

**IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE
RANIPET, RANIPET DISTRICT.**

Present: Thiru.A.BALAKRISHNAN, B.B.A., L.L.B.,
I Additional District Judge,
Ranipet.

Friday, this the 14th day of November 2025

I.A.No. 4 of 2025

in

O.S.No. 21 of 2020

S.Padmavathi

...

.....Petitioner/5th defendant.

-Vs-

1. R.Sundaramoorthy

.....1st respondent/Plaintiff.

2. N.Eshwaran

3. M. Suresh

4. Velu

5. Corporation Bank,
Sathuvachari Branch.

6. The Tahsildar,

7. The Sub-Registrar,

Walaja Taluk.

.....Respondents 2 to 7 /Defendants 1 to 4, 6 & 7.

...

This application is coming before me for final hearing on 29.10.2025 in the presence of Thiru.K.Solmuthu Azhagan, Advocate for Petitioner and Tmt. S.Sumathi, Advocate for the 1st respondent and the respondents 2 to 7 are called absent and set exparte and upon hearing the arguments of petitioner side and on perusal of written argument filed by the 1st respondent and on perusal of all connected material records and having stood over for consideration till this date, this court passed the following:-

ORDER

The petitioner/5th defendant has filed the application U/o VII Rule 11 of CPC, seeking an order for **rejection of plaint**.

1. Crux of the affidavit filed by the petitioner is as follows:-

The petitioner is a bonafide purchaser of the suit property for valid consideration. The suit property was under mortgage with the 4th respondent/4th defendant – Bank as per the Memorandum of Deposit of Title Deeds dt.15.10.2014. The mortgage was created by the 2nd respondent/1st defendant to secure the loan availed by him from the 4th defendant Bank. Since the 2nd respondent/1st defendant failed and neglected to pay the mortgage money due to the Bank, the bank initiated auction under the provisions of the SARFAESI Act. In pursuance of the said proceedings, the suit property was brought to public auction and the petitioner was declared successful bidder in the auction. After having paid the auction amount of Rs.38,25,000/- the bank issued a Sale Certificate in favour of the petitioner on 14.12.2018. The suit property was also delivered to the petitioner as per the order of the Executive Magistrate, Viz., The District Collector, Vellore, dt.03.06.2019 under section 14 of the SARFAESI Act. Thus the petitioner was the lawful purchaser of the suit property and he has also in lawful possession and enjoyment of the same. The 1st respondent/Plaintiff has filed the present suit challenging the said sale. As per Section 34 of the SARFAESI Act, no Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which a debt recovery Tribunal or Appellant Tribunal is empowered under this Act and no injunction shall be granted by any court in respect of any action taken or to be taken in pursuance of the any power conferred under the Act. The petitioner has to work out his remedy only by approaching the debts recovery Tribunal and not by filing Civil Suit. The plaint filed by the 1st respondent/plaintiff is specifically barred by law and as such it is not at all maintainable before this court, but liable to be rejected.

2. Nutshell of the counter filed on the side of 1st respondent/Plaintiff is as follows;-

The Interlocutor application filed by the 5th defendant for rejection of the plaint is legally misconceived, factually incorrect, and deserves to be dismissed in limine. The present suit is one for declaration and consequential reliefs. The suit does not challenge the validity of the SARFAESI Act or the proceedings under it per se, but questions the very legality and authenticity of the chain of title starting from the fraudulent settlement deed. The present suit was instituted as early as in the year 2020. However, the present application seeking rejection of the plaint has been filed only in the year 2025, after a lapse of nearly five years. The plaintiff's specific case is that he is the absolute owner of the suit property, having clear and valid title thereto. On the strength of this void and unlawful mortgage, SARFAESI proceedings were initiated, culminating in a purported auction sale in favour of the 5th defendant. The mortgage, the auction, and the subsequent sale are all actions flowing from a fundamentally defective and fraudulent title, and are therefore non est in law and liable to be declared null and void. The present suit is well within the jurisdiction of the Civil Court under Section 9 of the CPC, as it raises serious issues of title, fraud, forgery, impersonation, and collusion. The plaintiff's cause of action is distinct and arises from fraudulent deprivation of property, and not from any act of the Bank in exercising its SARFAESI rights. Even if the plaintiff were to approach the DRT, the DRT cannot grant a declaration that a settlement deed or sale deed is null and void due to impersonation. Only a Civil Court, vested with plenary jurisdiction under section 34 of the Specific Relief Act, 1963, and Section 9 of the CPC, can entertain such prayers. Hence the petition may be dismissed.

