

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

**C.R.P.(PD) No.456 of 2017
and C.M.P.No.2160 of 2017**

A.S.Ravi

... Petitioner

Vs.

1.N.Ashok

2.The Authorised Officer,
M/s.State Bank of India (SAM Branch),
Raja Plaza,
First Floor No.1112, Avinashi Road,
Coimbatore – 641 037.

3.The Deputy General Manager,
M/s.State Bank of India (SAM Branch),
Raja Plaza,
First Floor No.1112, Avinashi Road,
Coimbatore – 641 037.

4.M/s.State Bank of India (SAM Branch),
Raja Plaza,
First Floor No.1112, Avinashi Road,
Coimbatore – 641 037.

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India, to strike off the plaint in O.S.No.1942 of 2016 on the file of 1st Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.Mukunth
for M/s.Sarvabhauman Associates
For R1 : Mr.N.Manokaran
For R2 to R4 : Notice served

ORDER

The Civil Revision Petition has been filed to strike off the Plaint in O.S.No.1942 of 2016 on the file of the I Additional District Munsif Court, Coimbatore.

2. The petitioner is the fourth defendant in the suit filed by the first respondent herein for declaration declaring that the sale deed executed by the first defendant in favour of the petitioner herein dated 05.04.2016 as null and void and also for injunction in respect of the suit property.

3. The learned counsel for the petitioner would submit that the suit itself is barred under Section 34 of the SARFAESI Act, since the petitioner is an auction purchaser under the SARFAESI Act. The

respondent is the guarantor and deposited the title deed insofar as the suit property in favour of the first defendant on the borrowal of the loan. The borrower defaulted in payment of the loan installments and as such, the property was brought to sale under SARFAESI Act. Accordingly, the petitioner purchased the suit property and the sale certificate was also issued on 04.03.2016. When the challenge to the sale deed under Section 17 of the SARFAESI Act before the Tribunal is pending, the first respondent filed the present suit before the Civil Court on the ground that the sale certificate was executed fraudulently.

4. The learned counsel for the respondents would submit that already a similar and identical issue was dealt with a Division Bench of the Hon'ble Supreme Court with regard to jurisdiction of the trial court to try a suit filed by a borrower against a bank or financial institution for recovery of debt under SARFAESI Act. Now the matter has been referred before the Larger Bench and decided. However, the learned counsel relied upon a Judgment in the case in *Authorised Officer, State Bank of India Vs. Allwyn Alloys Private Limited and others* reported in 2018 (8) SCC 120, wherein it is observed as follows:

“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 particulars, 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”.

Following the same, this Court is of the view that no Civil Court can exercise jurisdiction to entertain any suit or proceedings in respect of any matter which a DRT or DRAT is empowered by or under this Act to determine and Section 34 of the SARFEASI Act clearly bars filing of a civil suit. Accordingly, the judgment referred to above squarely applies to the present case that the Civil Court has no jurisdiction to try the suit.

5. In view of the above discussion, the Plaint in O.S.No.1942 of 2016 on the file of the I Additional District Munsif Court, Coimbatore is hereby struck off and the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.03.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To

1. The 1st Additional District Munsif,
Coimbatore.

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