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C.R.P. NO.771 OF 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 05 / 12 / 2025

ORDER PRONOUNCED ON: 24 / 02 / 2026

CORAM:

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.771 OF 2021

AND

C.M.P. NOS.6386 OF 2021 & 5764 OF 2024

M/s.City Union Bank Ltd.,
Rep. by its Branch Manager Mr.S.Sriram,
“Keerthis”, 1st Floor,
No.67, Mandaveli Street,
Mandaveli, Chennai – 600 028.

... Petitioner/Petitioner/
Defendant

Vs.

M/s.Aptus Drums and Containers,
Rep. by its Managing Partner Mr.J.JayaKanagaraj
Door No.22, AbhinavKailash,
19-A, Velachery Road, Saidapet,
Chennai – 600 039.

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Fair and Decretal Order dated March 19, 2020 passed in I.A. No.3 of 2019 in O.S. No.3556 of 2018 on the file of XVIII Assistant Judge, City Civil Court at Chennai.



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For Petitioner : Mr.G.Logesh
for Mr.R.Sivaraman

For Respondent : Served – No appearance

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, praying to set aside the Dismissal Order dated March 19, 2020 passed in I.A. No.3 of 2019 in O.S. No.3556 of 2018 on the file of 'the XVIII Assistant Judge, City Civil Court at Chennai' ['Trial Court'], the Petitioner therein has filed this Civil Revision Petition.

2. The Revision Petitioner herein is the Defendant and the Respondent herein is the Plaintiff in the Suit in O.S.No.3556 of 2018. For the sake of convenience, the parties will be referred to as per their array in the Original Suit.

3. The Plaintiff filed the Suit seeking permanent injunction against the Defendant. The case of the Plaintiff is that the Plaintiff borrowed a sum of Rs.20,00,000/- as a loan under OLCC loan scheme and also another sum of Rs.47,00,000/- as OSL term loan. The aforesaid two loans were sanctioned on February 28, 2012. As per the loan transaction, the Plaintiff



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had been making the payments periodically and as on March 31, 2013, a sum of Rs.25,94,869/- and a sum of Rs.15,90,256/- had been repaid. A total sum of Rs.41,85,125/- had been repaid as on November 30, 2013. In spite of the payment, the City Union Bank transferred the entire loan papers and liability of the Plaintiff to M/s.Reliance Asset Reconstruction Company Limited for a sum of Rs.64,78,427/- and the same was accepted vide their letter dated May 20, 2014. Subsequently, the Defendant informed the Plaintiff that the Defendant has no claim whatsoever with the Plaintiff by any document. Out of the alleged due amount Rs.64,00,000/-, the Plaintiff is holding a Demand Draft for a sum of Rs.30,00,000/- and willing to pay the same as one-time settlement before the Court. The Defendant refused to accept the same and transferred the liability of the Plaintiff to M/s.Reliance Asset Reconstruction Company Limited. After transferring the liability, the Defendant sent their agents to the Plaintiff for recovery of the above loan amounts. Further, the Defendant - bank was trying to alienate the property by selling the same to an unknown buyer. In fact, the Defendant was trying to sell the property to one Koushal Jain for a sum of Rs.5,00,00,000/- and the said Koushal Jain and his colleagues were visiting the property with goondas and threatened the owner of the property to vacate and hand over the property to the Defendant - bank.



The Defendant, in the name of collection agents, threatened the Plaintiff to depart with furnitures, fixtures, jewels and fans to the tune of Rs.1,04,203.82/- from the Plaintiff's business if the Plaintiff does not clear the entire amount immediately. Hence, the Plaintiff filed a Suit seeking permanent injunction restraining the Defendant, its agents, servants or any other person in any manner from interfering with the peaceful possession and enjoyment of the Suit Schedule Property.

