



CRP.No.3470 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3470 of 2022
and
CMP.No.18498 of 2022

K.Ravi Varma

... Petitioner

Vs.

1.M/s.R & P Constructions,
a Proprietorship Concern
Rep.by its Sole Proprietor
Mr.R.Prabhu

2.The Lakshmi Vilas Bank by its
Authorized Officer
4/323, Valluvar Salai,
Ramapuram, Chennai 600 089.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 20.06.2022 in



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I.A.No.6 of 2021 in O.S.No.2192 of 2019 on the file of the learned
XXII Additional City Civil Court at Allikulam, Chennai.

For Petitioner : Mr.Anil Relwani

ORDER

This Civil Revision Petition is filed, challenging the order passed by the Court below dismissing the petition filed under Section 10 of CPC, seeking to stay the proceedings pending before the Debt Recovery Tribunal No.III, Chennai, in O.A.No.505 of 2018.

2. The petitioner herein filed a suit in O.S.No.2192 of 2019 on the file of the XXII Additional Judge, City Civil Court at Allikulam, Chennai, seeking for damages to the tune of Rs.83 lakhs against the respondents.

3. The second respondent's Bank filed an original application against the petitioner under Section 19 of the Debt Recovery



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of Debts Due to Banks and Financial Institutions Act, 1993, seeking directions to the petitioner herein to pay a sum of Rs.1,64,24,161.30/- together with interest. The said application was filed by the second respondent's Bank based on the mortgage created by the petitioner in favour of the second respondent's Bank.

4. Now, the petitioner herein filed the present application before the Civil Court in which, his suit for recovery of damages is pending seeking stay of proceedings before the Debt Recovery Tribunal. The present petition is filed under Section 10 of CPC and the Court below dismissed the same on the ground that the proceedings was pending before the Debt Recovery Tribunal and further, the Debt Recovery Tribunal could not be treated as a Court and consequently, the ingredients of Section 10 of CPC were not attracted. Aggrieved by the same, the petitioner is before this Court.

5. The learned counsel for the petitioner submitted that if



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the original application pending before the Debt Recovery Tribunal is disposed of against him, it will cause irreparable injury to him.

Therefore, the prayer sought for by him shall be granted. The request made by the petitioner cannot be accepted in view of the fact that in order to maintain a petition under Section 10 of CPC, the following conditions shall be satisfied 1) there shall be two suits pending before the same Court or before two Courts 2) one of the suits shall be previously instituted and the stay shall be sought for in respect of subsequently instituted suit, 3) the Court in which previously instituted suit is pending, must be competent to grant the relief, sought for in the subsequently instituted suit, 4) the issue involved in subsequent suit shall be directly and substantially in issue in previously instituted suit and 5) both the suits shall be between same parties or persons litigating under same title.

6. In the case on hand, as rightly observed by the Court below the proceedings initiated by the second respondent's bank before



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the Debt Recovery Tribunal cannot be termed as a suit. Likewise, the

Debt Recovery Tribunal cannot be treated as a Court for the purpose of Section 10 of CPC. Further, the petition for stay of proceedings in respect of the subsequently instituted suit shall be filed before the Court in which, the subsequently instituted suit is pending. In the case on hand, the petitioner approached the Court below in which, the previously instituted suit is pending for stay of subsequently instituted proceedings before Debt Recovery Tribunal. It is also pertinent to note in view of 34 of SARFAESI Act, relief sought for before Debt Recovery Tribunal cannot be granted by Civil Court, before which previously instituted suit is pending. Therefore, none of the ingredients of Section 10 of CPC are attracted. I do not find any infirmity in the order passed by the Court below.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.



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Index : Yes / No

Internet : Yes / No

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S.SOUNTHAR , J.

Dna

To

The XXII Additional City Civil Court at Allikulam,
Chennai.

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