



CRP No.4102 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

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Rahul Narayan : Petitioner

versus

1.The Authorized Officer,
State Bank of India,
Retail Assets Central Processing Centre (RACPC),
MRC Nagar,
No.4, Santhome High Road,
Mylapore,
Chennai – 600 004.

2.P.G.Aananth
3.Uma Maheswari
4.Anandhi

5.The Sub Registrar,
The Sub Registrar Office,
Neelankarai,
Chennai : Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to direct the registry to number the O.S.SR. Re29/2024 on the file of the District



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Munsif Court cum Judicial Magistrate, Sholinganallur.

For Petitioner : Mr.B.Manimaran

For Respondent 5 : Mr.N.Muthuvel,
Government Advocate

ORDER

This civil revision petition arises against the return made by the learned District Munsif cum Judicial Magistrate at Sholinganallur in O.S.SR. Re29 of 2024.

2. It is the case of the plaintiff that the property originally belonged to his mother Tmt. Lalitha Narayan. She had appointed a power agent namely one P.G.Aananth. Pleading that fraud had been played on his mother, in executing a loan in favour of the first defendant, the plaintiff presented a suit for the following reliefs:

(a) to declare that the appointment of power of attorney is null and void,

(b) to declare that the sale deed executed in favour of one Ganapathy Subramanian by the second defendant is null and void, and



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(c) to declare that the memo of deposit of title deeds by Ganapathy Subramanian in favour of the first defendant is unenforceable.

3. The said suit was returned by the learned District Munsif saying that there is a bar under Section 34 of the SARFAESI Act. Hence, this revision.

4. I have heard Mr.B.Manimaran in support of this revision.

5. In *Selvaraj v. Koodankulam Nuclear Power Plant India Limited*, (2021) 3 LW 677, this Court held that at the stage of numbering, the Court should not go into the merits of the matter.

6. If the learned District Munsif felt that the suit is not maintainable, he should have numbered the suit and thereafter, passed orders on the merits of the case. By adopting this procedure, in case the plaintiff suffers an order, he would always have a remedy by way of an appeal. At the stage of numbering, the court need not play the role of the defendants.



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7. Therefore, leaving open the issue of maintainability which the learned Trial Judge can go into at the time of numbering, **this civil revision petition is ordered.** The learned District Munsif shall number the plaint and thereafter if he considers that there is a bar, he shall pass appropriate orders in the suit. No costs.

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Index : Yes/No

Speaking Orders/Non Speaking orders

Neutral Citation : Yes/No



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To

The District Munsif Court cum Judicial
Magistrate, Sholinganallur.



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V.LAKSHMINARAYANAN, J.

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