



\$~11

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1923/2025 , CM APPL. 61912/2025 & CM APPL. 61913/2025**

M/S CHOLAMANDALAM INVESTMENT AND FINANCE
COMPANY LIMITEDPetitioner

Through: Mr. Sidharth Chopra and Mr. Navneet
Thakran, Advocates.

versus

NIDHI GUPTARespondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER
12.11.2025

%

1. Petitioner/defendant has assailed dismissal of its application under Order VII Rule 11 CPC by the learned trial court.
2. It appears that the present respondent was a successful bidder in auction of immovable property organized by the present petitioner under SARFAESI Act and she deposited the earnest money, but when failed to pay the balance bid price, the present petitioner forfeited the earnest money, so the present respondent filed the subject suit for recovery of the forfeited amount. The present petitioner filed an application under Order VII Rule 11 CPC, assailing the jurisdiction of the civil court on the basis of provisions under Section 34 and 17 of the SARFAESI Act. The learned trial court took a view that since the present respondent is neither a borrower nor a secured creditor, her suit for recovery of the earnest money cannot be barred in view



of Section 9 CPC. On this aspect, learned counsel for petitioner/defendant has drawn my attention to Section 17(1) of the SARFAESI Act, which applies not only to the borrower/creditor, but to “any person” aggrieved by any of the measures referred to in Section 13(4) of the Act. That being so, according to the petitioner/defendant the present respondent is squarely covered by Section 17 of the Act, so jurisdiction of the civil court under Section 34 of the Act shall be barred.

3. Subject to petitioner/defendant taking steps within one week, notice through all modes be issued to the respondent/plaintiff, returnable on 25.03.2026 before Registrar.

4. Proceedings before the learned trial court shall remain stayed till next date.

GIRISH KATHPALIA, J

NOVEMBER 12, 2025/ry