



WEB COPY

A No. 82 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

**A No. 82 of 2026
in C.S.No.251 of 2025**

State Bank of India
Stressed Assets Management Branch,
Red Cross Building, No.32, Montieth Road,
Egmore, Chennai -600 008.

..Applicant(s)

Vs

1.M.Sailaja
2.Minor M.Nihar Mohan Choudhary
Represented by his Mother and guardian M.Sailaja
3.Minor M.Niyathi Raam Choudhary
Represented by her Mother and guardian M.Sailaja
4.M/s. Jyothy Labs Ltd.,
(Earlier M/s.Henkel Spic India Ltd)
Represented by its Managing Director,
Ujala House,
Ramakrishna Mandir Road,
Kondivita,
Off Andheri Kurla Road,
Andheri East, Mumbai-400 059

5.M/s.R.K.Investments
Rep by its Authorized Signatory,
184-187, Tempe steps,
Anna salai,
Little Mount, Chennai-600015

..Respondent(s)

Prayer:- Application is filed under Order XIV Rule (8) of O.S.Rules r/w Order VII Rule 11 (a) (d) of C.P.C., pleaded to reject the suit in C.S.No.251 of 2025 on the ground of limitation, *res judicata* and barred by law for no cause of action.

For Applicant(s):

Mr.M.L.Ganesh



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For Respondent(s):

Mr.B.Ravi Raja Bappu for R1 to R3
Mr.Sushanth for R4.
M/s.Girija for R5

ORDER

This application has been filed by the applicant to reject the plaint on the ground of limitation, *res judicata*, and barred by law for no cause of action.

2.According to the applicant he is the first defendant in the main suit. The suit is filed by the plaintiffs who are 1 to 3 respondents herein for the relief of recovery of money and for declaration and for compensation. The suit is liable to be dismissed on the ground of *res judicata*, limitation and for no cause of action and non-joinder of necessary parties. This Court vide order dated 26.11.2009 in Company Application Nos.1445 and 1694 of 2009 in C.P.No.103 of 1993 already negated title and ownership of the first plaintiff and empowered the first defendant Bank to proceed with the sale of the subject property through the Recovery Officer attached to DRT II, Chennai and thereafter O.S.A.Nos.222 of 2013 and 75 of 2017 were also filed and dismissed through order dated 19.03.2020 and no SLP has been filed till date. Borrower M/s.Sethuraman Thiyagarajan Engineering Pvt Ltd had created an equitable mortgage in respect of the subject property while so the borrower had executed transfer of lease deed in favour of Lakshmi Narayana Choudhary, husband of the plaintiff. Any transaction done by the company in liquidation proceedings



two years is void in terms of Section 526 of Companies Act, 1956. The plaintiff has filed W.P.No.12596 of 2022 for the prayer not to bring the subject matter for auction until first plaintiff's petition dated 06.05.2022 is disposed of and the same was dismissed. The first plaintiff has filed application in M.A.No.136 of 2009 before the Recovery Officer, DRT II, Chennai for the same relief and the same was also dismissed on 26.02.2010. Subsequently, the Writ Petition came for final hearing. The first petitioner has withdrawn the same. The plaintiff also admitted that the Recovery Officer had taken over the possession of the property on 11.09.2015. The plaintiff admitted the earlier suit C.S.No.531 of 2010 and the same was transferred to City Civil Court, Chennai and pending in re-numbered O.S.No.7532 of 2010 and the same was withdrawn with liberty to file a fresh suit. While so, the prayer sought for direction to first defendant Bank to pay sum of Rs.77,54,520/- with interest as compensation being the rental income for the suit property is baseless. Since, already this Court negated the title and ownership of the plaintiffs in the earlier proceedings. As far as the second prayer is concerned without any justification and the third prayer is baseless. The fourth prayer is restraining the first defendant Bank from interfering with the plaintiff right to use of built up area of 3972 sqft is against the order passed by this Court in Company Application and appeals as well as the DRT proceedings. Therefore, the suit is barred by law and the plaint is liable to be rejected.



