



CR-3638-2025 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CR-3638-2025 (O&M)
Decided on :- 29.08.2025**

Kanwalbir Kaur

...Petitioner

VERSUS

Bank of Baroda & Others

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Rajat Malhotra, Advocate for the petitioner.

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MANDEEP PANNU J.

1. This revision petition is directed against the order dated 08.04.2025 passed by the learned Additional District Judge, Ludhiana, dismissing the appeal preferred against the order dated 01.05.2018 of the learned Civil Judge (Junior Division), Ludhiana, whereby the plaint of the revisionist/plaintiff was rejected under Order VII Rule 11 CPC.

Brief Facts

2. Facts in brief are that the plaintiff/revisionist instituted a suit for declaration to the effect that she is neither a borrower nor a guarantor of M/s Petals Textile and has never mortgaged her property measuring 410 sq. yds. situated at Shamsher Avenue, Barewal, Tehsil and District Ludhiana with Bank/respondent No.1 and that she has never availed any loan facility from defendant No. 1 (Bank of Baroda) on the strength of the aforesaid property and for declaration that defendants No. 1 to 5 have no concern whatsoever with the property. A further declaration was sought that any sale letter, if issued by defendant No. 1 in favour of defendant No. 5 Gursewak Lal, in respect of the property, is null and void and not binding on the plaintiff's rights, along with a permanent injunction restraining



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defendant No. 6 (Sub-Registrar, Ludhiana) from executing any sale deed in favour of defendant No.5 presented by defendant No.1 on the basis of oral and documentary evidence.

3. The plaint alleged that the petitioner/plaintiff never approached the Bank or its officers. Defendant No. 2 brought defendant No. 4 to her house. Both assured petitioner/plaintiff that they would arrange a housing loan for her and got some blank papers signed from her and asked for the original sale deed, which the petitioner/plaintiff handed over, believing defendant No. 2 as father of defendant No. 3 was a close friend of her son. On inquiring subsequently about the housing loan, defendants No. 2 and 3 told her that, as she was not running any business, she would be unable to show repayment capacity and, therefore, the Bank had refused the loan. The plaint further averred that last month the petitioner/plaintiff learnt that one Shivraj Singh, who has filed a suit as tenant of the property had mortgaged the property with defendant No. 1 and that the Bank had already issued a sale letter and was trying to take possession from Shivraj Singh, presently in possession. The plaint alleged fraud and connivance by the defendants. The petitioner/plaintiff asserted that she never availed any loan, never stood guarantor for defendants No. 2 and 3 and never mortgaged the property.

4. Upon notice, defendant No. 2 moved an application under Order VII Rule 11 CPC for rejection of the plaint. Defendant No. 5 also filed a separate application under Order VII Rule 11 CPC. The applications contended that the petitioner/plaintiff had concealed material facts. In fact defendants No. 2 and 3, as partners of M/s Petals Home Textiles Manufacturing Company had availed credit facilities from defendant No. 1-Bank of Baroda, Sunder Nagar Branch, Ludhiana from time to time and had sought enhancement of cash-credit limits for machinery. They undertook to execute security documents in favour of the Bank. The property

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was agreed to be mortgaged along with the plaintiff, who joined as continuing guarantor and created an equitable mortgage by deposit of title deeds i.e. original sale deed dated 27.10.2010 and executed the relevant security documents. It was pleaded that after availing the facility, the borrowers' account turned irregular and they were declared Non Performing Assets (NPA) on 20.10.2014. Thereafter, notice under Section 13(2) of the SARFAESI Act, 2002 was served upon the petitioner/plaintiff as well as defendants No. 2 and 3 and upon failure to clear dues and after following due procedure under the Act, the secured asset i.e. the suit property, was sold to defendant No. 5 Gursewak Lal as the highest bidder and vacant possession was handed over and a sale certificate was issued. It was asserted that in view of the bar under Section 34 of the SARFAESI Act, 2002, the civil court lacked jurisdiction and hence the plaint was liable to be rejected being barred by the provisions of the above said Act.

5. No reply was filed by the petitioner/plaintiff to the Order VII Rule 11 application of defendant No.2. However, she filed reply to the application of defendant No.5, contending *inter alia* that the bar under the SARFAESI Act applies to disputes between a bank/financial institution and its borrower/guarantor and that an application for rejection of plaint on that score can be moved only by the secured creditor, not by a private purchaser like defendant No. 5. It was urged that defendant No. 5, being neither bank nor lender, lacked authority to move the application.

