



2025:DHC:8127-DB



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

Date of Decision: 15.09.2025

+ **FAO(OS) (COMM) 243/2024 and CM APPL. 65226/2024**

DEUTSCHE BANK AG

.....Appellant

Through: **Mr. Rahul Tyagi, Mr. Aaditya Singh,
Mr. Satwik Mitra, Advs.**

versus

NALINI GUPTA & ORS.

.....Respondents

Through: **Mr. Pradip Diwan, Sr. Adv. with Mr.
Neeraj Kumar Jha and Mr. Tushar
Sharma, Advs. for R-1
Mr. Pragalb Bhardwaj, Adv. for R-
3**

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (ORAL)

ANIL KSHETARPAL, J.

1. The Appellant (Defendant before the learned Single Judge) assails the correctness of the order passed by the learned Single Judge on 15.10.2024, in substance, the Respondent No.1 (Plaintiff before the learned Single Judge) claims that her husband-Sh. Nikhil Gupta, while borrowing a loan from the Appellant, mortgaged the entire property, including her share in the said property, by forging her signatures.

2. The Appellant took steps to recover the amount as per the provisions of Securitization and Reconstruction of Financial Assets and Enforcement



of Security Interest, Act 2002 [hereinafter referred to as 'SARFAESI Act']. The Appellant also filed an application under Order VII Rule 11 of the Code of the Civil Procedure [hereinafter referred to as 'CPC'] claiming that under Section 34 of the SARFAESI Act, the suit is not maintainable.

3. On 15.10.2024, the learned Single Judge made the following observations in Paras 3, 4 and 5 which are extracted as under:-

"3. This Court has considered the submission of the defendant no. 1 and perused the original documents produced by defendant no. 1 and compared with the admitted signatures of the plaintiff on the sale deed dated 14.01.2016; as well as the signatures of the plaintiff on the pleadings filed before this Court.

4. This Court is prima facie of the view that the submission of the plaintiff that she has not signed the documents relied upon by the defendant no. 1, bank appears to be correct. The signatures of the plaintiff on the sale deed on comparison with naked eye do not match in stroke and style with the signatures appearing on the bank's loan documents.

5. This Court is, therefore, inclined to refer the loan documents relied upon by the defendant no. 1, bank to CFSL for comparison of the signatures of the plaintiff with her admitted signatures on the sale deed dated 14.01.2016 as well as her specimen signatures. However, the directions with respect to the reference to the CFSL shall be issued on the next date of hearing after perusing the affidavit of defendant no. 1 officer, who has countersigned these documents. Until then, the Court Master is directed to place these six documents handed over by defendant no. 1 today in a sealed cover with the Assistant Registrar (Original Side); and further be sent to Court on the next date of hearing."

4. The suit is at the preliminary stage. Even while, recording *prima-facie* observations, the Court is required to be careful, lest it may prejudice the interest of one of the parties.

5. This Bench does not find it appropriate to further examine the matter, particularly when the suit is pending and an application under Order VII Rule 11 of the CPC is yet to be decided. However, the observations



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recorded though *prima-facie*, in Para 4, are not necessary in the peculiar facts of the case. Hence, the observation in Para 4 shall stand deleted.

6. The learned Single Judge is requested to take up the application under Order VII Rule 11 of the CPC and make sincere endeavours for its expeditious disposal.

7. With these observations, the present Appeal, along with pending application, is disposed of.

8. Needless to observe that, learned Single Judge will proceed to decide application under Order VII Rule 11 of the CPC, uninfluenced by the observations made in the order dated 15.10.2024.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 15, 2025/sp/db