3. Point for determination is:-

Whether the application filed by the Petitioner/5th defendant for rejection of plaint is deserved to be allowed?

Point :- a) The 1st respondent/plaintiff has filed the above suit in O.S.No.21/2020 as against the defendants 1 to 7 seeking the following reliefs;

(a) To declare the settlement deed in favour of 1st defendant dated 05.02.2014 is null and void.

(b) To declare the memorandum of agreement dated 15.10.2014 executed by the 1st defendant in favour of the 4th defendant (Bank) is null and void.

(c) To declare the sale deed executed by the 4th defendant (Bank) in favour of 5th defendant dated 14.12.2018 is null and void.

(d) To grant permanent injunction restraining the 5th defendant from in any manner disturbing the possession of the plaintiff over the suit property.

b) It is the specific case of the 1st respondent/Plaintiff that he is the absolute owner of the suit property by virtue of registered sale deed dated 02.11.2000 and his son, the 1st defendant illegally mortgaged the suit property in favour of the 4th defendant on the basis of a fake settlement deed dated 05.02.2014 and the 4th defendant (Bank) proceeded against the suit property under the provisions of SARFAESI Act to realize the mortgage loan amount from the 1st defendant and subsequently the suit property was sold in an auction in favour of 5th defendant for a meager sale price. The 1st respondent/Plaintiff has asserted in the plaint that he came to know the existence of forged and fabricated settlement deed dated 05.02.2014 only during October 2018 and on 19.07.2019 when the 6th defendant, Tashildar attempted to evict the plaintiff on the basis of the order of debt recovery Tribunal-I, Chennai.

c) The defendants 1, 3, 6 and 7 remained exparte. The 1st defendant is the son of the plaintiff and the defendants 6 & 7 are the Government Officials. The 2nd defendant who is the attesting witness of the disputed settlement deed dated 05.02.2014 has filed the written statement contending that the settlement deed executed by the plaintiff in favour of 1st defendant is genuine and valid in law. The 5th defendant who is the auction purchaser of the suit property in a SARFAESI proceedings has filed a written statement contending that he is the lawful purchaser of the suit property and has been in lawful possession and enjoyment of the same. The 5th defendant has further contended that the suit filed by the plaintiff is barred U/s 34 of the SARFAESI Act and the plaintiff has to approach only the Debts Recovery Tribunal, Chennai to work out his remedy. After framing necessary issues, the plaintiff was examined as PW1 and when the case was posted for cross examination of PW1, the 5th defendant has filed the present application seeking an order for rejection of the plaint on the sole ground that the suit is barred U/s 34 of SARFAESI Act.

d) The 1st respondent/Plaintiff has contended in the counter that the above suit has not been filed by the plaintiff to challenge the validity of the SARFAESI Act or the proceedings under it per se, but questions the very legality and authenticity of the chain of title starting from the fraudulent settlement deed and hence the above suit is well within the jurisdiction of the Civil Court U/s 9 of CPC.

e) It is to be noted that the 1st respondent/Plaintiff has stated in para 15 of the counter that the present suit, which seeks a declaration of title and other consequential reliefs in respect of the suit property is squarely maintainable before this court and the bar of jurisdiction under the SARFAESI Act does not extend to the disputes involving ownership, title or possession of

immovable property, particularly when such relief is sought independently by the party asserting such rights. At this juncture, it is to be stated that the 1st respondent/Plaintiff has not prayed any relief for declaration of his title or right over the suit property and as stated supra, the plaintiff has prayed the reliefs A to C only to declare the documents as null and void and the relief D is prayed to grant permanent injunction against the 5th defendant from disturbing his possession and enjoyment over the suit property. Even in the memo of clarification filed by the 1st respondent/Plaintiff it has been mistakenly stated by the counsel for the plaintiff that relief of declaration of right is prayed in the suit. As stated above, the plaintiff has not prayed the relief of declaration of title and he has not paid any court fee U/s 25(b) of TNCF Act.

