O.S.A.No. 128 of 2024
and C.M.P.Nos. 16227 & 18271 of 2024

Dr. ANITA SUMANTH, J.
and
N.SENTHILKUMAR, J.

(Order of the Court was made by Dr. ANITA SUMANTH., J.)

This matter is listed today under the caption 'for correcting typographical errors'.

2. Barring the below mentioned correction/typographical errors, the judgment remains unaltered:-

(i) date of pronouncement in the judgment is to be read as '28.08.2025' instead 28.02.2025, above Coram portion.
(ii) At para no.12, the word 'octogenarian' to be read as 'nonagenarian'.

[A.S.M, .J] [N.S, .J]
15.12.2025

ssm

Note : Registry to issue copy after incorporating the corrections.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 14.08.2025	Pronounced on 28.08.2025

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

OSA No.128 of 2024
and
CMP Nos.16227 & 18271 of 2024

N.Umayal Achi
W/o.S.R.M.S.Narayanan Chettiar,
No.6/10, Leith Castle Centre Street,
Santhome, Chennai 600 028.

Appellant(s)

Vs

1.DBS Bank of India Ltd.,
Adayar Branch, Rep. by its Manager,
No.124A, Lattice Bridge Road,
K.R. Building, Adyar, Chennai 20.

M.Rajanarayanan (Deceased)

2.Reserve Bank of India
Rep by its Regional Director,
Fort Glacis, No.16, Rajaji Salai,
Chennai 600 001.

3.Uma Raja, W/o. M.Rajanarayanan,
Raj Emerald Apartments,
11, 3rd Floor, Seetha Nagar 3rd Road,
Nungambkkam, Chennai 600 001.

4.Nagini, D/o. M.Rajanarayanan,

Raj Emerald Apartments,
11, 3rd Floor, Seetha Nagar 3rd Road,
Nungambakkam, Chennai 600 001.

Respondent(s)

PRAYER
Appeal filed under Order 36 Rule 1 of Original side Rules r/w. Clause 15 of the letters patent, to set aside the Judgment and Decree dated 22.12.2023 passed in CS No.413 of 2017 and decree the suit in CS No.413 of 2017 as prayed for with costs.

For Appellant(s): Mr.P.L.Narayanan, Senior counsel for Mr.E.Hariharan

For Respondent(s): Mr.Karthik (for R1) for Ms.Ananda Gomathy
Mr.V.S.Rishwanth (for R2) for Mr.T.Poornam
R3 & R4 – No appearance

JUDGMENT

N.SENTHILKUMAR, J.

The Appeal is filed to set aside the Judgment and Decree dated 22.12.2023 passed in C.S.No.413 of 2017 and to decree the suit C.S.No.413 of 2017 as prayed for with costs.

2.The appellant has filed a Suit in C.S.No.413 of 2017 for the following prayers:

(a) Declaring that the pledge/lien/charge or any form of security created in favour of the 1st defendant over the plaintiff fixed deposits' more fully

described in the Schedule hereunder is unenforceable in law, null and void and not binding on the plaintiff and consequently direct the 1st Defendant to return the plaintiff's original fixed deposit receipts more fully described in the Schedule to the plaintiff.
(b) Direct the 1st defendant to render true and proper accounts to the plaintiff in respect of the interest accrued less taxes if any in the aforesaid fixed deposits from the initial date of deposit till final payments thereof to the plaintiff.
(c) Costs of the suit.

3.The brief facts of the appellant's case is as follows:

3.1.The appellant, responding to solicitation by the 1st respondent Bank through the deceased defendant viz., Mr.M.Rajanarayanan, who was added as the second defendant in the suit, invested a total sum of Rs.3,40,04,000/- in fixed deposits. The investment was made by way of pay order No.568099 dated 03.12.2010 and was split across three fixed deposit receipts (Fixed Deposit Receipt Nos.3804, 3817 and 3820), for a sum of Rs.1,00,00,000/-, Rs.1,00,00,000/-, and Rs.1,40,04,000/- respectively.

3.2.The 1st respondent Bank assured the appellant that interest would be paid at 0.5% higher rate than other banks on the Reserve Bank of India's prescribed rate of interest. It was further agreed that interest would be compounded quarterly by accumulation and added to the principal, thereby enhancing the deposit value.

