manager,
ARM Nagar Branch, Chennai-600 018.

5. The Authorized Officer,
M/s.Canara Bank, 2nd Floor, Circle Office Building,
563/1, Anna Salai, Chennai-600 018.

.. Defendants in C.S.No.383 of 2020

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure (CPC), 1908, read with Order IV Rule 1 of the Original Side Rules of this Court, and the suit numbered as C.S.No.383 of 2020, praying for judgment and decree:

(a) declaration of the plaintiffs' 2/5 (Two-Fifth) share in the suit property and partition and separate possession of their share thereto;

(b) declaration that any guarantee given by the 1st defendant with respect fo the suit property is sham, null and void and not binding on the plaintiffs;

(c) injunction restraining the defendants 1 to 3 from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property in any manner;

(d) injunction restraining the fourth and fifth defendants from alienating or otherwise creating encumbrances of any nature in the suit property;

(e) mandatory injunction directing the 4th and 5th defendants to hand over the original title and other documents pertaining to the suit property, morefully set out in the Memorandum of Deposit of title deeds, dated 06.05.2013 and registered as Document No.503 of 2013 before the Sub-Registrar, Chennai Central Joint-I to the plaintiffs (morefully described in the Schedule-B hereto), and

(f) for the costs.

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Schedule-A

All that piece and parcel of the 216/65, Alwarpet Street, Alwarpet, Chennai-600 018 in O.S.Nos.931, 933, 935, CC.No.4923, R.S.No.3754/38, bounded on the:

North by : R.S.No.3754/82

South by : R.S.No.3754/1

East by : R.S.3754/19 and

West by : R.S.Nos.3754/16 and 3754/18

measuring East to West 52 feet on the Northern side and 50 feet on the Southern side, North to South 84 Feet on the Western side and 85 feet on the Eastern side, measuring in all about 1 Ground and 1,915 Square Feet along with the house situated thereto within the Sub-Registration District of Chennai Central Joint-I and Registration District of Chennai.

Schedule-B

S.No.	***Date***	***Particulars of the documents***	***Remarks***
1	02.07.1938	Sale deed (Doc.No.1583/1938)	Original
2	07.01.1955	Partition Deed (Doc.No.33/1955)	Photocopy
3		Extracts from permanent land register	Copy
4		Property tax receipt	Photocopy
5	26.12.1991	Death Certificate of A.Viruthambai	copy
6	11.10.1996	Death Certificate of S.V.Athimoolam	Copy
7	28.11.1996	Legal heir Certificate	Copy
8	28.04.1998	Legal heir Certificate	Copy

S.No.	Date	Particulars of the documents	Remarks
9		E.C.No.677 from 01.01.1929 to 31.12.1934	Original
10		E.C.No.4961 from 01.01.1941 to 25.10.1963	Original
11		E.C.No.1614 from 01.01.1963 to 31.12.1971	Original
12		E.C.No.457 from 01.12.1971 to 30.06.1982	Original
13		E.C.No.1903 from 01.07.1982 to 14.07.1983	Original
14		E.C.No.136 from 15.07.1983 to 07.03.1984	Original
15		E.C.No.302 from 01.01.1984 to 21.08.1986	Original
16		E.C.No.550 from 01.01.1984 to 21.08.1986	Original
17		E.C.No.1713 from 01.08.1986 to 21.10.1999	Original
18		E.C.No.1305 from 22.10.1999 to 29.08.2000	Original

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1. Canara Bank,
   Represented by its Chief Manager,
   ARM Branch, 2nd Floor, Circle Office Building,
   No.563/1, Anna Salai,
   Teynampet, Anna Salai, Chennai-600 018.

2. The Authorized Officer,
   Canara Bank,
   2nd Floor, Circle Office Building,
   No.563/1, Anna Salai, Chennai-600 018.

.. Applicants in A.No.1299 of 2021 in C.S.No.383 of 2020

Vs.

1. Mr.C.Ramachandran, S/o Mr.Chakrapani
2. Mr.C.Radhakrishnan, S/o Mr.Chakrapani
3. Mr.A.Chakrapani, S/o Mr.S.Adhimoola Mudaliar
4. Mr.C.Shanker, S/o Mr.A.Chakrapani

5. Mrs.C.Hemalatha, S/o Mr.A.Chakrapani

.. Respondents in A.No.1299 of 2020 in C.S.No.383 of 2020

Judge's Summons issued under Order XIV Rule (8) of the Original Side Rules of this Court, read with Order 7 Rule 11 of the CPC and Application No.1299 of 2021 in C.S.No.383 of 2020 is filed praying to reject the plaint on the ground of territorial jurisdiction as well as in terms of Section 34 of the SARFAESI Act and Section 18 of the Recovery of Debts and Bankruptcy Act.

For applicants : Mr.M.L.Ganesh

For respondents: Mr.T.Gowthaman for RR-1 & 2

Mr.G.Gnanasundaram for R-5

Suit summons served on Respondents 3 and 4 on 12.01.2021

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1. Mr.C.Ramachandran, S/o Mr.Chakrapani

2. Mr.C.Radhakrishnan, S/o Mr.Chakrapani

.. Applicants in O.A.No.715 of 2020 in C.S.No.383 of 2020

Vs.

1. Mr.A.Chakrapani, S/o Mr.S.Adhimoola Mudaliar
2. Mr.C.Shanker, S/o Mr.A.Chakrapani

3. Mrs.C.Hemalatha, S/o Mr.A.Chakrapani

4. M/s.Canara Bank,
Represented by its Manager,
ARM Nagar Branch,

Chennai-600 018.

5. The Authorized Officer,
M/s.Canara Bank,
2nd Floor, Circle Office Building,
563/1, Anna Salai, Chennai-600 018.
.. Respondents in O.A.No.715 of 2020 in C.S.No.383 of 2020

Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules of this Court, read with Order 39 Rules 1 and 2 of the Code of Civil Procedure (CPC), 1908 and Original Application No.715 of 2020 in C.S.No.383 of 2020 filed praying to grant an order of interim injunction restraining the fourth and fifth defendants from alienating or otherwise creating encumbrances of any nature in the suit property described in the schedule of the Judge's Summons pending disposal of the above suit.