6. After hearing both the parties, vide impugned order dated 01.05.2018, the learned Trial Court allowed the applications under Order VII Rule 11 CPC and rejected the plaint. The appeal filed by the petitioner/plaintiff was dismissed by the learned Additional District Judge, Ludhiana, vide impugned order dated 08.04.2025, holding that, in view of Section 34 of the SARFAESI Act, 2002, civil



courts have no jurisdiction in respect of matters falling under the Act and jurisdiction lies with the Debts Recovery Tribunal/Appellate Tribunal and that Order VII Rule 11(d) CPC mandates rejection where the suit appears from the plaint to be barred by any law.

7. Aggrieved, the petitioner/plaintiff has preferred the present revision, urging that the Courts below failed to appreciate that Section 34 of the SARFAESI Act, 2002 bars Civil Court jurisdiction only where action is taken by a secured creditor within the borrower–creditor/guarantor relationship. However, when a person denies being a borrower or guarantor, and denies having mortgaged her property, the bar does not apply. Reliance is placed on a judgment of this Court passed in the case of *Ankur Goyal HUF v. Corporation Bank, CR No.7552 of 2023, decided on 16.10.2024*, to contend that where the matter involves fraud, collusion, or determination of civil rights, the Civil Court retains jurisdiction. It is argued that the petitioner/plaintiff was not given adequate opportunity to prove her contention and that where the mortgage itself is disputed/denied, Civil Court jurisdiction subsists and that the impugned orders deserve to be set aside.

8. I have heard learned counsel for the petitioner and perused the record.

9. The sole question falls for determination is “whether the civil court had jurisdiction to entertain the suit in view of Section 34 of the SARFAESI Act, 2002.” For this reference is made to Section 34 of the SARFAESI Act, 2002, which reads as under:

“34. Civil Court not to have jurisdiction.- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Debts Recovery Tribunal or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action

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taken or to be taken in pursuance of any power conferred by or under this Act or under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993).”

Analysis

10. From the averments in the plaint itself, it is undisputed that the Bank (defendant No.1) has already taken measures under the SARFAESI Act: the property stood sold to defendant No. 5 and vacant possession was delivered. So much so sale certificate was issued. Once such measures have been taken, Section 34 of the SARFAESI Act, 2002 expressly ousts civil court jurisdiction and the remedy of an aggrieved person lies before the Debt Recovery Tribunal, with a further appeal to the Debt Recovery Appellate Tribunal. The learned Courts below correctly applied this bar.

11. The reliance on *Ankur Goyal HUF's case (supra)* is misplaced on the facts here. That decision recognizes that civil Courts may entertain suits involving independent civil rights because jurisdictional clarity ensures that parties have a legal recourse in civil rights when their civil rights are at stake e.g., competing ownership, transactions void ab initio, or complex fraud requiring trial. But the present plaint does not present a dispute over title, rather, it admits handing over original title deeds to defendants. The allegations of fraud are bald and without particulars as no specific dates, acts, or documents constituting fraud are pleaded. In such a posture, the plaint squarely challenges SARFAESI measures already taken by the secured creditor, a field over which the DRT has exclusive supervisory jurisdiction and bars civil jurisdiction.

12. The Supreme Court in *Jagdish Singh v. Heeralal & Ors.,(2014) 1 SCC 479*, has authoritatively held that civil Courts lack jurisdiction to entertain suits when the SARFAESI machinery is invoked, the proper remedy is Section 17



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before the DRT. The ratio directly applies, where a secured creditor has proceeded under Section 13, civil proceedings are barred by Section 34. The Courts below rightly relied on *Jagdish Singh's case (supra)*.

13. As to the plaintiff's argument that Order VII Rule 11 could not be invoked at the instance of defendant No. 5, the plea is untenable. Order VII Rule 11(d) CPC permits rejection of the plaint where, from the statements in the plaint, the suit appears to be barred by any law. The bar is examined on the plaintiff's own averments, the court may act upon an application by any defendant or even *suo motu*. In any case, the Bank-defendant No.1 also contested jurisdiction, thus, the maintainability objection is academic.

Conclusion

14. In view of the express bar contained in Section 34 of the SARFAESI Act, 2002 and the law declared by the Supreme Court in *Jagdish Singh v. Heeralal & Ors. (supra)*, the learned Trial Court rightly rejected the plaint under Order VII Rule 11(d) CPC, the learned Additional District Judge correctly affirmed that view.

15. The impugned orders dated 01.05.2018 passed by the learned Civil Judge, Junior Division, Ludhiana and 08.04.2025 passed by Additional District Judge, Ludhiana, disclose no illegality or perversity. Therefore, the same are upheld and the present revision petition is, accordingly, dismissed

16. Pending application(s), if any, also stand disposed of.

August 29, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No