



A.No.4265 of 2022

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C.V.KARTHIKEYAN, J.

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This application has been filed seeking leave to institute the suit within the jurisdiction of this Court, taking advantage of Clause 12 of the Letters Patent Act.

2. The suit had been filed on mortgage and it is claimed that the substantial cause of action arose within the jurisdiction of this Court.

3. The 2nd defendant is residing within the jurisdiction of this Court and the 1st defendant is residing outside the jurisdiction of this Court.

4. It is stated that the 1st defendant had approached the plaintiff and on 04.11.2011, had created a mortgage in favour of the plaintiff and had deposited title deeds of the property which is described in the schedule to the plaint.

5. Notice was directed since, the property is also situated outside the jurisdiction of this Court and also because, the 1st defendant was also residing outside the jurisdiction of this Court.

6. However, the learned counsel for the plaintiff had relied on the Judgment of the Bombay High Court reported in *Vol LILR Bomb. 516* wherein, it had been stated that a suit on mortgage is not a suit for possession and therefore, the Original Side of the High Court has jurisdiction to examine the issues.



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7. However, I would like to place one caveat namely Section 22 of the Specific Relief Act. At a later stage, since the relief of possession is not sought now, the relief of possession cannot be sought. If at all the plaint is to be amended seeking relief of possession then, this Court will lose its jurisdiction.

8. Placing that particular caveat, the petition stands allowed.

9. Registry to number the Civil Suit if it is otherwise in order.

26.10.2022

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