3.3.The Fixed Deposit Receipts were taken by the deceased second defendant from the appellant in 2011 and 2012 for renewal, and the renewed receipts were returned to the appellant. In the first week of December 2013, the deceased second defendant again collected the original Fixed Deposit Receipts under the pretext of renewal, however neither the deceased second defendant nor the Bank returned them thereafter.

3.4.Without the knowledge of the appellant, a savings bank account (A/c No.0441301000011914) was fraudulently opened in her name on 08.12.2010, using forged documents and signatures. Interest accrued on the Fixed Deposits were diverted into this account in violation of the agreed terms. The 1st respondent Bank colluded with the deceased second defendant and misused the appellant's Fixed Deposits by illegally creating loans in her name by pledging the Fixed Deposits.

3.5.The appellant's son, Mr.N.Sathappan, had approached the Bank in October 2011 seeking a loan by pledging one of the appellant's Fixed Deposits. However, that was not possible, as the Bank had already used the appellant's deposits for creating unauthorised loans. Instead of that, the Bank transferred Rs.82.5 lakhs (Rs.45 lakhs on 21.10.2011 and Rs.37.5 lakhs on 22.10.2011) to Mr.N.Sathappan's Indian Overseas Bank, current account No.010802000000951 by pledging two family trust Fixed Deposits. These transactions were unauthorized.

3.6.The monies which were siphoned off had gone into the account of a proprietary concern named 'Nithyakalyana Bhavan and Caterers', operated in the name of the deceased second defendant’s wife. The entire scheme was orchestrated by officials of the 1st respondent Bank in collusion with the deceased second defendant, by brushing aside the Know Your Customer (KYC) procedures.

3.7.In 2013, when the appellant’s son visited the bank to pay interest, he was doubtfully informed by a bank employee that the family’s Fixed Deposits might be under lien. However, the appellant remained unaware of the fraud, as Form 16A for TDS on interest was still being regularly received. The appellant’s family trust (S.RM.S. Narayanan Religious Trust) wrote multiple letters in March and April 2014 to the Bank regarding non-receipt of interest, in respect of the fixed deposits made by the trust. But these letters were not answered.

3.8.The Bank, in its letter dated 25.03.2014, referred to the dormant fraudulent savings account (No.0441301000011914). This prompted the appellant to issue a letter dated 17.04.2014 denying any knowledge of such an account and requesting copies of all relevant records. The Bank responded asking the appellant to visit the branch, but the appellant, due to old age and health, requested a bank official to visit her residence. No such visit occurred, and no records were furnished.

3.9.Realizing the full extent of the fraud only in April 2014, the appellant's husband lodged a police complaint on 08.10.2014 and FIR was registered by the Central Crime Branch, Chennai in Crime No.420 of 2014. The appellant also filed a consumer complaint before the National Consumer Disputes Redressal Forum in A.No.387 of 2015, however, later chose to withdraw it.

3.10.As a partial gesture of restitution, the deceased second defendant executed a registered sale deed on 19.09.2013 (Document No.463 of 2013) transferring his house property in Nungambakkam to the appellant. The deed contained a recital indicating that the consideration to be in partial discharge of the liabilities arising from the deceased second defendant's unauthorized dealings in the appellant's and her family's Fixed Deposits with the 1st respondent Bank and City Union Bank. The appellant and her family members have not received even a single penny from the 1st respondent Bank in respect of her Fixed Deposits.

3.11.The 1st respondent Bank and its officials failed to monitor the accounts and detect the fraud despite having access to all relevant records.

Internal audits were not conducted diligently, and supervisory mechanisms were not followed. The 2nd respondent, being the regulator, failed in its supervisory duties and is also liable for the loss suffered by the appellant.

3.12.The appellant issued a legal notice on 05.12.2014 demanding payment of the Fixed Deposit maturity amount with interest from the date of deposit till the date of the legal notice. The Bank issued a vague and evasive reply on 03.01.2015, denying all allegations. The appellant was shocked to know that her Fixed Deposits had been pledged and fully withdrawn. The appellant claimed that the Fixed Deposits are deemed to have been renewed under the same terms and conditions until she receives her fixed deposits proceeds. Hence, the Suit.

