



2025:DHC:8116



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 19.08.2025***

+ **C.R.P. 3/2023 & CM APPL. 549/2023**

ADITYA BIRLA FINANCE LTD.

.....Petitioner

Through: Mr. Ravi Gupta, Sr. Advocate with
Ms. Sanya Lamba, Mr. Aman Vasisth
and Ms. Muskaan Mehra, Advocates

versus

SHRI JAGANNATH MEMORIAL EDUCATION TRUST

.....Respondent

Through: Ms. Nishi Chaudhary, Advocate

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 seeking to set aside an Order dated 19.12.2022 passed by the learned Civil Judge cum Rent Controller, Patiala House Court, New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, an Application filed by the Petitioner/Defendant under Order VII Rule 11 of the CPC [hereinafter referred to as "Application"] has been dismissed.

2. This Court had on 16.04.2025 heard the learned Senior Counsel appearing on behalf of the Petitioner and had thereafter listed the matter, for arguments on behalf of the Respondent, today. It is apposite to extract the



relevant portion of the Order dated 16.04.2025 in this behalf:

“...

3. Learned Senior Counsel for the Petitioner has been briefly heard in the matter.

...

6. The primary contention of learned Senior Counsel for the Petitioner is that plea of fraud is a bald plea and no actual averments in respect thereof, as are required in terms of the judgment passed by the Supreme Court in ***Mardia Chemicals Ltd. and Ors. vs. Union of India (UOI) and Ors.***; (2004) 4 SCC 311 and judgments passed by Coordinate Benches of this Court, exist.

7. Learned Senior Counsel for the Petitioner further avers that the learned Trial Court has relied on a judgment passed by a Single Judge in CS(OS) 262/2019 captioned ***Tajunissa & Anr. vs. Vishal Sharma & Ors.*** while passing the Impugned Order. However, he submits that a Division Bench of this Court by its order dated 06.01.2023 in FAO(OS) 11/2022 captioned as ***Kotak Mahindra Bank Limited vs. Tajunissa (Deceased) & Ors.*** has set aside the Impugned Judgment passed in ***Tajunissa*** case, directing the learned Single Judge to examine the matter afresh. Reliance is placed on the order dated 06.01.2023 passed by the Division Bench of this Court, relevant extract of which is below:

“5. After some arguments, the learned Counsel for the parties agree that the impugned order be set aside and the matter be remanded to the learned Single Judge to be considered afresh. It is so directed.

6. It is clarified that the pending application filed by the respondent for amendment of the plain or any other application that may be filed would be considered on its own merits in accordance with law.

7. The appeal is disposed of. The pending application also stands disposed of.”

8. Learned Senior Counsel thus submits that this is a fit case for exercise of jurisdiction under Section 115 of the CPC.

9. Learned Senior Counsel for the Appellant has concluded his arguments. List for arguments of the Respondent on 02.05.2025.”

[Emphasis supplied]

3. As stated above, the record reflects that the matter was listed for final disposal on 03.03.2025, when an adjournment was sought by the



Respondent. On 16.04.2025, once again an adjournment was sought by the Respondent. On 16.04.2025 as well, the adjournment was granted to the Respondent with a direction that no further adjournment would be granted. The matter was thereafter listed on 02.05.2025 when the Respondent again sought time to comply with the Order dated 16.04.2025 and thereafter the matter has been listed today.

3.1 Today, the learned Counsel appearing on behalf of the Respondent submits that she wishes to settle the matter with the Petitioner and that the matter be referred to mediation.

4. Learned Senior Counsel appearing on behalf of the Petitioner, on instructions, submits that the Petitioner is not inclined to proceed for mediation.

5. Accordingly, the learned Counsel appearing on behalf of the Respondent is asked to conclude arguments in the matter.

6. Learned Counsel appearing on behalf of the Respondent then requests for an adjournment to place her Written Submissions on record. The request is opposed by the learned Senior Counsel appearing on behalf of the Petitioner submitting that Written Submissions filed by the Respondent on 11.12.2023 are already on record and that it was made clear in the Order dated 16.04.2025 that no further adjournment would be granted to the Respondent.

7. Learned Counsel for the Respondent has contended that the suit filed before the Trial Court is maintainable since there are several allegations of



fraud made by the Respondent/Plaintiff in the suit. It is further contended that the Petitioner has diverted payments from its loan account to another in violation of the guidelines of the Reserve Bank of India. Thus, the present suit was filed.