Schedule

All that piece and parcel of the 216/65, Alwarpet Street, Alwarpet, Chennai-600 018 in O.S.No.931, 933, 935, CC.No.4923, R.S.No.3754/38, bounded on the:

North by : R.S.No.3754/82

South by : R.S.No.3754/1

East by : R.S.No.3754/19 and

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measuring East to West 52 Feet on the Northern side and 50 Feet on the Southern side, North to South 84 feet on the Western side and 85 feet on the Eastern side, measuring in all about 1 ground and 1,915 Square Feet along with the house situated thereto within the Sub-Registration District of Chennai Central Joint 1 and Registration District of Chennai.

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ORDER

The applicants in Application No.1299 of 2021 are the defendants 4 and 5 in the suit in C.S.No.383 of 2020; respondents 1 and 2 are the plaintiffs and the respondents 3 to 5 are the defendants 1 to 3 in the suit.

2. The plaintiffs have filed the present suit for the following prayers:

(a) declaration of the plaintiffs' 2/5 (Two-Fifth) share in the suit property and partition and separate possession of their share thereto;

(b) declaration that any guarantee given by the 1st defendant with respect fo the suit property is sham, null and void and not binding on the plaintiffs;

(c) injunction restraining the defendants 1 to 3 from interfering with the plaintiffs' peaceful possession and enjoyment of the suit property in any manner;

(d) injunction restraining the fourth and fifth defendants from alienating or otherwise creating encumbrances of any nature in the suit property;

(e) mandatory injunction directing the 4th and 5th defendants to hand over the original title and other documents pertaining to the suit property, morefully set out in the Memorandum of Deposit of title deeds (for short, 'MoD'), dated 06.05.2013 and registered as Document No.503 of 2013 before the Sub-Registrar, Chennai Central Joint-I to the plaintiffs (morefully described in the Schedule-B hereto), and

(f) for the costs.

3. The brief facts and circumstances which gave rise to the filing of A.No.1299 of 2021 are stated hereunder:

(a) The applicants are the Nationalised Bank. According to the applicants, M/s.Vishwakarma Real Estates and Construction India Private Limited (for short, borrower-Company), which was managed by the second defendant, had availed open cash credit (OCC) facility of Rs.50 lakhs on 10.09.2001 from them and subsequently enhanced the facility from time to time upto Rs.3 crores as on 29.04.2013. The Bank Guarantee limit which stood at Rs.3 crores, was lastly renewed on 07.04.2017 to the tune of Rs.6 crores for its business operation and the said borrower/Company executed loan security documents in favour of the applicants/Bank. In order to secure the repayment of the loan amounts, the respondents 3 to 5 herein stood as personal guarantors by executing guarantee agreement, besides offering collateral security of the suit property.

(b) In consideration for the grant of the credit facilities offered by the Bank, the third respondent herein/first defendant had deposited original title deeds on 19.09.2001 with an intention to create Equitable Mortgage (for short, 'EM') in terms of Section 58(f) of the Transfer of Property Act. It appeared that subsequently, the said EM has been periodically extended from time to time and the third respondent had lastly executed Memorandum of Deposit of Title Deeds (MoD) on 06.05.2013, registered as Document No.503 of 2013 in the Joint-II Sub-Registrar Officer, Central Chennai, pertaining to the suit property.

(c) According to the applicants/Bank, the respondents 1 and 2 herein are fully aware of the fact that the borrower-Company, had availed credit facility as early as in 2001 by depositing original title deeds of the suit property with them. The plaintiffs and defendants 1 to 3 are living in the same property as reflected in the cause title in the plaint itself.

(d) The borrower-Company had failed to repay the outstanding loan amount, in terms of the agreement and consequently, the loan amounts with the applicants/Bank had slipped into Non-Performing Asset (NPA) category as per the extant Reserve Bank of India (RBI) Guidelines, dated 30.05.2018. In the said circumstances, the applicants/Bank was constrained to initiate proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "SARFAESI Act) in respect of the suit properties. The applicants/Bank had also filed O.A.No.332 of 2019 before the Debt Recovery Tribunal (for short, 'DRT')-II, Chennai for recovery of Rs.5,87,87,728.50 as on 28.02.2019 from the borrower-Company, which included the respondents 3 to 5 herein (defendants 1 to 3). It is stated that the said O.A. is pending as on date before the DRT-II.

(e) Apart from the above mentioned O.A. proceedings, the Bank has also initiated SARFAESI proceedings simultaneously by issuing demand notices on 25.06.2018 and 26.06.2018. As there was no effective response for the notices, the possession notice was also issued on 31.10.2018 and symbolic possession of the suit property was also taken over by operation of the relevant provisions of the SARFAESI Act. Subsequently, the Bank has also issued sale notices on 26.04.2019, 05.08.2019, 23.10.2019, 21.11.2019 and 16.10.2020. However, in the e-auction announced, the sale could not fructify and materialise for want of bidders.

(f) Subsequently, it also transpired that the borrower-Company went into CIRP (Corporate Insolvency Resolution Process) pursuant to the application filed under Section 7 of the IBC, 2016 (Insolvency and Bankruptcy Code) by one of the financial creditors M/s.North Town Estates Pvt. Limited before the National Company Law Tribunal (NCLT), Chennai. Pursuant to the Expression of Interest (EoI) invited by the Resolution Professional for the borrower-Company, M/s.Care Promoters Chennai (P) Limited, the Resolution Applicant had submitted resolution plan to take over the borrower-Company as an on-going concern.

(g) While matters stood thus, when the Bank had taken over symbolic possession of the suit properties and the sale notices were also issued, with a view to scuttle the recovery measures, the respondents 1 and 2 herein had filed the present suit for partition pleading that the property in Schedule-A to the plaint, is a joint family property. According to the respondents 1 and 2 herein/plaintiffs, being the co-sharers in the property, the deposit of title deeds in respect of the entire property, is null and void and consequently, the sale of the subject property is illegal and unsustainable.

