



WEB COPY

C.R.P(MD)No. 1604 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1604 of 2022

M.Jahubar

..Petitioner/Petitioner

Vs.

1. Raja Mohamed

2. Authorized Officer
Union Bank of India
Kottaipattinam Branch
Pudukottai District

..Respondents/Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 06.07.2022 passed by the District Munsif, Aranthangi in Unnumbered O.S.No.....of 2022 and to direct the District Munsif, Aranthangi to number the said O.S.

For Petitioner
For Respondents

:Mr.T.Leninkumar
: Mr.V.S.Karthi



ORDER

The civil revision petition is filed aggrieved by the order of the learned District Munsif, Aranthangi, dated 06.07.2022 made in unnumbered O.S.No.... of 2022.

2.By the said order, the trial Court has rejected the suit as not maintainable.

3.The learned counsel appearing on behalf of the petitioner would submit that the maintainability or otherwise in respect of the suit can be decided only at the time of trial. He would further contend that the suit cannot be rejected even without numbering. He would submit that it cannot be said under all circumstances a civil suit is not maintainable whenever proceedings are initiated under the SARFAESI Act.

4.I am in agreement with the learned counsel for the petitioner that the embargo is not in respect of all circumstances. There may be circumstances even still a civil suit may lie. But however, as far as the present suit is concerned, the suit is filed specifically with the prayer to declare the possession notice dated 13.11.2021 as unenforceable in the eye of law and



for a consequential injunction not to give effect the possession notice.

Therefore, the suit is certainly not maintainable and even if any person aggrieved, can approach the Debt Recovery Tribunal under section 17 of the SARFAESI Act. Therefore, the trial Court has rightly rejected the suit and finding no merits, the Civil Revision Petition is dismissed. No costs.

15.07.2024

NCC:Yes/No

Ns

To

The District Munsif,
Aranthangi.

D.BHARATHA CHAKRAVARTHY, J.



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