7.1 Learned Counsel for the Respondent further submits that while passing the Impugned Order, the learned Trial Court relied upon the judgment in *Mardia Chemicals Ltd. & Ors. v. Union of India & Anr.*¹ and thus suit would not be barred by the provisions of Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter referred to as “SARFAESI Act”]. Since the dispute is of fraud, it has to be settled by the Civil Court.

8. In Rejoinder, the learned Senior Counsel has relied upon a recent Judgment of the Supreme Court in the matter of *Managing Director Bihar State Food and Civil Supply Corporation Limited & Anr. v. Sanjay Kumar*² to submit that what are serious allegations of fraud and what are the principles governing arbitrability in cases involving allegations of serious fraud have been set out. Learned Senior Counsel also refers to the fact that the inter-se disputes between the parties are also subject matter of arbitration proceedings pending before the retired Judge of this Court, Hon’ble Mr. Justice Vipin Sanghi.

9. As stated above, the Petitioner [Defendant before the learned Trial Court] has filed an Application under Section 34 of SARFAESI Act read

¹ (2004) 4 SCC 311

² 2025 SCC OnLine SC 1604



with Order VII Rule 11 of the CPC before the learned Trial Court on 14.11.2022 [hereinafter referred to as “Application”]. It was stated therein that the disputes between the parties are in essence with respect to a loan taken by the Respondent/Trust from the Petitioner in June 2019 of a value of the loan is approx. Rs.15.63 crores. The loan was secured by mortgage of commercial properties belonging to the Respondent/Trust. It is the case of the Petitioner that initially a sum of Rs.14 crores was availed by the Respondent/Trust, thereafter during the pandemic, a further emergency credit was sanctioned to the Respondent/Trust.

9.1 The loan was required to be repaid in monthly instalments. During the pendency of the loan, a suit was filed by the Respondent before the learned Trial Court inter alia seeking a declaration that the Petitioner has breached the sanction letters and the terms of the loan agreement and has fraudulently declared the loan account to be a Non-Performing Asset in violation of the guidelines. Several other declarations were also sought for directing the Petitioner to classify the loan account as a ‘Standard Account’. The suit was valued for the purpose of court fee and jurisdiction at Rs.10,000/- for each declaration despite the fact that the subject matter of dispute was upwards of Rs.15 crores.

9.2 The Application under Order VII Rule 11 of Code of Civil Procedure filed by the Petitioner was filed on the following grounds:

- (i) the suit is barred by the provisions of Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter referred to as “SARFAESI Act”];



(ii) the suit has not been correctly valued for the purposes of court fee and pecuniary jurisdiction;

(iii) that the dispute is also hit by the provisions of the Commercial Courts Act, 2015 as transactions being a commercial transaction.

10. The learned Trial Court has examined the matter and gave a finding that on account of the categorical averments made on behalf of the Plaintiff regarding the fraudulent acts committed and the fact that the Petitioner/Defendant has proceeded to declare the accounts of the Respondent/Plaintiff as “non-performing assets” would require examination by the Civil Court. It further held that the act of the Petitioner/Defendant *prima facie* seems to be doubtful given that the documents on record regarding moratorium [on account of Covid 19] granted and the period for same is set to expire.

10.1 The learned Trial Court has relied on the judgment of a Coordinate Bench of this Court in *Tajunissa & Anr. v. Vishal Sharma & Ors.*³, to hold that this case would be envisaged in those categories of cases where civil proceedings are permissible. Thus, the learned Trial Court held that the suit of the Respondent/Plaintiff is maintainable.

10.2 The Impugned Order further held that the suit is properly valued and falls within the jurisdiction of the Court and dismissed the Application under Order VII Rule 11 of the CPC. It is apposite to extract the relevant part of the Impugned Order below:

*“12. In view of the submissions made by Ld. Counsel for plaintiff and considering that there are **categorical averments made on behalf of plaintiff regarding fraudulent act committed on behalf of defendant in***