(h) In the above circumstances, the applicants/Bank herein has come up with the present application in A.No.1299 of 2021 seeking to reject the plaint, as the present suit is not maintainable in terms of Section 34 of the SARFAESI Act, 2002, read with Section 18 of the Recovery of Debts and Bankruptcy Act, 1993 and also in terms of the settled legal principles on the subject matter.

4. The learned counsel for the applicants/Bank has taken the Court

through the facts and the materials relating to the borrowing facility availed filed by the respondents 3 to 5 herein. The learned counsel referred to document, dated 19.03.2004, wherein the third respondent/first defendant (A.Chakrapani-guarantor) herein, who is the father of the plaintiffs and defendants 2 and 3, created EM in respect of the subject property for the sanctioned amounts by the applicants/Bank. As there were defaults in re-payment, notices were issued under Section 13(2) of the SARFAESI Act, 2002 to the borrower-Company on 25.06.2018 and on 26.06.2018, to the respondents 3 to 5 herein, the guarantors.

5. Finally, as there was no effective respondents from the borrowers/guarantors, the applicants/Bank was constrained to issue possession notice on 31.10.2018 subsequently in exercise of their power conferred under Section 13(12) of the SARFAESI Act read with Rule 3 of the Security Interest (Enforcement) Rules, 2002, as the borrower-Company failed to repay the amount. In the said possession notice, the Bank has informed the respondents 3 to 5 herein that they had taken possession of the suit property under Section 13(4) of the SARFAESI Act on 31.10.2018.

After taking symbolic possession, auction notice was also issued on 16.10.2020 and the sale notice, dated 16.10.2020 has also been sent to the respondents 3 to 5 herein/defendants 1 to 3 in the suit.

6. The learned counsel for the applicants/Bank has also referred to the third respondent's letter dated 20.11.2020 proposing One Time Settlement (OTS) of the loan accounts, addressed to the Branch of the Bank concerned. However, the proposal was not accepted by the Bank and by communication, dated 02.12.2020, OTS offer by the respondents 3 to 5 herein, was rejected by the applicants/Bank.

7. The learned counsel for the applicants/Bank submitted that the respondents 1 and 2 herein (plaintiffs) had approached the DRT-II, Chennai in S.A.No.182 of 2020, challenging the sale notice (e-auction notice), dated 16.10.2020 issued by the second applicant/Authorised Officer of the Bank. However, S.A.No.182 of 2020 was dismissed by the DRT-II on 02.07.2021.

8. The learned counsel also submitted that in terms of Section 17 of

the SARFAESI Act, 2002, any person aggrieved by any of the measures referred to in Section 13(4) therein, can approach the DRT concerned, in view of the bar of jurisdiction of Civil Court in terms of Section 34 of SARFAESI Act, 2002, and Section 18 of the Recovery of Debts and Bankruptcy Act, 1993.

9. The learned counsel further submitted that the respondents 1 and 2 herein (plaintiffs) who are living in the same premises, admittedly, cannot feign ignorance in regard to their father and siblings, availing credit facilities from the applicants/Bank and EM created in respect of the suit property by deposit of title deeds. The suit filed by the plaintiffs, is therefore not maintainable, as several Courts have clearly held that in view of the ouster of Civil Court's jurisdiction in terms of Section 34 of the SARFASEI Act, 2002 and Section 18 of the Recovery of Debts and Bankruptcy Act, 1993. In the teeth of the statutory provisions and the relevant binding case laws, the suit is liable to be dismissed as not maintainable.

10. Even otherwise, the learned counsel for the applicants/Bank

submitted that the Doctrine of Pious Obligation is also attracted in this case, as the credit facilities availed by their father and the other brother, have been used for the family and the Courts have held that the co-parceners and joint-owners of the family property, are liable to discharge their "Pious Obligation" towards repayment of the loan amount.

11. Lastly, the learned counsel for the applicants/Bank submitted that the plaintiffs are not remediless and it is always open to them to get impleaded in O.A.No.332 of 2019 filed by the applicants/Bank, pending before the DRT concerned and they can raise their objections against the SARFAESI proceedings.

12. In support of his legal contentions, the learned counsel for the applicants/Bank relied on the following decisions:

(i) MANU/SC/0581/2018 = 2018 (5) CTC 225 (SC) (The Authorised Officer, State Bank of India Vs. Allwyn Alloys Pvt. Ltd. and others). The learned counsel has drawn reference to paragraphs 4 to 6 of the decision, that are extracted hereunder:

"4. The Bank has assailed the aforesaid decision of the High Court primarily on the ground that all issues concerning the mortgaged/secured property are required to be decided only by the DRT; and not in any civil proceedings as has been observed by the High Court in the impugned judgment. For, filing of a civil suit in respect of secured assets is barred by law. Secondly, the DRT as well as DRAT have examined the merits of the controversy and justly answered the same against the writ petitioners. The concurrent finding of fact recorded by the said Tribunals is that the writ petitioners have failed to establish any right, title or interest in the subject flat. That finding has neither been disturbed nor is it assailable. According to the Bank, the High Court judgment under appeal is untenable and deserves to be set aside.

5. The contesting Respondent Nos.5 and 6 (writ petitioners), however, supported the view taken by the High Court and would contend that it is indisputable that Respondent No.5 (writ petitioner No.1) is in physical possession of the subject flat and was entitled to pursue his claim about the right, title and interest in the subject flat in view of the Memorandum of Understanding dated 13th March, 2007, executed between the writ petitioners and Respondent Nos.2 to 4 regarding re-sale of the subject flat in their (writ petitioners) favour. The Respondent Nos.5 and 6 would also contend that the original share certificate and few receipts of payments made to the Society were still in their possession and that the entries effected in the Society's record to transfer the share certificate in favour of

Respondent Nos.2 to 4 are fabricated.

