IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 884 of 2026
in
C.S. No. 117 of 2024

1. M/s Vikram Bike Zone Private Limited And 3 Others
   Regd. Office No.465/1b, 466/1a2, (aavin Diary Opp)
   Agasipalli Village, Agharam Post, Krishnagiri,
   Tamil Nadu - 635 001.
   Represented By Its Managing Director Mrs. M.Shanthi.
2. KJV Vikramadhitan
   304, New Housing Board,
   Phase -ii, Kattiganapalli, Krishnagiri,
   Tamil Nadu - 65 002 And At
   K J V Vikramadhitan,
   219, Mig Flat, New Housing Board,
   Phase - Ii, Kattiganapalli, Krishnagiri,
   Tamil Nadu 635 002.

3. M.Shanthi
   W/o K J V Vikramandhitan,
   No.304/4, Mig Maharaja Kadai,
   Krishnagiri, Tamil Nadu - 65 120 And Also At
   219, Mig Flat, New Housing Board, Phase -ii,
   Kattiganapalli, Krishnagiri,
   Tamil Nadu - 65 002.
4. B.Kumar
   S/o Puttan
   No.9/146,jaibeen Nagar, Pachal,
   Tirupattur, Vellore
   Tamil Nadu - 635 602.

..Applicant(s)

Vs

M/s Dhana Captial And Finance Limited
Represented By Its Director N.R.D. Premkumar,
No.11, N.R.D. Towers, 100 Ft.Toad,
Ashok Nagar,
Chennai - 8.

..Respondent(s)

PRAYER: To Reject the Plaint in C.S.No.117 of 2024.

For Applicant(s): M/s. M.Mohamed Afridi
Am.Udhaya Raj
Aswin V
Deenadayalan J

For Respondent(s): Mr.G.Sivashanmugham

ORDER

Heard.

2. This application has been filed by the defendants under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint in C.S.No.117 of 2024 on the ground that the suit is barred by law, particularly in view of Section 34 of the SARFAESI Act.

3. The suit in C.S.No.117 of 2024 has been instituted by the respondent / plaintiff, M/s. Dhana Capital and Finance Limited, for recovery of money, in default, sale of the secured property, together with consequential reliefs.

4. The Applicant states that the present suit is for recovery of a secured debt based on a deed of collateral security; the plaintiff is a Non-Banking Financial Company regulated by RBI; the plaintiff company falls within the category of a financial institution; that once a security interest has been created in favour of such institution, the remedy lies under the SARFAESI Act; and the Civil Court's jurisdiction is barred by Section 34 of the SARFAESI Act. The applicants further state that, on a reading of the plaint itself, the suit is barred by law and is liable to be rejected under Order VII Rule 11 CPC.

5. The respondent / plaintiff has filed a counter affidavit opposing the application. In the counter, the plaintiff states that the suit was filed for recovery of Rs.1,03,06,946/- with supporting documents and stated that although the plaintiff is an NBFC, not all NBFCs are governed by the SARFAESI Act; that the plaintiff does not fall within the eligibility criteria of the SARFAESI Act; and therefore that there is no statutory bar to maintaining the present civil suit. The plaintiff has also

specifically stated that the suit is primarily for recovery of the loan outstanding and, in default, for sale of the collateral property.

6. Section 13(2) of the SARFAESI Act sets out the circumstances in which the Act can be invoked and reads thus: “Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any instalment…”. The expression “secured creditor” is defined under Section 2(zd)(i) to mean “any bank or financial institution or any consortium or group of banks or financial institutions holding any right, title or interest upon any tangible asset or intangible asset as specified in clause (l).” Thus, the definition makes it clear that a secured creditor includes a financial institution within the meaning of the Act. The term “financial institution” is in turn defined under Section 2(m)(iv) of the SARFAESI Act as “any other institution or non-banking financial company as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934), which the Central Government may, by notification, specify as financial institution for the purposes of this Act.”

7. A plain reading of the above definition makes it clear that every Non-Banking Financial Company does not automatically fall within the definition of

"financial institution" for the purpose of the SARFAESI Act. Such institution must be specifically notified by the Central Government. As per Notification No. S.O. 856(E) dated 24.02.2020 issued by the Ministry of Finance, only NBFCs having an asset size of Rs.100 crores or more are classified as "financial institutions" for the purpose of the SARFAESI Act. In the present case, the plaintiff does not fall within the said classification, since its turnover does not exceed Rs.100 crores. In support of the same, the plaintiff has produced the Auditor's Certificate. To refute the same, no evidence has been adduced on the side of the defendant.

8. The applicant has also raised a contention with regard to limitation. According to him, as per the plaintiff's own pleadings, the last payment was made on 14.08.2019 and, therefore, the period of limitation of three years expired on 14.08.2022. Though the plea of limitation has not been specifically averred in the affidavit, this Court, on a perusal of the records, finds that the loan transaction in question was secured by a registered deed of collateral security creating security interest over immovable property on 08.06.2018, which is, covered under Article 162 of Limitation Act 1963, the period of limitation is twelve years. Hence, the suit is not barred by limitation.

9. In view of the above discussion, this Court holds that the suit is not barred under Section 34 of the SARFAESI Act. Consequently, the application for rejection of plaint is liable to be dismissed.

10. In the result, A.No.884 of 2026 is dismissed. No costs.

16-04-2026

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

AY

DR.A.D.MARIA CLETE, J.

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