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C.R.P(MD)No.2368 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

CORAM

**THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN
THILAKAVADI**

C.R.P(MD)No.2368 of 2023

Tamil Nadu Mercantile Bank Ltd.,
Anjugraman Branch,
Rep by its Manager,
Anjugraman, Anjugraman Village,
Agateeswaran Taluk,
Kanyakumari District.

... Petitioner/Plaintiff

Vs.

1.A.Jeyaraman
2.A.Bala Murugan

... Respondent/Defendant

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 08.02.2023 in O.S.No.162 of 2019 passed by the learned Principal District Judge, kanyakumari District, Nagercoil and direct the learned Principal District Judge, Kanyakumari District, Nagercoil to take the suit on its file and decide the same within a reasonable time period to be prescribed by this Court.

For Petitioner

:Mr.N.Dilipkumar



ORDER

The Civil Revision Petition is filed as against the order dated 08.02.2023 passed in O.S.No.162 of 2019 by the learned Principal District Judge, Kanyakumari District, Nagercoil and to direct the learned Principal District Judge, Kanyakumari District, Nagercoil to take the suit on its file and decide the same within a reasonable time period to be prescribed by this Court.

2.In the affidavit, it is averred that the petitioner Bank has filed a suit in O.S.No.162 of 2019 before the Principal District Judge, Kanyakumari District, Nagercoil, for recovery of money. The said suit was returned by the learned District Judge, Kanyakumari, stating that the suit is barred under SARFAESI Act. Further, it is averred that an original application under Section 19 of Debts and Bankruptcy Act, 1993 is subjected to pecuniary limits. Previously it was Rs.10,00,000/-(Rupees Ten Lakhs) and it was revised and enhanced to Rs.20,00,000/-(Rupees twenty lakhs) vide Central Government Notification No.S.O 4312(E) dated 06.09.2018. Whereas, the learned District Judge failed to consider the notification of the Central Government dated 06.09.2018, erroneously returned the suit with a direction to approach the DRT for recovery of money. Hence, the present petition is filed.



3.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

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4.On perusal of the Government Notification No.S.O 4312(E) dated 06.09.2018, wherein it is stated as follows:

“Now therefore, in exercise of the powers conferred by sub-Section(4) of Section 1 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Central Government hereby specifies that the provisions of the said Act (Recovery of Debts due to Banks and Financial Institutions Act, 1993) shall not be apply where the amount of debt due to any bank financial institution or to a consortium of banks or financial institutions is less than twenty lakh rupees”

5.Therefore, it is settled legal position that the secured creditor to recover the loan outstanding from filing an original application under Recovery of Debts and Bankruptcy Act. In the present case, the outstanding is less than the pecuniary limit prescribed for DRT and hence, the present suit is maintainable. Therefore, the learned Principal District Judge, Kanyakumari District, Nagercoil, is directed to number the plaint, if it is otherwise in order and dispose of the same on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.



6.With the above direction, this Civil Revision Petition is disposed of.

No costs

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25.09.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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To

- 1.The Principal District Judge,
Kanyakumari District,
Nagercoil.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

Note:Registry is directed to return the original papers to the learned counsel for the petitioner, after substituting the same.



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K.GOVINDARAJAN THILAKAVADI, J.

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