6. After having considered the rival submissions of the parties, we have no hesitation in acceding to the argument urged on behalf of the Bank that the mandate of Section 13 and, in particular, Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the 2002 Act"), clearly bars filing of a civil suit. For, no civil court can exercise jurisdiction to entertain any suit or proceeding in respect of any matter which a DRT or DRAT is empowered by or under this Act to determine and no injunction can be granted by any Court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act. The fact that the stated flat is the subject matter of a registered sale deed executed by the Respondent Nos.5 and 6 (writ petitioners) in favour of Respondent Nos.2 to 4 and which sale deed has been deposited with the Bank along with the share certificate and other documents for creating an equitable mortgage and the Bank has initiated action in that behalf under the 2002 Act, is indisputable. If so, the question of permitting the Respondent Nos.5 and 6 (writ petitioners) to approach any other forum for adjudication of issues raised by them concerning the right, title and interest in relation to the said property, cannot be countenanced. The High Court has not analysed the efficacy of the concurrent finding of fact recorded by the DRT and DRAT but opined that the same involved factual issues warranting production of evidence and a full-fledged trial. The approach of the High Court as already noted hitherto is completely fallacious and

untenable in law."

In the above decision, the Honourable Supreme Court reversed the order of the High Court which opined that the issues involved therein warranted production of evidence and a full-fledged trial, holding the same as completely fallacious and untenable in law.

(ii) MANU/TN/0959/2018 = 2018 (2) CTC 535 (Division Bench of Madras High Court) (R.Subramanian Vs. The Hongkong and Shanghai Banking Corporation Ltd. and others). The learned counsel relied on paragraphs 23 and 24 therein, which are extracted hereunder:

> "23. The simple point that arises for consideration is whether the Appellant/Plaintiff is liable to pay necessary monies to the 1st Respondent/Bank as Guarantor or otherwise is purely within the domain/jurisdiction of the Tribunal. When the Tribunal was seized of the matter after hearing the arguments in the Original Application, when final orders are passed, during

the interregnum, the Appellant/Plaintiff had filed the present Suit in C.S.No.786 of 2011 in regard to the enforcement of guarantees admittedly executed by him to and in favour of the Bank.

24. In this connection, a reading of Section 18 of the RDDBFI Act, 1993 unerringly points out that it imposes bar on a Civil Court from exercising jurisdiction or power only pertaining to matters mentioned in Section 17 of the Act. Section 17(1) of the Act confers jurisdiction on a Tribunal to entertain and determine the application from bank or recovery of debts due to such banks and financial institutions. Viewed in that perspective, the instant claim made by the Appellant/Plaintiff in Application No.2809 of 2012 in C.S.No.786 of 2011 is clearly barred in Law and resultantly, the Plaint in C.S.No.786 of 2011 is liable to be rejected as per ingredients of Order VII Rule 11(d) of the Civil Procedure Code."

In the above matter, the Division Bench of this Court has clearly held that

Section 18 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (for short, 'RDDBFI Act, 1993'), imposes bar on Civil Courts from exercising jurisdiction or power pertaining to subjects mentioned in Section 17 of the Act, 1993.

(iii) MANU/TN/1939/2011 = 2011 (3) CTC 801 (Division Bench of Madras High Court) (V.Thulasi Vs. Indian Overseas Bank):

The learned counsel referred to the case note, which nut-shelled the essence of the ruling of the Division Bench of this Court. The case note relied on (as in MANU/TN/1939/2011) reads as under:

> "Banking - Jurisdiction - Rejection of plaint - Single Judge held that in view of Section 13(4), 17, 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 - Section 17 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 - no Civil Court shall have jurisdiction to entertain suit - Hence, this Appeal - Held, as per Section 34, jurisdiction of civil Court was barred in respect of matters which a Debts Recovery Tribunal or an Appellate Tribunal was empowered to determine in respect of any action taken - or to be taken in pursuance of any power conferred under this Act - Any matter in respect of which an action might be taken even later on, civil Court shall have no jurisdiction to entertain any proceeding thereof - Bar of Civil Court thus applied to all such matters which might be taken cognizance of by Debts

> Recovery Tribunal, apart from those matters in which measures had already been taken under Section 13(4) of Act - Right to move an application under Section 17 of Act accrued to any person aggrieved by any of measures taken under Section 13(4) of Act - Expression 'evidence produced by parties' occurring in Section 17(3) would include evidence produced by Appellant, though he was a person other than borrower - DRT, being vested with powers, it was open to Plaintiff to raise all points before proceedings in DRT, in which Plaintiff had entered appearance - In view of specific bar under Section 34 of Act, single Judge rightly held that suit was specifically excluded from purview of Civil Court and rightly rejected plaint - Appeal dismissed."

Holding as above, the Original Side Appeal (OSA) therein was dismissed by the Division Bench of this Court. The Division Bench categorically held that bar of Civil Court to apply to all matters which might be taken cognizance of by the DRT.

(iv) MANU/TN/1517/2012 = 2012 (3) CTC 785 (Division Bench of Madras High Court): (Chandra and others Vs. K.Nagarajan and others):

The learned counsel, like in the above case, has referred to the Case Note reported, which nut-shelled the essence of the ruling of the Division

Bench of this Court. The Case Note (as in MANU/TN/1517/2012) reads as under:

> "Civil - Bar of jurisdiction of civil Court - Section 34 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI); Section 18 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 - Trial Court dismissed suit of partition filed by Plaintiffs and held that there was no bar for entertaining Suit - Further held that suit properties were self-acquired properties of Defendants 1 & 2 - Hence, this Appeal - Whether civil suit was barred in view of bar under Section 34 of SARFAESI Act - Held, careful reading of Section 13(4) of SARFAESI Act showed that Section 13(4) of SARFAESI Act embodies various modes of recovery of secured debts of secured creditor - Further if anyone including borrower felt aggrieved by mode of recovery, which a secured creditor might adopt, he had a right to prefer an Appeal in terms of Section 13 of SARFAESI Act - As per Section 31(i) of SARFAESI Act, it provisions should not apply to security interest created in agricultural land - However Section 18 of 1993 Act contained express bar of ouster of jurisdiction of Civil Court - It was for enforcement of its secured interest Bank had taken steps and that right remained intact even in a Suit for partition - More so, power under Section 34 of SARFAESI Act was not absolute and was subject to restrictions - Courts had a duty to see whether genuine grounds had been made out to attract jurisdiction of Civil Court - No generalisation

could be made as to when a Civil Suit was maintainable or when jurisdiction of Civil Court was ousted - Moreover properties, being self-acquired properties of 2nd Defendant, were offered as security for availing financial assistance - At time of taking loan, Plaintiffs, being young age, there would be no occasion to take their consent for offering property as securities - It was in that context Court had to analyse plaint averments - Thus trial Court did not elaborately go into question of jurisdiction but proceeded with matter on footing held that suit was maintainable - Hence suit was specifically barred under Section 34 of SARFAESI Act and plaint was liable to be rejected - Appeal dismissed."