f) The learned counsel for the 1st respondent/Plaintiff has submitted the following decisions in support of his arguments that the present suit is not barred U/s 34 of SARFAESI Act.

1) Hon'ble High Court of Punjab and Haryana at Chandigarh in Baggar singh (deceased) Through His Legal Representatives & Ors -vs Nand Kaur & Ors, dt 08.02.2023.

2) Hon'ble High Court of Rajasthan in Sukhlal – vs- Devilal, dt.24.07.1953.

3) Hon'ble High Court of Punjab and Haryana at Chandigarh in Manmohan Mehta & Ors -vs- General Public, dt.15.07.2024.

g) On reading of the above decisions, it is seen that all are related to Section 34 of Specific Relief Act and not with regard to Section 34 of SARFAESI Act. Hence, the decisions submitted on the side of the 1st respondent/Plaintiff are not applicable to the facts and circumstances of the present application for rejection of plaint.

h) As stated above, the 1st respondent/Plaintiff has prayed the relief of declaration in respect of the settlement deed said to be executed by him in favour of the 1st defendant as null and void for the reason that it was created by the 1st defendant forging his signature. The plaintiff has also prayed the other reliefs for declaration in respect of the mortgage deed executed by the 1st defendant in favour of the 4th defendant bank, Sale deed executed by the 4th defendant- bank in favour of 5th defendant and also for permanent injunction against the 5th defendant not to disturb his possession over the suit property. At this juncture, it will be more useful to refer the decision of Hon'ble Supreme Court in Central Bank of India vs Smt.Prabha Jain (2025 INSC 95) wherein the Hon'ble Supreme Court has held in para 12 & 18 as follows;

12. Section 34 of the SARFAESI Act provides that no civil court shall have jurisdiction to entertain any suit or proceeding “in respect of any matter which Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine...” Hence, the Civil Court’s jurisdiction is only ousted in respect of those matters which the Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under the SARFAESI Act to determine. The SARFAESI Act confers certain powers upon the Debts Recovery Tribunal by virtue of the following sections:

18. Further, the SARFAESI Act is enacted essentially to provide a speedy mechanism for recovery of debts by banks and financial institutions. The SARFAESI Act has not been enacted for providing a mechanism for adjudicating upon the validity of documents or to determine questions of title finally. The DRT does not have the jurisdiction to grant a declaration with respect to the mortgage deed or the sale deed as sought by the Plaintiff. The jurisdiction to declare a sale deed or a mortgage deed being illegal is vested with the civil court under Section 9 of the Code of Civil Procedure.

i) It is clear from the above decision of Hon'ble Supreme Court that the DRT does not have jurisdiction to grant a declaration relief with regard to sale deed or mortgage deed and the said jurisdiction is vested only with the Civil Court under section 9 of CPC. Further as stated above, the plaintiff has specifically pleaded that he has been in possession and enjoyment of the suit property and the 5th defendant attempted to disturb his possession on the basis of court auction sale and subsequent orders. Hence, the relief of injunction in respect of possession can be tried only by the Civil Court. In the above circumstances, this court is of the view that it cannot be said that the reliefs prayed in the plaint are barred under section 34 of SARFAESI Act. Hence, the application filed by the petitioner/5th defendant has no merit and is liable to be dismissed. This point is answered accordingly.

In the result, the application is **dismissed**. There shall be no order as to cost.

Dictated by me to the Steno-typist and typed by her in the computer, corrected and pronounced by me in the open court, on this the 14th day of November 2025.

I Additional District Judge,
Ranipet.