³ 2022 SCC Online Del 18



his plaint and the submissions made in the plaint regarding the fact that despite the moratorium granted to the plaintiff, defendant proceeded to declare the accounts of the plaintiff as a non performing asset are apparently fraudulent in nature. Also the act of defendant prima facie seems to be doubtful and plaintiff has also substantiated the same by placing on record the documents regarding moratorium granted to him and the period of the same is yet to expired. Also considering the judgment of the Hon'ble Supreme Court of India in the case of "Mardia Chemicals Ltd. & Drs. Vs. Union of India (UOI) and Ors." MANU/SC/0323/2004", wherein it has been held that "51. However, to a very limited extent jurisdiction of the civil court can also be invoked, where for example, the action of the secured creditor is alleged to be fraudulent or their claim may be so absurd and untenable which may not require any prob whatsoever or to say precisely to the extent the scope is permissible to bring an action in the civil court in the cases of English mortgages. We find such a scope having been recognized in the two decisions of the Madras High Court which have been relied upon heavily by the learned Attorney General as well appearing for the Union of India, namely V. Narasimhachariar (supra) p.13S at p.141 and 144)".

13. Also considering the judgment in the case of "Tajunissa & Anr. Vs. Vishal Sharma & Drs. CS (OS) 262/2019 passed by Hon'ble Delhi High Court" wherein it has been held that "21.To the statutory proscription engrafted in Section 34 of the SARFAESI Act, therefore, the Supreme Court has, in the afore-extracted passage from Mardia Chemicals chiseled out an expectation, in a case in which "for example the action of the secured creditor is alleged to be fraudulent or his claim may be so absurd and untenable which may not require any probe whatsoever".

"22. The words used by the Supreme Court indicate that the exception to availability of the ordinary civil remedym [sic: remedy] by the borrower, where the secured creditor has proceeded to take action under Section 13 of the SARFAESI Act, is not coached in exhaustive terms. The Supreme Court starts by using the expression "for example". This, even by itself, indicates that the categories of cases envisaged in the succeeding part of the sentence merely exemplify those cases in which recourse to the civil court is permissible, and are not' exhaustive in that regard".

14. I am of the considered view that the present suit of the plaintiff is maintainable before the present Court. Further the suit of the plaintiff is properly valued and falls within the jurisdiction of the present Court, and therefore, the application of the defendant under order 7 Rule 11



CPC stands dismissed.

15. Status quo be maintained till further orders.

16. Defendant is restrained from taking any coercive steps against the plaintiff till further orders.”

[Emphasis supplied]

11. The learned Trial Court further directed that the *status quo* be maintained and also restrained the Petitioner/Defendant from taking any coercive steps against the Respondent/Plaintiff until further orders.

12. It is settled law that for the purpose of an examination of an Application under Order VII Rule 11 of the CPC all that the Court is required to do is to examine the Complaint and the documents filed by the Plaintiff and if on a demurrer the suit is not maintainable in view of any of the provisions of Order VII Rule 11(a) to (e) the Complaint shall be dismissed. Order VII Rule 11 is set out below:

ORDER VII Complaint

11. Rejection of complaint.— The complaint shall be rejected in the following cases:—

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the complaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the complaint to be barred by any law;

[(e) where it is not filed in duplicate;]

[(f) where the plaintiff fails to comply with the provisions of rule 9:]

[Provided.....]

[Emphasis supplied]



13. As stated above, the challenge in the present Petition has been made by the Petitioner/Defendant in his Application on the following grounds:

(i) Firstly, that the suit is barred by the provision of Section 34 of the SARFAESI Act, 2002.

(ii) Secondly, that the suit has not been correctly valued for the purposes of Court Fees Act, 1870 pecuniary jurisdiction since the relief that has been claimed in the present suit and the subject matter of dispute is in relation to a loan/financial facilities taken by the Respondent Trust from the Petitioner/Defendant which runs into several crores.

(iii) Thirdly, that the dispute is also hit by the provisions of the Commercial Courts Act, 2015 [hereinafter referred to as “CC Act”] as the transaction is commercial in nature. Reliance in this behalf is placed on Section 2(1)(c)(i) of the CC Act.

14. The Petitioner/Defendant has also contended that the Impugned Order wrongly premises itself on two (2) judgements which are not applicable in the circumstances being the judgment of the Supreme Court in the case of *Mardia Chemicals* and the judgment of a Coordinate Bench in *Tajunissa* case. Thus, it is contended that this is a fit case for the exercise of revisionary jurisdiction by the Court

15. This Court has examined the Complaint as filed by the Respondent/Plaintiff as well as the Application under Order VII Rule 11 filed by the Petitioner/Defendant. The Respondent/Plaintiff has filed a suit for declaration and mandatory injunction before the learned Trial Court along with an Application under Order XXXIX Rules 1 and 2 for interim relief.



