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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	**29.06.2022**
PRONOUNCED ON :	**14.10.2022**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.2308 of 2018
and C.M.P.No.14398 of 2018

State Bank of India,
Rep.by its Authorized Officer,
Mr.K.Elangovan,
Earlier known as State Bank of Travancore .. Petitioner

Versus

R.Shanthamani .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree dated 06.03.2018 passed in I.A.No.1115/2016 in O.S.No.1545/2016 on the file of II Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.M.L.Ganesh

For Respondent : No Appearance

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O R D E R

This Civil Revision Petition has been filed challenging the order dated 06.03.2018 passed in I.A.No.1115/2016 in O.S.No.1545 of 2016 on the file of II Additional District Munsif Court, Coimbatore.

2. The brief facts required for the disposal of the present Civil Revision Petition are as follows:-

2.1. O.S.No.1545/2016 was filed by the respondent herein, seeking for the relief of permanent injunction to restrain the defendant from in any manner evicting the plaintiff from the suit property. Meanwhile, the petitioner herein filed an application in I.A.No.1115 of 2016 under Section VII Rule 11 and Section 151 of the Civil Procedure Code seeking to reject the plaint in the above suit. The learned II Additional District Munsif, Coimbatore, after hearing the submissions made on either sides, had dismissed the application. Aggrieved against the same, the petitioner/defendant has approached this Court by way of filing the present revision.

3. The case of the revision petitioner is that the suit filed by the respondent herein/plaintiff deserves to be dismissed on the ground that Civil Court jurisdiction is ousted in the light of statutory bar under Section 18 of Recovery of

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Debts and Bankruptcy Act, 1993 and Section 34 of SARFAESI Act, 2002. In support of the above contention, the learned counsel relied on the judgment made in (a) ***State Bank of India vs. Allwyn Alloys Pvt. Ltd and others*** by Hon'ble Supreme Court reported in **2018 (5) CTC 225;** (b) ***Sree Anandha kumar Mills Ltd vs IOB and others*** by Hon'ble Supreme Court reported in MANU/SC/0638/2018 and other judgments and prayed for allowing the present revision petition.

4. The learned counsel for the respondent is not present before this Court. As per the counter affidavit, the respondent would state that the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest 2002, is not applicable to the facts of the case since the property mortgaged with the petitioner Bank by the respondent is an agricultural land. It is also stated that the respondent/plaintiff is a farmer and cultivating tenant and is doing cultivation activities in the suit property. It is the further contention of the respondent that as the suit property is an agricultural land, the petitioner Bank cannot invoke Section 34 or Section 17 (4A) of the SARFAESI Act.

5. I have heard the submissions advanced by the learned counsel for the revision petitioner and also gone through the documents placed before this Court.

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6. The petitioner has not denied the factum that the suit schedule property is an agricultural land and therefore, there is no bar under Section 31 of SARFAESI Act and therefore, the plaintiff has rightly approached the Civil Court and the Court below has rightly dismissed the application filed by the petitioner Bank to reject the plaint in the suit filed by the respondent/ plaintiff and this Court finds no infirmity in the order passed by the Court below and the same does not require interference.

7. In the result, the present Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.10.2022

Index : Yes / No
Internet : Yes
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To:

1.The II Additional District Munsif Court, Coimbatore.

2.The Section Officer, V.R.Section, High Court, Madras.

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J.NISHA BANU, J.,

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Order made in
C.R.P.No.2308 of 2018

Dated:
14.10.2022

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