A.No.1386 of 2022 in

CS.No.308 of 2021

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The respondents 1 to 3/plaintiffs have filed the suit for a preliminary decree in respect of the schedule mentioned properties by alloting 1/12th share in favour of the plaintiffs 1 & 2 and 1/9th share in favour of the third plaintiff and for permanent injunction restraining the defendants from alienating or encumbering the suit schedule property.

2. During the pendency of the suit, the present application has been filed by the applicant/eighth defendant which is a financial institution, to reject the plaint in CS.No.308 of 2021.

3. Learned counsel for the applicant/eighth defendant would submit that the deceased Muthiah Annamalai during his life-time borrowed money from the applicant/eighth defendant which is a financial institution by depositing the title deeds in respect of the suit schedule properties. Subsequent to the death of Muthiah Annamalai, his legal heirs namely respondents 6 to 9/defendants 3 to 6 have committed default in repayment of loan and hence, the said loan account was classified as NPA. Therefore,

under the SARFAESI Act, the applicant/eighth defendant is entitled to take possession and proceed with the property in the manner known to law and hence, this suit is not maintainable.

4. Learned counsel for the respondents 1 to 3/plaintiffs would submit that the release deed said to have been executed by their mother who is the respondents 4 & 5/ defendants 1 & 2 is not binding on them and they have no right to execute it as the respondents 1 to 3/plaintiffs are major at the date of release. Since all the items are not covered under the mortgage, the suit for partition is maintainable.

5. Heard and perused the records. Even in the averments, the respondents 1 to 3/ plaintiffs have stated that the deceased Muthiah Annamalai had mortgaged some of the immovable properties in favour of the applicant/eighth defendant for the purpose of obtaining loan. Therefore, once they have admitted that they borrowed money from the applicant/eighth defendant and the applicant/eighth defendant has filed OA before the Debt Recovery Tribunal, all the issues can be dealt with by the Debt Recovery Tribunal and hence, the suit is barred by law under

SARFAESI Act and the Debt Recovery Tribunal has the jurisdiction to decide the case, whereas the Civil Court has no jurisdiction to decide the same.

6. In view of the above, the application filed under Order VII Rule 11 of CPC to reject the plaint is ordered and the plaint is rejected. However, the respondents 1 to 3/plaintiffs shall workout their remedy before the Debt Recovery Tribunal in the manner known to law.

31.03.2022

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