



CRP(MD).No.2186 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

CORAM

THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.2186 of 2023

Magudeeswaran

: Petitioner / plaintiff

Vs.

M/s. Shrirram Transport Finance Company Limited,
rep. by its Branch Manager,
Having office at No.159,
Amman Towers,
Opposite to Palaniyandavar College,
Palani, Dindigul District.

Respondents / defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed in un-numbered plain in O.S.SR.No.2207 of 2023 on the file of the District Munsif Court, Palani and direct the District Munsif Court, Palani and decide the same on merits.

For Petitioner

:Mr.B. Azhaesh



CRP(MD).No.2186 of 2023

ORDER

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This Civil Revision Petition is filed by the revision petitioner / plaintiff against return order passed in un-numbered plaint in O.S.SR.No. 2207 of 2023 on the file of the District Munsif Court, Palani and direct the District Munsif Court, Palani to decide the same on merits.

2. According to the revision petitioner / plaintiff, he has intend to file the above suit for permanent injunction and not challenging any order passed by the respondent Bank under SAERFAESI Act, 2002. He further submitted that respondent is non-banking financial company and therefore, the suit against the non-banking financial Bank is very much maintainable. The petitioner has specifically pleaded in the plaint that the respondent financial Bank has committed fraud and tried to take possession of petitioner's vehicle in an un-lawful manner just become a ground suit against the respondent financial Bank. It is submitted that even assuming the suit against the Bank is not maintainable, the respondent is non-banking financial company, there is bar under Section 34 of SAERFAESI Act, 2002 is not applicable to the present case. Further submission is that the trial Court without considering the above facts and



CRP(MD).No.2186 of 2023

legal aspects returned the plaint and stating that transaction between the parties is covered under the SAERFAESI Act and therefore, the suit before the trial Court is not maintainable. Aggrieved by the said order, the present revision is filed.

3. The learned counsel appearing for the revision petitioner relied upon the Judgment of the Hon'ble Supreme Court reported in **2023(1) SCC (Bank of Rajasthan Limited Vs. VCK Shares and Stock Broking Services Limited)** submitted that the Civil Court has jurisdiction to try the suit filed by the petitioner against the financial institution in relation to proceedings for recovery of debt already initiated by Bank / financial institution. He further submitted that Notification issued by the Ministry of Finance, dated 12.02.2021 civil suit cannot be maintained for Rs.20,00,000/-. Since the alleged borrowed amount Rs.8,00,000/-, the Civil Suit is very much maintainable. In the above said Judgment cited by the learned counsel for the revision petitioner, it is clearly held as follows:

“39. On a plain reading of the provisions, the conclusion reached was that Section 17 of the RDB Act bars the jurisdiction of the civil Court only in respect of applications filed by the Bank of financial institution. This provision did not bar the jurisdiction of the Civil court to try



CRP(MD).No.2186 of 2023

WEB COPY

a suit filed by the borrower. There was also an absence of provisions in the act for transfer of suits and proceedings except Section 31, which relates to pending suit proceedings by a bank or financial institution for recovery or debt.”

4. Therefore, there is no bar to file a suit by borrower and the Civil Court has got jurisdiction to try the suit by numbering the plaint filed by the revision petitioner / plaintiff. Therefore, the learned District Munsif, Palani is directed to number the suit if it is otherwise in order and dispose the same as expeditiously as possible.

5. With the above observation, this Civil Revision Petition is disposed of. No costs.

07.09.2023

Index : Yes / No
Internet : Yes/ No
trp

Note : Issue order copy on 11.09.2023

Note: Registry is directed to return the original papers after substituting the xerox copy of the same.



CRP(MD).No.2186 of 2023

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To

The District Munsif, Palani.



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CRP(MD).No.2186 of 2023

K. GOVINDARAJAN THILAKAVADI, J.,

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C.R.P(MD)No.2186 of 2023

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