4.The 1st respondent bank filed its written statement, refuting the allegations of the appellant before the learned single Judge. The averments in the written statement are as follows:

4.1.The 1st respondent filed O.A.No.196 of 2017 before the DRT-II, Chennai, seeking recovery of Rs.65,43,408.28 with 19.40% annual interest. The present suit is retaliatory and the material facts are suppressed. Both parties have filed their proof affidavits and written arguments in the above O.A., which is pending adjudication. The appellant had invested Rs.3,40,04,000/- as fixed deposit with the 1st respondent through her agent, the deceased second defendant. The appellant had opened a savings account on 08.12.2010 and later availed loans totalling Rs.3,01,85,000/-, secured against the fixed deposits, by making applications dated 29.01.2011, 30.06.2011, and 25.08.2011. She was liable to repay the loan amount with 19.40% interest per annum, compounded with monthly rests. After regular repayments until June 2013, she defaulted. The Bank began to adjust the fixed deposit interest against the loan interest. Upon being asked to repay, the appellant made false claims against the deceased agent, namely the deceased second defendant in the Suit.

4.2.In her notice dated 05.12.2014, the appellant denied her liability and demanded repayment of the fixed deposit amount. The Bank rejected this demand on 03.01.2015. Though the appellant and the deceased second defendant had personal financial disputes (settled by way of property transfer to the appellant's husband), the Bank is not a party to the same. The appellant continued denying liability, claiming non-utilisation of the loan amount which led to the loan account being classified as NPA. On 12.11.2015, the Bank adjusted the fixed deposit amount of Rs.3,40,04,000/- against the liability under the aforesaid loan accounts. However, Rs.65,43,408.28/- remains payable with interest.

5.Before the learned single Judge, PW1 and PW2 were examined and Ex.P1 to Ex.P22 were marked on the side of the appellant. DW1 was examined and Ex.D1 to Ex.D3 were marked on the side of the respondents.

6.On the above said facts, the learned single Judge had framed seven issues, which are extracted hereunder:

> *(1)Whether the Plaintiff placed fixed deposits as claimed, with the 1st Defendant ?*
> *(2)Whether the Plaintiff availed a loan amount of Rs.3,01,85,000/- from the 1st Defendant against the pledge of the said fixed deposits?*
> *(3)Whether the Plaintiff committed default in repayment of the principal and interest to the 1st Defendant?*
> *(4)Is the 1st Defendant Bank justified in adjusting the fixed deposit amounts against the liability of the Plaintiff to them on 12.11.2015?*
> *(5)Whether the 1st Defendant is liable to return the Plaintiff's original fixed deposit receipts morefully described in Schedule to the plaint?*
> *(6)Whether the 1st Defendant is liable to render true and proper accounts to the Plaintiff in respect of the interest accrued, less taxes if any, in the schedule mentioned fixed deposits from the initial date of deposit till final payments thereof to the Plaintiff?*
> *(7)Whether the 1st Defendant is liable to pay the costs of the suit?*

7.Mr.P.L.Narayanan, learned Senior counsel appearing for the appellant/plaintiff contended that eventhough seven issues were formulated by the learned single Judge, the same were not considered and the judgment has been delivered without answering the issues. The said contention was not objected by the learned counsel for the respondents.

8.The learned senior counsel appearing for the appellant had relied upon the judgment of the Hon'ble Apex Court in the case of *Bank of Rajasthan Limited Vs. VCK Shares and Stock Broking Services Limited* reported in *(2023) 1 Supreme Court Cases 1* and drew our attention at paragraph Nos.47 and 48 of the judgment, which is extracted hereunder:

> *"**47.** We may also refer to the judgment of this Court in Transcore [Transcore v. Union of India, (2008) 1 SCC 125 : (2008) 1 SCC (Civ) 116] opining that DRT, being a Tribunal and a creature of the statute, does not have any inherent power which inheres in civil courts such as Section 151 of the Code.*
>
> ***48.** We now draw our attention to Chapter 5 of the RDB Act, which deals with recovery of debt determined by DRT. Section 25 of the RDB Act prescribes the mode of recovery of debts, which takes place pursuant to a certificate issued under sub-section (7) of Section 19 to recover the amount of debt specified in the certificate by any of the modes specified therein. The expanse of the reliefs the defendant may claim in the suit proceeding can certainly go beyond mere adjustments of the amounts of claim, for which DRT would not have any power."*

9.The findings rendered by the learned single Judge at paragraph 21 of the impugned order is extracted hereunder:

> *"21.Having considered the facts and circumstances of the case and also considering the contention of the learned counsel of either side, it is admitted fact that O.A. No.196 of 2017 has been filed by the 1st defendant bank for recovery of money. The facts for consideration in the suit are essential contentions before the DRT in O.A. No.196 of 2017. It is essentially laid down by special statue and also specific bar and exercise to DRT. As such, the said issues*

of recovery of money by the Bank is a subject matter before the DRT."