16. As discussed above, the Petitioner/Defendant had filed the Application seeking rejection of the plaint on several grounds including the pleas that the suit is commercial in nature. This plea although raised in the Application has not been examined by the learned Trial Court at all. Section 2(1)(c)(i) of the CC Act reads as follows:

2. Definitions.—(1) In this Act, unless the context otherwise requires—

(c) “commercial dispute” means a dispute arising out of—

*(i) **ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;***

[Emphasis supplied]

16.1 A plain reading of the provision shows that all ordinary transactions of merchants, bankers, financiers, traders and those relating to mercantile documents, including enforcement and interpretation of such documents are amenable to jurisdiction of a Commercial Court. The Petitioner/Defendant is stated to be a Non-Banking Financial Company (NBFC) and is in the business of providing financial assistance to entrepreneurs/Businesses /Individuals. The Respondent/Plaintiff is a Trust engaged in providing education to children.

17. Section 6 of the CC Act provides that the Commercial Court shall have jurisdiction to try all suits relating to a commercial dispute of a specified value as is defined in Section 2(1)(i) of the CC Act. Section 2(1)(i) and Section 6 of the CC Act are set out below:

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

*(i) **“Specified Value”**, in relation to a commercial dispute, shall mean the value of the subject matter in respect of a suit as determined in accordance with section 12 [which shall not be less than three lakh rupees] or such higher value, as may be notified by the Central Government.*



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6. Jurisdiction of Commercial Court.—The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Explanation.—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908)."

[Emphasis Supplied]

18. It is not disputed by either party that the Complaint in essence, arises out of loan facility agreement which has been taken by the Respondent/Plaintiff from the Petitioner/Defendant. The relevant paragraphs of the Complaint, which reflect the transaction between the parties, are set out below:

"6. That in the year 2019 considering the glorious background of Plaintiff and strong financial strength, the officials of Defendant approached the Plaintiff and offered to take over the credit facilities which the plaintiff was having with HDFC Bank, the earlier lender which disbursed the loan facilities to the Plaintiff and also to provide additional financial assistance at reduced rate of interest. That believing assurances given by the then officials of Defendant, Plaintiff applied for takeover of existing credit facilities from HDFC and for enhancement of the existing credit facilities being enjoyed by the Plaintiff.

7. That the Defendant, after considering the economic financial viability of Plaintiff requirement and excellent track record of Plaintiff, sanctioned a Term Loan of Rs. 1400.00 Lacs and Line of Credit of Rs. 100.00 lacs and accordingly total of Rs. 1500.00 Lacs, vide sanction letter dated 25-06-2019 and took over the credit facilities from HDFC and closed all the loan accounts of Plaintiff with HDFC.

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24. That it is pertinent to mention that seeing the aftermath of the Covid 19 the Government of India through Ministry of Finance, Department of Financial Services has also introduced the Emergency Credit Line Credit Line Guarantee Scheme (ECLGS) on 23.05.2020 for providing 100% guarantee coverage for additional working capital term loans (in case of Banks and FIs) and additional term loans (in case of NBFCs) upto 20%



of their entire outstanding credit upto Rs 25 Crores i.e Rs 5 crore as on February 29,2020 subject to the account being less than or equal to 60 days past due as on that date.

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30. That the main purpose of the grant of ECLGS scheme wherein an amount of Rs. 291,70,700/- was sanctioned to the Plaintiff was to meet the outstanding liabilities and restart of the business and moratorium period of 24 months was duly granted from the Defendant to the plaintiff for repayment of the principal loan amount from the date of sanction meaning thereby no coercive action will be determined by the Defendant as far payment of principal amount is concerned during the moratorium period.

31. It is submitted that out of sanctioned amount of Rs.2,91,70,700/- only a sum of Rs 2,85,00,000/- was disbursed to the Plaintiff on 20-08-2020 & 21-08-2020 in tranches and further reasons best known to the Defendant an amount of Rs 1,85,00,000 was recalled back by the Defendant on same dates i.e. 20-08-2020 & 21-08-2020 and the same is duly reflected in the statement of account of the Plaintiff maintained with HDFC Bank bearing account no.50200024179715. A copy of the statement of account of the Plaintiff maintained with HDFC Bank bearing account no.50200024179715 is filed herewith.

