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C.R.P. (PD) .No.4684 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4684 of 2024

P.Ramalingam,
Partner of M/s.MAS EXPORTS,
No.177/3 – A1, Pachankattupalayam,
Arulpuram (Post),
Tiruppur.

.. Petitioner

Vs.

1.M/s.RBR GARMENTS PVT LTD.,
Rep by its Director,
No.177/3 – A1, First Floor,
Pachankattupalayam,
Arulpuram (Post),
Tiruppur.

2.B.Shanmugasundram,
Director M/s.RBR Garments Pvt Ltd.,
No.177/3 – A1, First Floor,
Pachankattupalayam,
Arulpuram (Post),
Tiruppur.

3.M/s.PUNJAB NATIONAL BANK,
Rep by its Authorized Officer,
MID Corporate Centre,
Tiruppur – 600 106.

.. Respondents



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Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to direct the District Munsif Judge, Palladam, to number the plaint in unnumbered O.S.SR.No.1673 of 2024 dated 10.08.2024 on the file of the District Munsif Court at Palladam and take on file and decide the same on merits in accordance with law.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondents : Mr.M.L.Ganesh

ORDER

This civil revision petition arises against the order of return passed by the learned District Munsif at Palladam, in O.S.SR.No.1673 of 2024 dated 10.08.2024.

2.The short facts of the case are, the plaintiff claims that he is a statutory tenant under the 1st respondent. He pleads that he had paid a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as advance and the monthly rent was fixed at Rs.20,000/-. Step by step, the rent so fixed was increased and as on today, the rent that has been payable is Rs.25,0000/- per month.



3. According to the civil revision petitioner, the officials of the Punjab National Bank together with the 2nd respondent had come over to the suit property, to take possession of the property on 29.06.2024. They threatened the plaintiff that, they will eject the plaintiff in a forcible manner. Claiming that he is entitled to be in possession of the property till he is evicted, by due process of law, he presented the suit.

4. The suit was originally filed before the District Munsif Court at Tiruppur. As the said Court did not have jurisdiction, the plaint was returned. It was represented before the District Munsif Court at Palladam.

5. The learned District Munsif, Palladam, pointed out that it has no jurisdiction to deal with the matter, as SARFAESI proceedings might be pending between the parties. The plaintiff pleads that the return of the plaint made by the learned District Munsif is improper. Hence, the civil revision petition has come up before this Court.

6. When the matter came up for admission on 26.11.2024, I requested



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Mr.K.V.Muthu Visakan to serve the entire set of papers on the Standing Counsel for the Punjab National Bank. Mr.M.L.Ganesh has received the papers and appears on behalf of the Punjab National Bank today. He has produced a typed set of papers to point out that with respect to the suit property, the original owner had mortgaged the same on 02.06.2020 and yet again, had executed an other mortgage on 20.06.2023. As there were defaults, demand notice was issued on 25.03.2024 and acknowledging the said demand notice, a reply under Section 13(3A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (hereinafter referred to as 'the Act') had been given by the first defendant.

7.Mr.M.L.Ganesh points out symbolic possession of the property was taken on 29.06.2024. Therefore, he pleads, by virtue of Section 17(4A) of the Act, as amended in the year 2016, the plaintiff cannot make a claim before the Civil Court. He points out that the remedy for a party is only to approach the jurisdictional Debts Recovery Tribunal, within a period of 45 days from the date of initiation of action by the Bank in terms of Section 13(4) of the Act.



WEB COPY 8.I have carefully considered the submissions of both sides.

9.As the Bank has initiated SARFAESI proceedings, the appropriate remedy for the civil revision petitioner, who claims to be a tenant under the mortgage, is to approach the Debts Recovery Tribunal. I do not find any error in the order passed by the learned District Munsif at Palladam, in refusing to number the plaint. However, taking into consideration that the plaintiff claims to be a statutory tenant under the 1st respondent, he will be permitted to challenge the possession notice that was issued by the Bank on 29.06.2024 before the Debts Recovery Tribunal at Coimbatore.

10.A perusal of the plaint shows that the suit had been presented on 20.06.2024 and the impugned order was passed on 10.08.2024. This shows that the plaintiff, had within the period of 45 days approached a Judicial Authority, albeit, the wrong one. The period taken from 20.06.2024 till 18.12.2024 will not be taken into consideration by the Debts Recovery Tribunal, in case, the civil revision petitioner files an appeal on or before



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18.12.2024. In order to substantiate the plea that he has already approached the Judicial Authority in time, the civil revision petitioner shall file the plaint presented by him before the Debts Recovery Tribunal at the time of moving the appeal. It is open to the Bank to raise all the objections, including the objection that the civil revision petitioner, is not entitled to the benefit of statutory tenancy, as it is hit by Section 17(4A) of the Act.

11. In the result, this Civil Revision Petition is ordered accordingly. No costs.

04.12.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

NOTE: Office to act on a web copy of this order. It shall return the original plaint to Mr.K.V.Muthu Visakan, after getting the usual endorsement from him.



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To

1.The District Munsif Judge,
Palladam.

2.M/s.PUNJAB NATIONAL BANK,
Rep by its Authorized Officer,
MID Corporate Centre,
Tiruppur – 600 106.



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V.LAKSHMINARAYANAN, J.

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