The learned single Judge has not framed any issue regarding bar of Suit. However, a finding with respect to the jurisdiction of DRT and bar of civil suit has been rendered by the learned single Judge, without any pleadings or materials in support of the same.

10.In the aforementioned judgment of *Bank of Rajasthan Limited Vs. VCK Shares and Stock Broking Services Limited,* the Hon'ble Apex Court clarified that the inherent powers under Section 151 of the Code of Civil Procedure vest with the civil courts rather than the Debt Recovery Tribunal (DRT). In the case of *Dwarka Prasad Agarwal* which is referred in the judgment cited supra, it is clarified that Section 9 of the Code confers jurisdiction upon civil courts to determine all disputes of civil nature unless the same is barred under statute either expressly or by necessary implication and such a bar is not to be readily inferred. The provision seeking to bar jurisdiction of a civil court requires strict interpretation and the Court would normally lean in favour of construction which would uphold the jurisdiction of the civil Court. It was further clarified by the Hon'ble Supreme Court that there is no provision in the Recovery of Debts and Bankruptcy Act 1993, by which the remedy of filing a civil suit by the borrower against the claim made by the bank is ousted.

For the sake of convenience, Paragraph 45 of the above said judgment of the Hon'ble Apex Court is extracted hereunder:

> *"45.We are thus of the view that there is no provision in the RDB Act by which the remedy of a civil suit by a defendant in a claim by the Bank is ousted, but it is the matter of choice of that defendant. Such a defendant may file a counterclaim, or may be desirous of availing of the more strenuous procedure established under the Code, and that is a choice which he takes with the consequences thereof."*

In light of the above decision, though a proceeding has been initiated before the debt recovery tribunal by the 1st Respondent bank for recovery of money in O.A.196/2017, it is left open to the appellant to choose between filing a counter claim before the debt recovery tribunal or to file a separate civil suit for appropriate remedies against the bank in respect of the dispute which is also the subject matter of the proceedings before the Debt Recovery Tribunal for the reason that the jurisdiction of the civil court is not excluded by the statute. In our opinion, there can be no bar for filing a suit, and the findings rendered in paragraph 21 of the learned Single Judge's order may not be correct in view of the judgment of the Hon'ble Apex Court referred supra.

11.Though the learned single Judge has framed seven issues related to the fixed deposit made by the appellant, the said issues were not touched upon. The learned single Judge has not given any finding with respect to the fixed deposit and liabilities of the parties by appreciating the oral and documentary evidence produced by the parties.

12.Therefore, we deem it fit and necessary to remand the matter to the learned single Judge to answer the issues formulated by the Court in C.S.No.413 of 2017, after hearing the respective learned counsel and to decide the matter. Taking into consideration, that the appellant is an octogenarian, we request the learned single Judge to dispose the suit within a period of one month from the date of receipt of a copy of this order.

13.With the above direction, this Appeal is disposed of and CS No.413 of 2017 is remanded to the learned single Judge for fresh consideration of the issues. No costs. Consequently, connected Miscellaneous Petitions are closed.

(A.S.M.,J) **(N.S.,J)**

28.08.2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

sai

To

1.DBS Bank of India Ltd.,
Adayar Branch,
Rep. by its Manager,

No.124A, Lattice Bridge Road,
K.R. Building,
Adyar, Chennai 20.

2.Reserve Bank of India
Rep by its Regional Director,
Fort Glacis, No.16, Rajaji Salai,
Chennai 600 001.

3.Uma Raja
W/o. M.Rajanarayanan,
Raj Emerald Apartments,
11, 3rd Floor, Seetha Nagar 3rd Road,
Nungambkkam, Chennai 600 001.

4.Nagini
D/o. M.Rajanarayanan,
Raj Emerald Apartments,
11, 3rd Floor, Seetha Nagar 3rd Road,
Nungambakkam, Chennai 600 001.

ANITA SUMANTH J.
and
N.SENTHILKUMAR J.
sai

Pre-delivery Judgment made in
OSA No.128 of 2024 and
CMP Nos.16227 & 18271 of 2024

28.08.2025