



C.R.P.No.3568 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.3568 of 2022
and
C.M.P.No.18951 of 2022

TAMILNAD MERCANTILE BANK LTD.,
Represented by The Chief Manager/
Authorized Officer,
Puducherry.

... Petitioner

VS

D.Palanivelu

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the plaint in O.S.No.603 of 2022, dated 25.09.2021 on the file of the learned 1st Additional District Munsif at Puducherry.

For Petitioner : Mr.V.Chandrasekaran



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ORDER

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The Civil Revision Petition is filed seeking to strike out the plaint filed by the respondent in O.S.No.603 of 2022 on the file of the learned 1st Additional District Munsif at Puducherry.

2. The respondent herein filed a suit for permanent injunction seeking a qualified injunction restraining the petitioner/bank from interfering with his alleged possession till he is evicted by due process of law. According to the petitioner/bank, the subject matter suit in O.S.No.603 of 2022 was mortgaged by one Ezhilarasi in favour of the petitioner and as she defaulted to pay the loan amount, proceedings were taken against the said Ezhilarasi under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act' for short) and in fact, the Chief Judicial Magistrate, Puducherry had passed an order in CrI.M.P.No.4369 of 2020 appointing an Advocate Commissioner to take peaceful possession of the suit property in favour of the bank under the provisions of SARFAESI Act.



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3. The learned counsel for the petitioner submitted that the suit filed by the respondent in O.S.No.603 of 2022 against the petitioner/bank seeking permanent injunction is barred under Section 34 of the SARFAESI Act. Therefore, he submitted that the suit filed by the respondent is nothing but an abuse of process of law to frustrate the attempt of petitioner/bank to take possession of the suit property under the provisions of SARFAESI Act.

4. In the suit in O.S.No.603 of 2022, the respondent herein sought for a qualified injunction restraining the petitioner herein and defendant therein from interfering with his alleged peaceful possession except by due process of law. Therefore, there is no bar for the petitioner to invoke the provisions of SARFAESI Act and take possession of the property by following due process of law in terms of the order passed by the Chief Judicial Magistrate, Puducherry. Admittedly, there is no interim order passed by the Civil Court.

5. The pendency of the suit will never be an hindrance to the petitioner to take due process of law and take possession of the property in pursuance of powers conferred under Section 14 of the SARFAESI Act.



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S.SOUNTHAR, J.

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6. With these clarifications, the Civil Revision Petition is disposed of. It is always open to the petitioner to file appropriate application for rejection of plaint under Order 7 Rule 11 of the Civil Procedure Code, if so advised. No costs. Consequently, the connected civil miscellaneous petition is closed.

09.11.2022

Index : Yes / No

Speaking Order : Yes / No

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To

The 1st Additional District Munsif,
Puducherry.

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