



A.No.2523 of 2024
in C.S.No.297 of 2012

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Reserved on: 01.07.2024

Pronounced on: 26.07.2024

P.B.BALAJI, J.

This application has been filed by the 4th defendant seeking rejection of the plaint on the ground that the plaint lacks territorial jurisdiction.

2.I have heard Mr.K.V.Babu, learned counsel for the applicant and Mr.R.Sankara Subbu, learned counsel for the respondents 1 to 3/plaintiffs.

3.The suit has been filed for the following reliefs:

“a) Declaring the settlement deed dated 24.05.2002 in Document No.1598 of 2002 as void and inoperative in law and not binding on the plaintiffs;

b) Granting a permanent injunction restraining the second and third defendants from enforcing the security of the schedule mentioned property in any manner including sale in public auction or any other mode; and for costs.”

4.It is the specific case of the 4th defendant that the suit property is situate within the territorial jurisdiction, namely Kanchipuram Courts and the suit being one for land, the above suit filed before this Court is not



maintainable.

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5.Mr.K.V.Babu, learned counsel for the applicant would submit that this Court has no territorial jurisdiction to try the suit since the relief of declaration touches upon the suit property, especially in the light of the declaratory prayer warranting communication to the Sub-Registrar's Office for registration. It is also submitted that under Clause 12 of the Letters Patent, the suit is clearly one for the relief in respect of the immovable property, especially since the relief of permanent injunction has also been sought for. He would further submit that even without an application for leave to sue, the suit has been numbered. He would therefore pray for rejection of the plaint.

6.Per contra, Mr.R.Sankarasubbu, learned counsel for the respondents 1 to 3/plaintiffs would submit that the 4th defendant has no right to seek for rejection of the plaint as he has been impleaded very recently and the application has been filed with a malafide intention to stall the suit itself. He would further submit that the focal point of the cause of action for the suit arose within the jurisdiction of this Court in Adyar, where the loan transactions took place. He would further submit that the earlier application



in A.No.1351 of 2013 was filed at the instance of the defendants 2 and 3 seeking rejection of the plaint was dismissed by an order dated 03.01.2014.

Therefore, the present applicant cannot claim any better right than the defendants 2 and 3/Bank, especially when he is only a subsequent purchaser. He would further submit that the applicant is only a contemnor and he has acted against the interest of the plaintiffs and her daughters. Therefore, even on this ground he seeks dismissal of the application.

7.I have carefully considered the rival submissions advanced by the learned counsel on either side.

8.The decision of this Court in *M.Banupriya Vs. Nuziveedu Seeds Limited and Others* reported in **2013(4) CTC 175** has also been relied on by the learned counsel for the applicant. This Court, while dealing with the jurisdiction and maintainability of the suit, has held that only when the suit was not the suit for land and part of cause of action arose within the jurisdiction of this Court, then the relief could be granted under Clause 12 of the Letters Patent, however, if it is the suit for land and the land is situate outside the jurisdiction of this Court, and even if a part of cause of action arose within the jurisdiction of this Court, then the original side jurisdiction of the Court could not entertain the suit and on the facts of the said case,



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that it was a suit for land this Court held that the suit was not maintainable before this Court.

9. In fact, in the facts of that case, this Court found that the suit itself was a clear abuse of process of Court and instead of ordering returning of the plaint or revoking the leave granted to the plaintiff therein, this Court struck off the plaint from the file of this Court in respect of the earlier order passed in the application for rejecting the plaint.

10. I have perused the order dated 03.01.2014. Though the application at the instance of the defendants 2 and 3 has been dismissed, I find from the said order that the rejection of the plaint was only on the ground that there was a bar created under Section 34 of the SARFAESI Act and not on the ground that the suit is one for land. Therefore, I do not find any impediment for the 4th defendant who has purchased the property from the Bank to move the present application seeking rejection of the plaint. However, it is also seen that in and by an order dated 24.04.2012, this Court had granted leave to sue the respondents before this Court in respect of the suit property.



11.The present application has been filed only on the ground that this Court lacks territorial jurisdiction. Though it is argued by Mr.K.V.Babu, learned counsel for the applicant, the suit is also filed without any cause of action, I do not find any averments in the affidavit supporting such a contention. This Court already having granted leave to institute the suit before this Court, now cannot sit in appeal over the said order and reject the plaint on the ground that it lacks territorial jurisdiction. Admittedly, there has been no application filed to revoke the leave granted by this Court as early as on 24.04.2012. Therefore, in the light of the above, I am not inclined to entertain the present application seeking rejection of the plaint.

12.In fine, this application is dismissed.

26.07.2024

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