Holding as above, the appeal was dismissed by the Division Bench of this Court. Thus, the Division Bench held that a person shall not be entitled to relief of partition, if no documents have been produced to prove his case that the suit property is ancestral property.

The learned counsel for the applicants/Bank herein also relied on paragraphs 27, 29 and 30 of the above decision, which read as follows:

"27. Case of Plaintiffs is that the acquisitions were made from out of the income from ancestral property/joint family property. To prove that the suit properties are joint family properties, the

Plaintiffs are to adduce evidence as to existence of nucleus. The mere existence of nucleus alone is not enough to hold that the acquisitions were made utilising the income from nucleus. Absolutely, there is no evidence as to the existence of nucleus and what was the income derived from such nucleus. On behalf of the Plaintiffs, it was submitted that the Plaintiffs cannot be deprived of their share in item No.1. By perusal of the description of the suit properties, it is seen that item No.1 is only the house site and house thereon. In the absence of any proof regarding nucleus or the income of the joint family and in the absence of any evidence, the contention of the Plaintiffs that the suit properties are the joint acquisitions does not merit acceptance.

29. Case of Plaintiffs is that they demanded partition and separate possession from the year 1995. At the time of filing Suit in 2008, the Plaintiffs are aged 27 & 32 years respectively i.e., the Plaintiffs were born in 1981 & 1975 respectively. While so, it is quite unbelievable that the 1st Plaintiff even at the age of 14 and Second Plaintiff-daughter at the age of 20 would have demanded partition from their parents. There is also no evidence to show under what circumstances the Plaintiffs were so compelled to demand for partition at such an young age.

30. Let us assume that the suit properties are the joint family properties. The loan was borrowed by Defendants 1 & 2 for their textile business. The 1st Defendant, being the father, has power to deal with the properties by creating security by way of equitable mortgage for business/family necessity. The 1st Defendant, being the Manager/Kartha of

> the family, represents all the family members in all transactions. When the Bank loan was obtained for the benefit of the family/business purposes, the security created is binding on the Plaintiffs and Defendants 3 & 4."

The Division Bench, after recording its finding of fact, has held that when loan was availed for the benefit of family business, the security thus created is binding on all the family members.

(v) MANU/TN/3290/2011 = 2012 (1) MLJ 952 (Single Judge order of this Court) (State Bank of India, Vadavalli Branch Vs. Krithaanyaa):

Here also, the learned counsel referred to the Case Note (as in MANU/TN/3290/20101) which reads as under:

> "Civil Jurisdiction - Order 39 Rules 1 and 2 read with Section 151 o f the Civil Procedure Code (CPC), 1908 - Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) - Trial Court allowed Application of Respondent's and passed order granting temporary injunction restraining appellant/eighth defendant therein from interfering with Respondent's peaceful possession and enjoyment of property - Hence, this Appeal - Whether, Civil Court had jurisdiction to grant order of injunction as against Appellant Bank

> when already Appellant had taken measures under SARFAESI Act - Held, in event of Debts Recovery Tribunal coming to conclusion that minor's share over mortgaged properties was affected, it could grant appropriate relief to Respondent so far as her share was concerned with regard to SARFAESI proceedings - Thus, Civil Court had no jurisdiction to grant order of injunction as against Appellant, that too, after bank had initiated action under the provisions of SARFAESI Act - However, when Debts Recovery Tribunal was having power to deal with issue with regard to involvement of right of any third party in the suit property, said Tribunal could give appropriate relief with regard to that share from SARFAESI Act - Further more, object of SARFAESI Act was for speed remedy for recovery of amount - If injunction was allowed to continue, that would defeat object of SARFAESI Act - Parents of minor had already approached Debts Recovery Tribunal and applications filed by them were dismissed - Therefore, parents of minor Respondent, having failed in their attempt, were trying to restrain measures taken by bank through minor Respondent - Hence, order passed by Trial Court was set aside - Appeal allowed."

In the above matter, a learned Single Judge has clearly held that even in a suit for partition claimed through minor, DRT can decide the issue whether minor's interest is involved and it can grant appropriate relief insofar as the minor's share is concerned.

13. According to the learned counsel for the applicants/Bank herein, in all the above decisions, it has been held that the Civil Suits, in matters pertaining to the action initiated under the SARFAESI Act and pending before the DRT, are not maintainable and the remedy open to the aggrieved parties, is only under the special enactment, namely SARFAESI Act, 2002 and the related statutory avenues open to the parties.

14. The learned counsel further submitted that the the MoD is dated 06.05.2013 and no prudent person would have waited for seven years to file the present suit before this Court in 2020 on sudden realisation that the property had been given on security for the credit facilities availed as early as in 2001. Therefore, the present suit filed by the plaintiffs herein is intended only to stall and delay the process of recovery. In any event, in terms of the above rulings of the Honourable Supreme Court/this Court, the present is to be dismissed as not maintainable.

15. Lastly, the learned counsel for the applicants/Bank also referred to the averments contained in paragraphs 4, 6 and 12 of the counter affidavit filed by the plaintiffs (respondents 1 and 2 herein), which are extracted hereunder:

> "4. It is respectfully submitted that the contents of paragraph 7 of the affidavit under reply again false and misleading. None of the reliefs sought for in the above Suit can be sought for before the Debts Recovery Tribunal and this Hon'ble Court is the only competent Judicial Forum to adjudicate upon the issues raised in the above Suit.
>
> 6. It is respectfully stated that the 1st and 2nd Respondents herein have no personal knowledge as regards the contents of paragraph 9 of the affidavit under reply and put the Applicant to strict proof of the same. The contents of paragraphs 10 and 11 are admitted to the extent that the 3rd Respondent herein has created an equitable mortgage with respect to the Suit property and has also executed a Memorandum of Deposit of title deeds, which are under challenge before this Hon'ble Court in the above suit.
>
> 12. It is respectfully submitted that the 1st and 2nd Respondents herein have already moved the Debts Recovery Tribunal II by way of S.A.182 of 2020 challenging the Sale notice (e-auction notice) dated 16.10.2020 of the Applicants herein on the ground that there is no legal right or authority for them to take any action, much less coercive action, under the SARFAESI Act against