3. The respondents filed counter stating that the application under Order VII Rule 11 C.P.C is wholly misconceived, legally untenable and liable to be dismissed in limine as the plaint discloses a clear cause of action and no statutory bar is apparent on the face of the plaint. The application proceeds entirely on the defence version, disputed facts and interpretation of earlier proceedings which is impermissible at this stage. While considering the application under VII Rule 11 C.P.C., this Court is required to look only at the averments of the plaint without embarking upon an enquiry into the correctness of the allegations or the defence of the defendant. The plaintiff clearly pleads that a sum of Rs.30,00,000/- was paid directly to the first defendant bank whether the mortgage subsisted, whether the transfer was hit by any statutory provision and the effect of such transfer are all mixed questions of fact and law, requiring evidence and cannot be adjudicated under this application. The reliance placed by the applicant / first defendant and the borrower company went into liquidation on 10.12.1999 are matters of defence. The plaint itself pleads that the payment of Rs.30,00,000/- was made much prior thereto and that the bank accepted the same and acted upon. The correctness or otherwise of the possession proceedings cannot be decided in this application. There are proceedings pending before the DRT, Chennai, till date. It is true suit in C.S.No.531 of 2010 later renumbered as O.S.No.7532 of 2010 was withdrawn with liberty to file a fresh suit. The present suit is filed pursuant to such liberty and seek distinct and comprehensive reliefs based on subsequent and continuing



causes of action. Withdrawal with liberty cannot operate as *res judicata*, and this plea of *res judicata* cannot be adjudicated in this application. The plaintiff states that earlier proceedings did not adjudicate title in full and that the plaintiffs are therefore entitled to approach the competent Civil Court and the same cannot be a ground to reject the plaintiff. The maintainability of the prayers cannot be decided in the Order VII Rule 11 C.P.C. Therefore none of the grounds attracted to reject the plaintiff under Order VII and Rule 11 of C.P.C. and the petition is liable to be dismissed.

4.This Court heard both sides and perused the materials available on record.

5.In this case, the plaintiffs have filed the suit for the following reliefs:-

i)for directing the 1st defendant to pay to the plaintiffs, a sum of Rs.77,54,520/- together with interest at 24 % per annum from the date of filing this suit till the date of payment, as compensation, being the rental income that ought to have been earned from the plaintiff's 1 / 3rd admitted share in the schedule property, which the 1st defendant has illegally locked.

ii)for a declaration declaring that the 1st defendant to liable to pay to the plaintiffs, a sum of Rs.72,820/- per month to the plaintiffs as compensation for the loss of rent concerning the plaintiffs admitted 1/3rd share in the schedule property, from the date of filing this suit to the date of handing over possession



of the schedule property to the plaintiffs.

iii)for directing the 1st defendant to pay to the plaintiffs, a sum of Rs.25,00,000/- as compensation for the damages caused to the interiors and electrical and other fittings and fixtures in the schedule property.

iv)For a permanent injunction to restrain the 1st defendant men or servants or agents from in any manner interfering with the plaintiffs right and use of the total built up area of 3972 square feet, on account of the payment of the construction costs made by late M.Lakshmi Narayana Choudhary.

v)to order for the costs of the suit.

6.The defendant filed this petition under Order VII Rule 11 C.P.C to reject the plaint on the ground of limitation, *res judicata*, barred by law for no cause of action and already the property has been decided through Company Petitions and the plaintiffs have no *locus standi* to file this suit. It is well settled law that while deciding the application under Order VII Rule 11 the Court has to see the plaint, annexed documents whether any grounds under Order VII Rule 11 C.P.C is attracted then the Court can reject the plaint. In this case, in the plaint there are pleadings about the cause of action and the grounds raised by the applicant are defence to be taken in the written statement and based on the pleadings and the documents there are no grounds to attract the provisions under Order VII Rule 11 of C.P.C.



