



WEB COPY

A NO. 6657 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

A NO. 6657 of 2024

in C.S.No.160 of 2024

Indian Bank

Represented by its Manager, Saidapet Branch, Bali Towers No.1
Abdul Razack Street, Saidapet, Chennai 600 015.

Applicant(s)

Vs

A.Raja

S/o.Arumugham, 3/82, Pillaiyar Koil Street, Kazhipattur, Padur
Post OMR, Chengalpattu

Respondent(s)

For Applicant(s):

M/s.K.V.Subramaniam Associatez
M.A.Abdul Wahab
R.JAGADEESAN

For Respondent(s):

Mr.K.V.Ananthakrishnan

ORDER

The present application has been filed to reject the plaint filed under Order VII Rule 11(d) in
the above suit in C.S.No.160 of 2024.



ian,

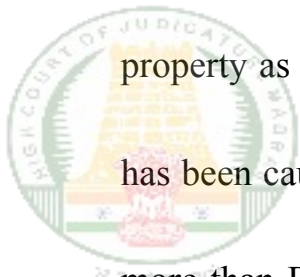
2. Heard M/s.K.V.Subramaniam Associatez, for the applicant and Mr.K.V.Ana

learned counsel appearing on behalf of the respondent.

WEB COPY

3. The learned counsel for the applicant would submit that the respondent/ plaintiff was a successful bidder in an auction conducted by the applicant/ bank as he had bid the highest amount. Pursuant to which he had also made a deposit of Rs.1,59,77,500/- including the Earnest Money Deposit. Since, he had defaulted in payment of balance amount, the amount paid by respondent/plaintiff to an extent of 25% from the bid amount was liable to be forfeited. He would submit that in an Application in A.No.3729 of 2024, an interim judgment and decree for a sum of Rs.65,00,000/- was ordered and had also been paid to the respondent herein. He would further submit that the forfeiture Clause had not been challenged by the respondent as the suit itself is barred, as the applicant has a right to forfeit the 25% of the deposit that has been made by the respondent.

4. Countering his arguments, the learned counsel for the respondent/ plaintiff would submit that even as per the tender notification for failure to honour the bid amount, the EMD amount alone is liable to be forfeited and in that respect, he would submit that the petitioner had deposited the EMD of a sum of Rs.37,90,000/- which represented 10% of the value of the



property as fixed by the applicant. Further, he would submit that there has been that
has been caused to the applicant/ bank as the applicant had in fact received the higher bid of
more than Rs.5,00,00,000/- in the auction and therefore, they are also not entitled to forfeit

WEB COPY

the EMD. He would further submit that by an interim judgment and decree, the suit had been
partly allowed and therefore, there cannot be any partial rejection of the plaint for the
remaining suit claim. Hence, he would seek dismissal of the application.

5. I have considered the submissions made by the learned counsels appearing on either side
and perused the materials available on record.

6. Order VII Rule 11 empowers the Court to reject the plaint on six instances. The claim
made by the applicant to reject the plaint, in this Court's consideration would not fall in any
of the instances. Clauses (b), (c), (e) & (f). Clause (a) refers to non-disclosure of cause of
action Clause (d) refers to a bar by any law from the averments made in the plaint.

7. The applicant had not raised any issues with regard to cause of action or any procedural
infirmities. He had also not raised an issue that the suit is barred by any law. That apart, it is
to be noted that by an order in the A.No.3729 of 2024, recording no objection made by the

applicant, a portion of the claim amount had been directed to be released in favour of the



plaintiff which amounts to a partial judgment and decree of the suit claim.

WEB COPY

8. It is strict law that a plaint cannot be rejected in part. In view that the suit claim had already been decreed in part, this Court is of the view that the application filed by the applicant/defendant cannot be entertained at this stage.

9. For the aforesaid reasonings and findings, this Application is dismissed.

10. Since, the pleadings have been completed, the Registry is directed to list the case for framing of issues during first week of March 2025.

03-02-2025

Gba