> the Suit property in the absence of any exclusive title for the 3rd Respondent herein over the same. The 1st and 2nd Respondents herein have therefore procedurally challenged the sale notice by invoking Section 17 of the SARFAESI Act as third parties to the transaction and the same is pending as on date. While so, the Applicants herein cannot be heard to contend that the 1st and 2nd Respondents herein have not contested the proceedings before the appropriate forum. The claim of the Applicants that the reliefs sought for in the above Suit, which are completely different from the proceedings before the Debts Recovery Tribunal and are incapable of being raised thereto, cannot be agitated before this Hon'ble Court is completely fallacious."

16. The averments as extracted above, contained in the counter affidavit relate to the respondents 1 and 2 approaching the DRT in S.A.No.182 of 2020 and also their admission regarding creation of EM with respect to the suit property. According to the learned counsel, the plaintiff having approached the DRT, cannot simultaneously be allowed to resort to civil remedy, which remedy is not available at all, as per law.

17. Per contra, the learned counsel for the respondents 1 and 2 herein (plaintiffs), at the outset submitted that the business run by the third defendant, who was primarily responsible for availing of credit facilities from the applicants/Bank, is not family business at all. Only the first son of the said A.Chakrapani (first defendant), was the Director of the borrower/Company and he is the second defendant in the suit and the first defendant (father) is the guarantor. The plaintiffs had nothing to do with the business and therefore, the question of any "Pious Obligation" arising out of the loan transaction and liability of the father (third respondent herein/first defendant) did not arise at all in this case.

18. The learned counsel for the plaintiffs drew the attention of this Court to a document, dated 07.01.1955 which is the partition deed executed between Adimoola Mudaliyar and others. That was a registered partition deed between the grand-father and their father and his brothers. In terms of the registered partition deed which had taken place prior to the Hindu Succession Act, 1956, the plaintiffs have a share in the property as co-parceners, as soon as they were born. When their right to have share in the

properties had crystallised as soon as they were born, the question of the third respondent (A.Chakrapani) creating an EM in respect of the entire property, is legally impermissible. In which event, the question of the applicants/Bank bringing the entire property to sale in pursuance of the SARFAESI proceedings or otherwise, cannot be countenanced both on facts and in law.

19. According to the learned counsel, the plaintiffs' rights as co-parceners in the properties, are unimpeachable and such rights cannot be bartered away by the third respondent/father or anybody, whether in the capacity as borrower or guarantor. As far as the dismissal of S.A.No.182 of 2020 by the DRT is concerned, the learned counsel for the plaintiffs submitted that it was not a dismissal on merits. However, a Review Petition has been filed against the dismissal and the same is pending before the DRT as on date.

20. The learned counsel further submitted that as far as the allegation that despite having full knowledge of the EM created in respect of the

subject property in 2001, the present suit has been filed only after the auction notice was issued in respect of the subject property in 2020, there are several portions in the suit property and all the sons of Mr.A.Chakrapani (first defendant) are living in separate portions and having no connection with each other on day-to-day basis. Only when the sale notice was published and affixed, they had come to know about the entire transaction and thereafter, steps had been initiated, one to approach for remedy under the SARFAESI Act, 2002, and the other, before this Court in the present suit for partition of the suit property.

21. As far as the maintainability of the present suit is concerned, the learned counsel for the plaintiffs submitted that this is not a suit intended to scuttle the legitimate process of recovery by the lender against the borrower, but it is a substantive suit for partition of the suit property by the plaintiffs who have admittedly share as co-parceners. All the judgments relied on by the learned counsel for the applicants/Bank do not touch upon this aspect. According to the learned counsel, the plaintiffs (respondents 1 and 2 herein) have no remedy under any other law including the SARFAESI Act, 2002,

for partition of the property. The Tribunal constituted under the RDDBFI Act, 1993 read with SARFAESI Act, 2002, has no power for granting preliminary decree of partition and appointment of the Advocate Commissioner to divide the properties by metes and bounds.

22. The learned counsel further submitted that in all the cases cited by the learned counsel for the applicants/Bank as to the maintainability of the suits in Civil Court in respect of the similar transactions, there were no genuine claim for any partition by co-sharers in the co-parcenery property. In fact, some of the judgments deal with the case where some documents were created and manufactured for the purpose of scuttling the efforts of the Bank towards realisation of the dues from the borrower. This is not one such case, as admittedly, there was a genuine partition deed as early as 07.01.1955 itself and the plaintiffs have a definite share in the suit property, which under no circumstances, can be the subject matter of mortgage without their consent. Therefore, the decisions cited on behalf of the applicants/Bank have no application at all whatsoever to the facts of the present case, particularly, for rejecting the plaint in terms of Order 7 Rule

11 CPC.

23. By way of reply, the learned counsel for the applicants/Bank submitted that when once partition has taken place in 1955 itself, the nucleus portion got extinguished and the property, would no more have the character of ancestral property. The learned counsel also submitted that deposit of title deed was in fact, dated 19.03.2004 and the extension had taken place only on 06.05.2013. The learned counsel for the applicants/Bank finally submitted that the possession notice was affixed in the conspicuous place on 31.10.2018, and therefore, the claim of ignorance by the plaintiffs is contrary to facts, and false.

24. Heard the learned counsel appearing for the parties, perused the pleadings/materials placed on record and the case laws cited.

25. The legal issue that is projected for consideration of this Court is as to the maintainability of the Civil Suit, in the face of the action initiated by the applicants/Canara Bank towards realisation of its debts from

respondents 3 and 4 herein/defendants 1 and 2, under SARFAESI Act, 2002.

26. While deciding the application for rejection of the plaint, this Court is of the considered view that it is not necessary or relevant to go into various facts relating to the grant of credit facilities to the Company floated by the respondents 3 and 4/defendants 1 and 2 and also the various measures initiated by the applicants/Bank under the provisions of the SARFAESI Act, 2002.

