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C.R.P. (PD) No.3044 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.3044 of 2023

1. V.Bhaskar
2. E.Kasthuri

.. Petitioners/Petitioners/Plaintiffs

Versus

M/s.Housing Development Finance Corporation Limited,
Represented by its Senior Officer-Legal M.Vasanth,
ITC Centre, II Floor,
No.760, Anna Salai, Chennai – 600 002. .. Respondent/Respondent/Plaintiff

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Order dated 09.06.2023 passed in I.A.S.R.No. 43618 of 2023 in O.S.No.4699 of 2019 on the file of the V Additional City Civil Court, Chennai by allowing the Revision Petition.

For the Petitioner : Mr.V.Ayyadurai, Senior Counsel
for T.N.Bhuvaneshwaran

For the Respondent : Mr.Mr.K.J.Parathasarathy



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ORDER

This Civil Revision Petition arises against the Order passed by the learned V Additional City Civil Court, Chennai in I.A.SR.No.43618 of 2023 in O.S.No.4699 of 2019, dated 09.06.2023.

2. O.S.No.4699 of 2019 was originally presented before this Court by M/s.Housing Development Finance Corporation Limited for recovery of a sum of Rs.27,06,644/- together with interest at the rate of 18% per annum. This suit in C.S.No.265 of 2014 was transferred to the file of the City Civil Court on account of the enhancement of pecuniary jurisdiction of the City Civil Court and renumbered as O.S.No.4699 of 2019. It is not in dispute that the evidence has been completed. Mr.V.Ayyadurai, the learned Senior Counsel would submit that the applications to reopen and recall the evidence of P.W.1 is pending before the learned V Additional Judge, City Civil Court, Chennai.

3. An application was filed for rejection of plaint on the ground that the suit does not disclose a cause of action and the same is barred by



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virtue of the SARFAESI Act. The said application came to be rejected by the learned V Additional Judge, City Civil Court, Chennai. Hence, the present revision.

4. Notice was Ordered in this application and Mr.K.J.Partharasathy appeared for the respondent.

5. When the matter was taken up for hearing on 27.08.2024, the learned counsel was directed to produce notification under section 2 [h] [ii] of Recovery of Debts and Bankruptcy Act, 1993. The matter was listed for orders today.

6. Mr.Parthasarathy would point out that the Housing Development Finance Corporation has merged with HDFC Bank Limited pursuant to the Orders passed by National Law Tribunal, Mumbai Bench, in Company Scheme Petition No.243 of 2022 and Company Scheme Application No.200 of 2022 dated 17.03.2023.

7. A perusal of the scheme shows that the plaintiff, which is the



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transferee company, has amalgamated with HDFC Bank. A reading of the scheme shows that the assets and liabilities of the transferor company gets amalgamated with HDFC Bank. Therefore, HDFC Bank will be entitled to proceed further to recover the alleged dues of the plaintiff.

8. There is no dispute on either side that HDFC Bank has been notified under the 1993 Act as well as the SARFAESI Act 2002. Therefore, by virtue of the Order of merger, the proceedings cannot continue before the City Civil Court at Chennai, and would necessarily have to be transferred to the Jurisdictional Debt Recovery Tribunal. Therefore, this revision is disposed of with the following directions :

i] Since there is an Order of merger passed by the competent Tribunal on 17.03.2023, the suit in O.S.No.4699 of 2019 will stand transferred to the file of the Debt Recovery Tribunal.

ii] the plaintiff need not file an application for amendment of cause title. All that it would need to do is file a memo enclosing the Order of the NCLT, Mumbai Bench dated 17.03.2023 and effect appropriate amendments



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required.

[iii] The plea that SARFAESI Act would have to be invoked and not DRT Act is left upon for the civil revision petitioner to agitate before the Debt Recovery Tribunal.

[iv] The City Civil Court shall transfer the papers to the Debt Recovery Tribunal within a period of three weeks from the date of receipt of a copy of this Order.

[v] It is open to the Debt Recovery Tribunal to consider the application filed for reopen and recall of P.W.1.

[vi] It is made clear that the proceedings before the Debt Recovery Tribunal will continue from the stage where they stood when transferred from the City Civil Court and “denovo trial” is not necessary for the purpose of disposal of the transferred application.

9. This Civil Revision Petition is disposed of with the above terms. No costs.

29.08.2024



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Index : Yes / No

Internet: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The V Additional City Civil Court, Chennai.
2. The Debt Recovery Tribunal, Chennai.



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V.LAKSHMINARAYANAN, J.

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