7. The learned counsel appearing for the petitioner also attempted to convince the Court by way of producing the documents. But it is settled law that the Court cannot look into the documents filed by the defendants in the Order VII Rule 11 application and the plaint averments and the plaint annexed documents alone can be looked into. The contention of the learned counsel that plaint is barred by *res judicata* is to be adjudicated after a full trial by framing specific issue, as far as the barred by law is concerned as per the plaint pleadings and documents there is no claim is barred by law. It may be true that there are so many previous proceedings between parties. While so it is the duty of the defendant to file an appropriate written statement and those documents cannot be tested through trial and after trial if the suit is vexatious, then the Court can decide the suit on merits and the applicant can pray for exemplary cost. But cannot attempt to produce documents at this stage and based on those documents, the Court cannot pass any orders while deciding the application under Order VII and Rule 11. The learned counsel for the applicant also produced the following judgments:-

i) T. Arivandandam Vs. T.V. Satyapal and others reported in AIR 1977 SC 2421

ii) K.K. Modi Vs. K.N. Modi and others reported in 1998 INSC 63

iii) Sopan Sukhdeo Sable & Anr Vs. Assistant Charity Commissioner and another reported in 2004 (3) SCC 137

iv) Bhagirath Prasad Singh Vs. Ram Narayan Rai and Others reported in



AIR2010Pat189.

v)J.Samsath Beevi Vs. Punjab National Bank in O.S.A.Nos.299 & 300 of 2009.

vi)Punjab National Bank Vs. J.Samsath Beevi reported in 2010 3 CTC 310

vii)J.Samsath Beevi Vs. Punjab National Bank in O.S.A.Nos.64 & 65 of 2010.

viii)J.Samsath Beevi Vs. Punjab National Bank in Special Leave to Appeal (Civil) Nos.13608-13609/2010

ix)Khatri Hotels Private Limited and anr Vs. Union of India and another reported in 2011 AIR SCW 5052

x)V.Thulasi Vs. Indian Overseas Bank reported in MANU/TN/1939/2011

xi)Chandra and Ors. Vs. K.Nagarajan and ors reported in MANU/TN/1517/2012

xii)Durga Projects and Infrastructure Pvt.Ltd and Ors. Vs. S.Rajagopala Reddy and others reported in ILR 2019 KAR 4739

xiii)Dahiben Vs. Arvinbhai Kalyanji Bhanusali (D) thr. L.Rs. And ors reported in AIR 2020SC3310

xiv)The Authorised officer, State Bank of India Vs. Allwyn Alloys Pvt Ltd and ors reported in 2018 INSC 536

xv)Electrosteel Castings Limited Vs. UV Asset Reconstruction



Company Limited and Ors reported in MANU/SC/1150/2021

xvi)SBI & Anr Vs. S.Ramesh Narayanan and another in O.S.A.No.37 of 2021.

xvii)Punjab and Sind Bank Vs. Frontline Corporation Ltd., reported in MANU/SC/0426/2023

xviii)Anoob J.Singh and ors. Vs. The Authorized Officer, Indian Bank and Ors. Reported in MANU/TN/0114/2025.

8.On careful perusal of the above judgments, they will not be applicable to the present facts of the case as those judgments are in respect of rejection of plaint on the basis of plaint averments and the documents filed along with the plaint. In the case on hand, the defendant attempted to produce documents and insisted the Court to peruse those documents. But this Court declined to peruse those documents and thereby the arguments of the learned counsel appearing for the petitioner are not acceptable.

9. At the same time, the learned counsel for the respondent has produced judgment of Hon'ble Supreme Court in ***Indian Evangelical Lutheran Church Trust Association Vs. Sri Bala and Company*** reported in ***AIR 2025 SSC 522***. On careful perusal of the above judgment, it is clear that the trial Court can access the power under Order VII Rule 11 at any stage of the suit that is before registering plaint or after receiving summons to the defendant at any time before



the conclusion of trial for the purposes of deciding the application under clause a and d of rule 11 of Order VII of the C.P.C. The averments in the plaint are German, the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage. In the case on hand also, the applicant filed his application on the ground of no cause of action and the barred by law under clause a and d of rule 11 of Order VII of C.P.C, therefore the plaint averments are German and the documents filed by the applicant cannot be looked into. In view of the above said discussions, this Court is of the opinion that this application has no merits and deserves to be dismissed. Accordingly, this petition is dismissed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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