4. The Defendant filed this Interlocutory Application under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 contending that the plaint does not disclose any cause of action and the cause of action stated in the plaint are all false and based on surmise. The Plaintiff created a mortgage over the Suit Property and obtained two loans. Since the Plaintiff did not regularly pay the debt, the Defendant - bank initiated proceedings as per the rules and regulations contemplated under 'the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002' ['SARFAESI Act'] on March 21, 2014. The Defendant bank issued a demand notice under Section 13(2) of the SARFAESI Act which was duly received by the Plaintiff. Pursuant to the issuance of demand notice dated March 21, 2014, the said loans were transferred to M/s.Reliance Asset Reconstruction Company Limited *vide*



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Assignment Agreement dated May 19, 2014. The Plaintiff was aware of the said fact and the same was admitted in the plaint. The Plaintiff impleaded the Defendant to mislead the Trial Court to obtain an order by misrepresentation with an intention to damage the reputation of the Defendant - bank and the Defendant is not a necessary party to the Suit. M/s.Reliance Asset Reconstruction Company Limited has taken symbolic possession as per the SARFAESI Act. The Suit against the Defendant is a clear abuse of process of law. Hence, the Defendant seeks to strike off the plaint. The plaint does not make out any case nor disclose any cause of action and hence, it is not maintainable. According to the defendant, the Trial Court failed to appreciate the facts and circumstances and dismissed the Interlocutory Application. Hence, the Civil Revision Petition.

5. Mr.G.Logesh learned Counsel appearing on behalf of Mr.R.Sivaraman, learned Counsel on record for the Revision Petitioner/Defendant would submit that a bare reading of the plaint would show that the Suit has been filed to harass the Defendant as far as possible. The plaint does not disclose any cause of action and the cause of action stated in the plaint is based on conjecture and surmise. Further, if the Plaintiff really has any grievance over the proceedings initiated under the SARFAESI Act, the Plaintiff ought to have approached the authority



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constituted under the SARFAESI Act or the Debt Recovery Tribunal, as in view of Section 34 of the SARFAESI Act, Civil Suit is barred. Therefore, the plaint has no legs to stand and the same deserves to be rejected. He would pray to allow the Civil Revision Petition, set aside the dismissal Order made in I.A. No.3 of 2019, allow I.A. No.3 of 2019 and reject the plaint.

6. Despite service of notice, the Respondent / Plaintiff did not appear and contest the Civil Revision Petition.

7. This Court has considered the submissions along with the plaint. As narrated above, the Plaintiff borrowed money from the Defendant by mortgaging the Suit Property. Since the Plaintiff did not repay the said amount properly, the Defendant initiated proceedings under the SARFAESI Act, by issuing notice under Section 13(2) thereof and thereafter, the Defendant transferred the loan account to M/s.Reliance Asset Reconstruction Company Limited by following the procedure and it has been stated that symbolic possession of the mortgaged property / Suit Property was also taken. In these circumstances, the Plaintiff has no cause of action against the Defendant. If the Plaintiff is really feeling aggrieved by the proceedings initiated under the SARFAESI Act, the Plaintiff has to



approach the forum prescribed under the aforesaid Act but not the Civil Court. Further, a bare reading of the plaint would show that only with a view to drag on the SARFAESI proceedings, this plaint has been filed. Hence, the Defendant has made out a case under Order VII Rule 11 of CPC and the plaint has no legs to stand. Hence, the same deserves to be rejected. The Trial Court without considering Section 34 of the SARFAESI Act and without reading the plaint properly in a meaningful manner, dismissed the Interlocutory Application. Hence, the dismissal Order under challenge is to be interfered with by this Court by exercising the power under Article 227 of the Constitution of India, 1950.

8. Resultantly, the Civil Revision Petition is allowed, the Order dismissing the Interlocutory Application in I.A. No.3 of 2019 is set aside, I.A. No.3 of 2019 is allowed and the plaint is rejected. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition in CMP No.6386 of 2021 is closed.

9. Civil Miscellaneous Petition No.5764 of 2024 was filed by M/s.Reliance Asset Reconstruction Company Limited seeking to substitute itself in the place of Defendant - bank. As M/s.Reliance Asset



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Reconstruction Company Limited is not a party in the Suit, this Court is of the view that the Civil Miscellaneous Petition is liable to be dismissed.

Accordingly CMP No.5764 of 2024 is dismissed.

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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
pam/TK

To

The XVIII Assistant Judge
City Civil Court
Chennai.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN
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