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37. That the misconduct of the Defendant is Prima Facie Evident that under the Circular No.5, the Plaintiff never opted for the Restructuring of the Term Loan account, however the Defendant vide letter dated 28-07-2021 restructured the Term Loan facilities of the Plaintiff under MSME Sector vide sanction letter dated 28-07-2021, irrespective of the fact that restructuring of account was not sought by the Plaintiff. Further extended the benefit of Moratorium and extended the repayment tenure of previous ECGL Loan of Rs 2,90,70,700/- vide Addendum letter dated 28-07-2021. A Copy of Sanction letter of Restructuring dated 28-07-2021 is filed herewith.

38. That as per the said letter of sanction dated 28.07.2021 there was a moratorium for a period of 18 months on principal as also on the interest part. Defendant also charged very hefty restructuring fees from the Plaintiff which is though against the RBI guidelines. A Copy of addendum to Sanction letter dated 28-07-2021 is filed herewith.

39. That thereafter due to ill motive the Defendant again offered a Guaranteed Emergency Credit Line (GECL) to the, Plaintiff for Rs. 1,45,85,3001- (Rupees One Crore forty Five Lakhs Eighty Five Thousand Three Hundred Only) vide sanction letter dated 28-07-2021. A



copy of the Sanction Letter dated 28-07 -2021 is filed herewith.

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41. That the defendant in utter breach of the sanction letter released on a sum of Rs20 lacs (out of Rs.145.853 lacs) to the Plaintiff and the same is duly reflected in the statement of account of the Plaintiff maintained with PNB Bank bearing account no. 3101002100024291. A copy of the statement of account of the Plaintiff maintained with PNB Bank bearing account no. 3101002100024291 is filed herewith.

42. That the main objective of the grant of ECLGS scheme was not only to support the running school of the Plaintiff but was also to meet the outstanding liabilities and restart of the business and moratorium period of 24 months was duly granted to the plaintiff under the Term Loan vide sanction letter dated 28.07.2021 having moratorium period of 18 months.

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44. That it Plaintiff on all occasions, while granting credit facilities, was made to sign various blank papers, Lockdowns were declared by State of Haryana and Delhi in the Second Week of August, 2021 due to spread of Third Wave of Covid-19 pandemic which continued till December 2021 and even the pandemic situation is still not normal in India and abroad and as a matter of fact the operations of the schools & Education sector was normalized and start functioning only from April 2022 and by the time Plaintiff could fully recover from business Loses [Sic: Losses] and start paying the EMI's of the 1st Term Loan, the Defendant with mala fide intention to harass the Plaintiff, without even informing the Plaintiff in order to malign the image of Plaintiff declared the account of Plaintiff as Non-Performing Asset [NPA] on 15-07-2022 fraudulently, illegally and in gross breach and violation of the circulars/guidelines issued by the RBI from time to time and issued a demand Notice dated 20-07-2022 in total and stark breach of the terms and conditions of the sanction letters. Issuance of the demand letter has been during the currency of the moratorium period, which is still operation at the time of filing of the present suit. Copy of the demand notice dated 20.07.2022 is filed along with the suit."

[Emphasis supplied]

18.1 It is also apposite to extract the prayers made by Respondent/Plaintiff in the Plaint, below:

"a) declaration that the defendant has fraudulently, illegally and wrongfully committed breach and violation of sanction letters dated



28.07.2021 issued by defendant for Term Loan and for Guaranteed Emergency Line of Credit (GECL);

b) declaration that, the act of the defendant has fraudulently and illegally declared the loan account of the plaintiff as a Non-Performing Asset (NPA) with effect from 15-07-2022 and in violation of the Reserve Bank of India Guidelines/circulars;

c) declaration that the defendant has fraudulently and illegally diverted the payments made by the plaintiff in one loan account to the other loan account and has violated the guidelines and circulars issued by the RBI;

d) declaration that the defendant has played a fraud on the plaintiff as well as on NCGTC & RBI by manipulating the release and adjustment/diversion of funds in gross violation of the conditions/guidelines/circulars of the RBI;

e) mandatory injunction directing the defendant to classify the loan accounts of the plaintiff 'Standard Account' in terms of the guidelines/circulars issued by the RBI

f) cost and litigation expenses incurred by the Plaintiff for the present suit;”

[Emphasis supplied]

19. An examination of the plaint shows that the entire transaction between the parties is in relation to the enforcement of loan facility agreement. In the event the suit relates to a commercial dispute as is defined in the CC Act, it would not be amenable to the jurisdiction of a Civil Court and appropriate orders would be required to be passed.