27. The facts as projected by the learned counsel for the applicants/Bank have been incorporated above only with a view to appreciate the back-drop in which the objections relating to the maintainability of the suit is to be considered by this Court.

28. The first of the contentions raised on behalf of the applicants/Bank on facts is that there was deposit of title deeds in respect of the suit property and creating EM as early as on 19.03.2004 itself and

subsequently the extension of the same was made on 06.05.2013, and therefore, the respondents 1 and 2/plaintiffs cannot feign ignorance all these years and suddenly had woken up to the said fact in 2020 and the present suit is filed. Having waited till the auction notice was issued, the respondents 1 and 2 have laid the present suit only to stall and stymie the process of recovery by the applicants/Bank.

29. As regards the above contentions, this Court is unable to countenance the objections for the simple reason that if the right to claim their shares in the co-parcenery property by the plaintiffs, is legally established, the issue whether they had knowledge of the creation of EM earlier, or not, becomes immaterial. It is needless to mention that if such right is available in law, the same cannot be negated merely because they did not take action earlier. Such right cannot be said to suffer from extinguishment, by mere passage of time.

30. Having held above, the principal issue that needs to be addressed is as to whether in the light of the prayer that is sought in the plaint, still, the

plaint is to be rejected as not maintainable in terms of the provisions of Section 34 of the SARFAESI Act, 2002 and Section 18 of the Recovery of Debts and Bankruptcy Act, 1993, or not ? The bar of Civil Court's jurisdiction as envisaged in the said Sections is to be seen hereunder:

> "Section 34 of the SARFAESI Act, 2002: Civil Court not to have jurisdiction: No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993)."

> "Section 18 of the Recovery of Debts and Bankruptcy Act, 1993: Bar of jurisdiction: On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under Articles 226 and 227 of the Constitution) in relation to the matters specified in section 17.

31. The above statutory provisions explicitly and categorically place

an embargo on the jurisdiction of Civil Court in respect of any matter which the DRT is empowered to determine and deal with, insofar as it relates to SARFASEI Act, 2002, is concerned. After coming into force of the above provisions, the Tribunal constituted under the Recovery of Debts and Bankruptcy Act, 1993, alone have exclusive jurisdiction, power and authority in matters that come under its purview. Hence, there cannot be any iota of doubt as to the bar of Civil Court jurisdiction in matters/disputes arising under the SARFAESI Act, 2002 and being dealt with by the DRT.

32. Be that as it may, the prayer herein is for partition of the suit property. It is claimed by the plaintiffs who are none other than the brothers of fourth respondent herein and the sons of the third respondent herein. It is established on their behalf that they have a share in the co-parcenery property involved in the coercive action initiated by the Bank and bringing the same to auction sale. On behalf of the applicants/Bank, the learned counsel submitted that, when once partition had taken place in 1955 itself, the nucleus portion stood erased and the suit property lost its ancestral character. But that contention was refuted on behalf of the plaintiffs that

they have a clear share in the property by virtue of they being co-parceners in the property and the property has still not lost its ancestral character. In any event, this issue cannot be decided at this stage in the present application filed under Order 7 Rule 11 CPC, as the same could be determined only at the final disposal of the suit. Therefore, the objections of the learned counsel for the applicants/Bank on this aspect, do not merit consideration of this Court at this stage.

33. Now, reverting to the principal contention as to the bar of Civil Court's jurisdiction in terms of the case laws cited on behalf of the learned counsel for the applicants/Bank, this Court is inclined to deal with each of the case laws cited as under with reference to the facts as pleaded in the plaint, supported by materials:

(i) MANU/SC/0581/2018 = 2018 (5) CTC 225 (SC): (The Authorised Officer, State Bank of India Vs. Allwyn Alloys Pvt. Ltd. and others): This is a case where the parties had approached the High Court by filing Writ Petitions against the decision of the DRAT, and the Division Bench of the High Court held that the parties need to approach proper forum, as it was found that there were disputed facts, which cannot be decided in the Writ Court. The decision of the High Court was assailed before the Supreme Court and in that context, the Honourable Supreme Court has made certain observations, but finally remitted the matter to the High Court to dispose of the Writ Petition on merits. Therefore, the observations made in that decision by the Honourable Supreme Court in the above context, cannot have any application to the facts of the case on hand.

(ii) MANU/TN/0959/2018 = 2018 (2) CTC 535 (R.Subramanian Vs. The Hongkong and Shanghai Banking Corporation Ltd. and others): (Division Bench of Madras High Court):

The learned counsel for the applicants/Bank herein has in fact relied on paragraphs 23 and 24 extracted supra. That is a case where the parties filed Civil Suit seeking to declare the crucial document, executed by the plaintiffs, namely guarantors, as void-ab-initio and unenforceable. The learned Single Judge who heard the matter, allowed the application filed under Order 7 Rule 11 CPC by the Bank, holding that the suit by the plaintiff therein was nothing but abuse of process of law. The Division

Bench of this Court, while hearing the appeal, had re-affirmed that the suit was not maintainable and upheld the rejection of the suit in terms of Order 7 Rule 11 CPC, by the learned Single Judge. Challenge by the plaintiffs in the suit is the very subject matter of terms of the contract between the borrower and the lender and hence, the above decision cannot be said to be applicable to the facts of the case on hand.

(iii) MANU/TN/1939/2011 = 2011 (3) CTC 801 (V.Thulasi Vs. Indian Overseas Bank) (Division Bench of Madras High Court):

The Division Bench of this Court was dealing with the prayer seeking to declare the creation of guarantee in the plaintiff's name therein for the loan advanced by the Bank, as null and void and in that context, the Division Bench held that the remedy available under Section 17 of the SARFAESI Act is not illusory and the right to move application under Section 17 accrues to any person aggrieved by any of the measures taken under Section 13(4) therein. In the light of the facts of that case, the Division Bench has held so. But as far as the present case on hand is concerned, the remedy available under Section 17 of the SARFAESI Act is woefully inadequate and in fact, it cannot be sought as a remedy at all, as no partition could be sought under SARFAESI proceedings by the co-parceners under the joint family property. In that view of the matter, the so-called remedy that is stated to be available under Section 17 of the SARFAESI Act, is legally non-existent.

