



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	28.03.2022
DELIVERED ON	19.04.2022

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CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD)No.1619 of 2021

and

C.M.P. (MD)No.8774 of 2021

State Bank of India,
Stressed Assets Recovery Branch,
Represented by its Authorised Officer,
Shri.N.Suresh Babu. ...Petitioner/13th Respondent/
13th Defendant

Vs.

1.Meerabai ...R-1 /Petitioner/Plaintiff

2.M/s.Lakshmi Readymades Private Limited,
represented by its Director,
M.U.Kanagarajan.

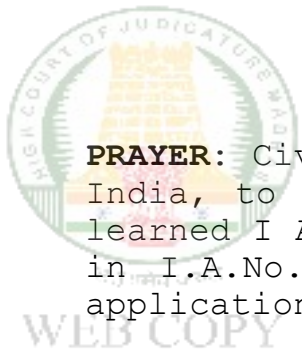
3.M/s.Lakshmi Silk Center,
a partnership firm,
Represented by its Partner
M.U.Kanagarajan.

4.M/s.Latshmees,
a partnership firm,
Represented by its Partner
K.Renukadevi.

5.M/s.Laxmi,
a partnership firm,
Represented by its Partner
M.U.Kanagarajan.

6.K.Renukadevi
7.Kanchana
8.Vijayalakshmi
9.Selvaraj
10.Selvi
11.Aswanth
12.K.Velmurugan
13.M.U.Kanagaraj

...R-2 to R-13/R-1 to R-12/D-1 to D-12



PRAYER: Civil Revision Petition under Article 227 of Constitution of India, to set aside the order of interim injunction granted by the learned I Additional District Judge, Tiruchirapalli dated 23.09.2021 in I.A.No.1 of 2021 in O.S.No.299 of 2021 and dismiss the said application as not maintainable.

For Petitioner : Mr.N.Dilip Kumar
For R-1 : Mr.K.S.Kathiravan
For R-2 to R-13 : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the order, dated 23.09.2021 in I.A.No.1 of 2021 in O.S.No.299 of 2021 passed by the learned I Additional District Judge, Tiruchirapalli.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The plaintiff has filed a petition in I.A.No.1 of 2021 in O.S.No.299 of 2021 under Order 39 Rules 1 & 2 to grant interim injunction restraining the defendants, their men, agents and servants/subordinates from conveying the portion encroached by them morefully described as ''B'' schedule in the proposed action to the ignorant prospective buyers pursuant to the public auction brought by the 13th defendant, which was held on 29.09.2021 or on any subsequent dates or in any manner whatsoever; till the disposal of the suit and to grant an ad-interim order till the like effect till the disposal of the petition. The said petition was allowed on 23.09.2021 by the learned I Additional District Judge, Tiruchirapalli. The prayer is regarding 'B' schedule property which is in T.S.No.45 Old S.No.43 part 5070 sq. feet. Against the said order, the revision petitioner is before this Court.

4.Heard on either side and perused the material documents available on record.

5.The Civil Revision Petition is filed on the ground that some of the sale notices were challenged by the borrower in S.A.No.100 of 2016 & S.A.No.269 of 2016 before the learned DRT, Madurai and the same are pending. The conditional order imposed by the learned DRT, Madurai to stay the auction sale have not been complied with by the borrowers. The plaintiff had never earlier challenged the SARFAESI action taken by the petitioner's Bank by issuing possession notice and sale notices.

6. The ingredients of **Section 34 of SARFAESI Act** is extracted hereunder:

"34.Civil Court not to have jurisdiction:-

No civil court shall have jurisdiction to



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entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993). "

7. But the auction sale property is in T.S.Nos.23, 25, 42 & 43 which is not related to the suit property. Firstly, notice was issued from 04.02.2016 through paper publication. Subsequently, various paper publications were issued till 07.09.2021.

8. The plaintiff has filed the suit in O.S.No.299 of 2021 on 18.09.2021.

9. Before that possession notice was also affixed on 27.06.2014. The District Collector has also passed an order under Section 14 of SARFAESI Act, on 13.11.2014. The plaintiff has not objected the sale before 2021.

10. The reason for objecting the auction sale also peculiar. It is admitted in the paragraph No.9 of the petition that the plaintiff's property is not included and cannot be included in the said paper publication. But, she has filed a petition in I.A.No.1 of 2021 to restrain the revision petitioner to conduct auction sale regarding 'B' schedule property. The plaintiff has not given any T.S.number in the 'B' schedule property.

11. The petitioner has claimed rights not in the auction sale properties. So, injunction need not be given.

12. The learned counsel appearing for the petitioner relied on the Judgment reported in **2020(3)CTC 530, Rajamani Vs. Bank of Baroda and Others**, and the relevant portion is extracted hereunder:

.....

"In a subsequent decision in **Authorised Officer, State Bank of India V. Allwyn Alloys Pvt. Ltd. And others, 2018 (5) CTC 225**, once again considering the scope of Section 34 of the SARFAESI Act, has held as follows:

"6. After having considered the rival submissions of the parties, we have no hesitation in acceding to the argument urged on behalf of the Bank that the mandate of Section 13 and, in



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particular, Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the 2002 Act"), clearly bars filing of a Civil Suit. For, no Civil Court can exercise jurisdiction to entertain any Suit or proceeding in respect of any matter which a DRT or DRAT is empowered by or under this Act to determine and no injunction can be granted by any Court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act....."

13.Finally, this Civil Revision Petition is allowed by setting aside the order, dated 23.09.2021 in I.A.No.1 of 2021 in O.S.No.299 of 2021 passed by the learned I Additional District Judge, Tiruchirapalli. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

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To

The I Additional District Judge,
Tiruchirapalli.

+1 CC to M/s.K.S.KATHIRAVAN, Advocate (SR-19472[F]
dated 19/04/2022)

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-19905[F] dated 20/04/2022)

Order made in
C.R.P. (MD)No.1619 of 2021
19.04.2022

km (CO)

GC (28.04.2022) 4P 4C