20. Concededly, this aspect has not been examined by the learned Trial Court despite the fact that this was raised as a ground for rejection of the plaint in the Application filed by the Petitioner/Defendant.

21. In addition, so far as concerns the challenge made to the valuation of the Plaint, other than the Impugned Order giving a one sentence finding the



challenge has not been examined as well. The learned Trial Court has found that the “*suit of the Plaintiff is properly valued and falls within the jurisdiction of the present Court*”, while dismissing the Application. Paragraph 14 of the Impugned Order, which sets out this finding is below:

*“14. I am of the considered view that the present suit of the plaintiff is maintainable before the present Court. **Further the suit of the plaintiff is properly valued and falls within the jurisdiction of the present Court, and therefore, the application of the defendant under order 7 Rule 11 CPC stands dismissed.**”*

[Emphasis supplied]

22. Section 115 of the CPC sets out that where the learned Trial Court fails to exercise its jurisdiction or exercise its jurisdiction not vested in by law, the provision of Section 115 of the CPC is applicable. Section 115, in this behalf, is reproduced below:

“Section 115 – Revision

The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit:

Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceedings.”

[Emphasis Supplied]

23. It is settled law that where the Court finds that jurisdiction exercised by a subordinate Court has been exercised illegally or it finds that there is a failure to exercise jurisdiction the Court is bound to interfere. The



Constitution bench of Supreme Court in *Pandurang Dhondi Chougule & Ors. v. Maruti Hari Jadhav & Ors.*⁴, has held that the scope of Section 115 of the Code of Civil Procedure has been clearly delineated by judicial precedents. The High Court, while exercising its revisional jurisdiction under this provision, is not empowered to correct errors of fact or law unless such errors pertain to the jurisdiction of the subordinate court. Only where the subordinate court has exercised jurisdiction not vested in it, failed to exercise jurisdiction so vested, or acted with material irregularity, can the High Court interfere. The relevant extract of *Pandurang Dhondi* case is set out below:

“10. The provisions of Section 115 of the Code have been examined by judicial decisions on several occasions. While exercising its jurisdiction under Section 115, it is not competent to the High Court to correct errors of fact however gross they may, or even errors of law, unless the said errors have relation to the jurisdiction of the court to try the dispute itself. As clauses (a), (b) and (e) of Section 115 indicate, it is only in cases where the subordinate court has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity that the revisional jurisdiction of the High Court can be properly invoked. It is conceivable that points of law may arise in proceedings instituted before subordinate courts which are related to questions of jurisdiction. It is well settled that a plea of limitation or a plea of res judicata is a plea of law which concerns the jurisdiction of the court which tries the proceedings. A finding on these pleas in favour of the party raising them would oust the jurisdiction of the court, and so, an erroneous decision on these pleas can be said to be concerned with questions of jurisdiction which fall within the purview of Section 115 of the Code. But an erroneous decision on a question of law reached by the subordinate court which has no relation to questions of jurisdiction of that court, cannot be corrected by the High Court under Section 115.”

[Emphasis supplied]

24. In the present case, despite the specific plea that the transaction arises

⁴ 1965 SCC OnLine SC 83



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out of a commercial loan facility agreement, which ousts the jurisdiction of the Civil Court, the Trial Court has not returned any finding on this aspect. Moreover, the issue of improper valuation of the Plaint has been dealt with only cursorily, without assigning any reasoning beyond a bare assertion that the suit is “*properly valued*”.

25. The examination by this Court thus shows that the Learned Trial Court has failed to adjudicate the Application under Section 34 of the SARFAESI Act read with Order VII Rule 11 of the CPC as filed by the Petitioner/Defendant. The grounds as raised by the Petitioner/Defendant in its Application have not been considered.

26. Accordingly, and for the reasons as stated above, this Court finds that the learned Trial Court has failed to exercise jurisdiction vested in it. Thus, the Impugned Order cannot be sustained and is accordingly set aside.

27. The Petition is disposed of in the foregoing terms. All pending Applications stand closed.

28. The parties shall appear before the learned Trial Court on 16.10.2025, the date already fixed, for further proceedings.

29. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

AUGUST 19, 2025/g.joshi/ha