(iv) MANU/TN/1517/2012 = 2012 (3) CTC 785 (Chandra and others Vs. K.Nagarajan and others) (Division Bench of Madras High Court):

The Division Bench in that case held that the bar under Section 34 of the SARFAESI Act is not absolute and subject to the restrictions and the Court has a duty to see as to whether genuine grounds had been made out to attract jurisdiction of Civil Court. In the factual matrix of that case, it was held that "Doctrine of Pious Obligation" was attracted, as the money has been borrowed for the benefit of the family business. That was a case of the First Appeal (Appeal Suit) against the decree passed by the trial Court in respect of the partition suit, and therefore, any observations made therein would not have any application to the facts of the present case on hand. Even otherwise, the Division Bench has observed that if there are genuine grounds made out, there would not be any application of Section 34 of the SARFAESI Act and the jurisdiction of the Civil Court cannot be ousted in all circumstances. The Division Bench has observed in paragraph 19 of the decision, which is extracted hereunder:

> "19. Power under Section 34 of SARFAESI Act is not absolute and is subject to restrictions. They are: (1) that parties who filed Suit must be party to liabilities created in favour of secured creditors, (2) disputes between parties could be resolved under provisions of Act itself; (3) if claim made by parties is outside jurisdiction of Debt Recovery Tribunal or Appellate Tribunal thereto or any action taken or to be taken under the Act and also under Recovery of Debts due to Banks and Financial Institutions Act,1993 and disputes raised by parties cannot be adjudicated by Tribunal or Authority created under Act."

This Court is of the view that this is one such case where the plaintiffs have clearly established that they have a clear share in the subject property and their claim for partition fall outside the jurisdiction of the DRT and cannot be adjudicated in SARFAESI proceedings. The Bank has also not established that the plaintiffs have any role in the availing of the credit facilities directly or indirectly. In such an event, the action of the Bank in bringing the entire property to sale may not be countenanced in law on a prima-facie consideration. In any event, these are all matters to be gone into in detail only at the time of final determination of the suit and the final call cannot be taken at this stage by allowing the present application filed by the applicants/Bank.

(v) MANU/TN/3290/2011 = 2012 (1) MLJ 952 (State Bank of India, Vadavalli Branch Vs. Krithaanyaa): This is a judgment rendered by a learned Judge of this Court in Civil Miscellaneous Appeal, where the learned Judge adverted to the various decisions of the Courts and has finally held that the remedy is provided under Section 17 of the SARFASEI Act and therefore, the suit was not maintainable. In that case, the facts were that the suit for partition was filed on the ground that the parents of the minor stood as guarantors by executing personal guarantee along with the mortgage deed in respect of the loan availed of by the parents of the minor, who were the beneficiaries of the business concern. In that context, one of the parents, namely the mother representing the minor, filed a partition suit and the learned Judge held that Civil Court cannot entertain the suit. In fact, the learned Judge has given a finding of fact stating that the loan papers were signed by the parents of the minor. The learned Judge of this Court proceeded to hold that the DRT can always grant appropriate relief in respect of the share of the minor under the SARFAESI proceedings. However, the facts herein could be clearly distinguished that the role of the plaintiffs herein is completely absent in the banking transaction, as the respondents 3 and 4 herein (defendants 1 and 2) alone involved in availing the credit facilities from the applicants/Bank. Moreover, under SARFAESI proceedings, no relief of division of property by metes and bounds can be granted. For prayer (a) in the plaint, the only legal course open is the Civil Court.

34. Although no contra decision has been supplied on behalf of the plaintiffs herein (respondents 1 and 2), yet, on the factual matrix of the present case, it has been unequivocally established that as far as prayer (a) as sought in the plaint, Section 34 of the SARFAESI Act, 2002 and Section 18 of the Recovery of Debts and Bankruptcy Act, 1993, cannot be pressed into service. The Civil Court's jurisdiction cannot be ousted in the face of

the prayer for partition, particularly, when the plaintiffs herein (respondents 1 and 2 in A.No.1299 of 2021) have come up with the genuine case for partition of the property. As far as the prayer (b), it touches upon the matter that is directly in "lis" in the SARFAESI proceedings pending before the DRT. Be that as it may, this Court cannot reject the plaint partially, as that would be against Order 7 Rule 11 CPC and also the law laid down by the Courts.

35. As rightly contended by the learned counsel for the respondents 1 and 2/plaintiffs, it is not an usual run of the mill case where the suits have been filed only to frustrate the attempts by the lenders from realising the loan amounts from the borrowers. This suit appears to be premised on the genuine claim for partition on the basis of the registered partition deed, dated 07.01.1955. As rightly contended by the learned counsel for the plaintiffs, being co-parceners, the plaintiffs are entitled to share in the property. Their share cannot be the subject matter of any mortgage being created without their consent and without there being any participation in the loan transaction.

36. Even otherwise, these are all matters to be tried in the final determination of the suit and no conclusive finding could be rendered on various factual and legal aspects in the application filed for rejecting the plaint under Order 7 Rule 11 CPC. There are triable issues in the present plaint and the suit cannot be rejected at the threshold by entertaining the present application in A.No.1299 of 2021 (in C.S.No.383 of 2020) seeking rejection of plaint.

37. For the aforementioned reasons, this Court finds no merit in Application No.1299 of 2021 in C.S.No.383 of 2020. The same stands dismissed. No costs.

38. However, the applicants/Bank is at liberty to raise its objections to the prayers touching upon the claim that fall exclusively within the jurisdiction of DRT as a consequence of the SARFAESI proceedings at the appropriate stage, if they are so advised.

39. Post O.A.No.715 of 2020 (injunction application filed by the plaintiffs) in C.S.No.383 of 2020 in the usual course.

21.10.2021

Index: Yes/no

Speaking Order: Yes/no

cs

V. PARTHIBAN, J

cs

Pre-delivery Order in

A.No.1299 of 2021

and O.A.No.715 of 2020

in C.S.No.383 of 2020

21.10.2021