IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

CRP No. 5875 of 2025 and CMP No.29033 of 2025

1. Rathibai
W/o Late Srinivasan, Res No 3, (Old No 13), Mariamman Koil Street, Solai Nagar, Muthialpet, Solai Nagar, Muthialpet, Puducherry 605003
2.Sivasankaran
S/o Late Srinivasan, Res No 3, (Old No 13), Mariamman Koil Street, Solai Nagar, Muthialpet, Solai Nagar, Muthialpet, Puducherry 605003
3.Gunasekaran
S/o Late Srinivasan, Res No 3, (Old No 13), Mariamman Koil Street, Solai Nagar, Muthialpet, Solai Nagar, Muthialpet, Puducherry 605003

Petitioner(s)

Vs

1. The Branch Manager
State Bank Of India, RASMECC, Jai Krishna Plaza, No 7, 1st Floor, Iyyanar Koll Main Street, Ellaipillaichavady, Puducherry 605 005.
2.The Deputy General Manager
State Bank of India, RASMECC, Zonal Office at No.120, Chetty St, Asthampatty,

Salem
3.The General Manager
State Bank of India, Net Work 3,
RASMECC No.16, BSNL Buildings,
Apama Complex, 7th Floor, Near Sankara
Nethralaya, College Road, Greams Road,
Chennai 6

4.The Chief General Manager
State Bank of India, RASMECC No.16,
BSNL Buildings, Apama Complex, 7th
Floor, Near Sankara Nethralaya, College
Road, Greams Road, Chennai 6

Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the plaint's rejection order dated 01.09.2025 passed in unnumbered O.S.SR No.6244 of 2025 on the file of Principal District Munsif Court, Puducherry.

For Petitioner(s): P.G.Thiyagu

For Respondent(s): Mr.M.L.Ganesh

ORDER

Heard Mr.P.G.Thiyagu, learned counsel for the petitioners and Mr.M.L.Ganesh, learned counsel for the respondents.

2. The short point on which the revision hinges is that the property which was not the subject matter of the mortgage to the bank is now proceeded against by the bank, and therefore, there is no impediment for the petitioners to file the suit before the

competent civil court and the suit was very well maintainable under Section 9 of Civil Procedure Code. However, the court below has rejected the plaint. The Principal District Munsif Court, Puducherry has rejected the plaint at the unnumbered state. The revision is challenging the order of rejection.

3. After service of notice, learned counsel appearing for the respondent Bank is also heard. Mr.M.L.Ganesh, learned counsel appearing for the respondents Bank would state that as contended by the petitioner's counsel, the bank is not entitled to proceed against anything more than what has been mortgaged to bank under the mortgage deed by late Srinivasan. He also brings to my notice that despite OTS offered and accepted by the petitioners themselves, they have not come forward to settle the bank and therefore, the bank was constrained to proceed by taking steps under Sections 13(2) and 13 (4) of the SARFAESI Act. He would therefor estate that the proceedings that have been initiated by the respondents bank in accordance with law cannot be scuttled by filing an independent suit and he would therefore state that the order rejecting the plaint was very much in order and does not require interference.

4. I have carefully considered the submissions made by the learned counsel on either side.

5. Learned counsel for the petitioners would take me through the mortgage deed as also the suit schedule property to contend that the property which is the subject matter of the mortgage is only 2065 sq.ft, however, even the possession notice was issued only in respect of the said 2065 sq.ft. However, in the possession notice, the property has been described as measuring 3972 sq.ft.

6. I therefore find merit in the submissions of the learned counsel for the petitioner. The bank is certainly entitled to proceed against the property which is the subject matter of the mortgage and rightly they have invoked the provisions under the SARFAESI Act and issued possession notice initially in respect of the extent of 2065 sq.ft., which alone has been mortgaged by the deceased Srinivasan. However, for the reasons not known,in the second possession notice was issued on 16.07.2025, out of the blue, the extent has been enlarged to 3972 sq.ft.

7. Learned counsel for the respondents at this juncture states that the bank is certainly entitled to withdraw the possession notice and issue fresh possession notice and considering that there has been error committed in including an extent not covered by the mortgage deed, the bank will take appropriate steps to revise the possession notice

and proceed against the mortgaged property alone.

8. In the light of the fair concession shown by the learned counsel for the respondents bank, I do not see any purpose in allowing the parties to litigate in parallel proceedings before the civil court. It would sufficiently protect the interest of the petitioners that the banks stand that they will proceed only against the mortage property measuring 2065 sq.ft is recorded. In the meantime, it is open to the petitioners to approach the bank and settle the amounts which have been agreed under the OTS Scheme without further delaying the payment and taking advantage of any indulgence shown to the bank to avoid the mortgage property being brought for sale in public auction.

9. With the above direction, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2026

sr
Index:yes/no
Website:yes/no
Speaking Order/Non-speaking Order

P.B.BALAJI.,J

sr

To

The Principal District Munsif, Puducherry

CRP No. 5875 of 2025

26.02.2026