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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 20-11-2026**

CORAM

**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**AND**

**THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL**

**CRP(MD) No. 2771 of 2023**

CNR:{HCMD011184252023}

Case QR

1. The Branch Manager
   City Union Bank Limited,
   Tharasuram Branch,
   Kumbakonam Taluk,
   Thanjavur District.

2. The Authorised Officer,
   City Union Bank Limited,
   Administrative Office,
   No.24-B, Gandhi Nagar,
   Kumbakonam 612 001,
   Thanjavur District.

3. Administrative Officer,
   City Union Bank Limited,
   Administrative Office,
   No.24-B, Gandhi Nagar,
   Kumbakonam 612 001,
   Thanjavur District.

..Petitioner(s)

Vs

N.Prasanna
S/o. S.Nagarajan,
No.37/14B,
Pettai Attrangarai,
Vazhinadappu Street,
Thanjavur District.

..Respondent(s)



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**PRAYER:** Civil Revision Petition filed under Article 227 of The Constitution of India to set aside the order passed by the District Consumer Redressal Commission, Thanjavur on 30.08.2023 as barred under the provisions of Section 2(1)(d) of the consumer protection Act and 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

For Petitioner(s) :Ms.Ananda Gomathy Murugesan

For Respondent(s) : Mr.B.Jameel Arasu

**ORDER**

**(Order of the Court was made by ABDUL QUDDHOSE J.)**

The question that arises for consideration in this Civil Revision Petition filed under Article 227 of the Constitution of India is whether the consumer complaint filed by the respondent aggrieved by the proceedings initiated by the petitioners under the SARFAESI Act is maintainable or not.

2. The petitioners had lent money to the respondent under a loan agreement and the respondent had committed default in repayment of the loan to the petitioners. The petitioners had initiated proceedings under the SARFAESI Act to recover the said loan by sale of the mortgaged properties belonging to the respondent. The property included machinery which were hypothecated in favour of the petitioners by the respondent. The respondent, in the consumer complaint filed against the petitioners in C.C.No.206 of 2019 before the District Consumer Disputes Redressal



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Commission, Thanjavur, had raised a grievance with regard to the initiation of SARFAESI proceedings by the petitioners against the respondent in respect of the hypothecated machinery, The petitioners, in the consumer complaint, in their version, had categorically raised the maintainability issue by stating that the consumer complaint filed by the respondent in C.C.No.206 of 2019 was not maintainable, since the only remedy available to the respondent was to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. Despite the said defence raised by the petitioners, the Commission had passed the impugned order dated 30.08.2023 in favour of the respondent against the petitioners by awarding damages. Aggrieved by the same, this Civil Revision Petition has been filed by the petitioners under Article 227 of the Constitution of India.

3. The learned counsel appearing for the petitioners would submit that erroneously, the District Consumer Disputes Redressal Forum under the impugned order, has held that the consumer complaint filed by the respondent is maintainable. She also drew the attention of this Court to the relevant paragraphs in the complaint filed by the respondent against the petitioners before the Consumer Forum and would submit that, as seen from those paragraphs, the grievance of the respondent can be redressed only before the Debts Recovery Tribunal and not by the



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Consumer Forum. In support of her contention, she also drew the attention of this Court to the decision of the Hon'ble Supreme Court in the case of ***Ibrat Faizan Vs. Omaxe Buildhome Private Limited*** reported in ***Manu/SC/0642/2022*** or ***AIR 2022 SC 2363*** rendered in ***Civil Appeal No.3072 of 2022*** dated 13.05.2022. Relying upon the said decision, she would submit that a petition filed under Article 227 of the Constitution of India challenging an order passed in a consumer complaint is maintainable, when the Consumer Forum had exercised jurisdiction without authority under law. She would submit that since the only remedy available to the respondent is to approach the Debts Recovery Tribunal, the consumer complaint filed by the respondent is not maintainable and therefore, this Civil Revision Petition filed by the petitioners under Article 227 of the Constitution of India is maintainable as per the decision of the Hon'ble Supreme Court referred to supra. She would also submit that the grievance of the petitioners is with regard to the hypothecated machinery, the petitioners being only a financial institution, cannot be held responsible for any defects if any in the machinery which have been hypothecated in favour of the petitioners.

4. On the other hand, the learned counsel appearing for the respondent would submit that, when there is an alternate statutory appellate remedy available under the Consumer Protection Act, this Civil



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Revision Petition is not maintainable under Article 227 of the Constitution of India. He would further submit that since there was deficiency in service by the petitioner Bank, in view of the improper initiation of SARFAESI proceedings initiated by the petitioners against the respondent, the consumer complaint filed by the respondent is maintainable and rightly, the Consumer Forum has awarded damages in favour of the respondent against the petitioners.

**Discussion**

5. The law with regard to the issue which is the subject matter of consideration in this Civil Revision Petition filed under Article 227 of the Constitution of India is now well settled by the Hon'ble Supreme Court in the case of ***Ibrat Faizan Vs. Omaxe Buildhome Private Limited*** reported in ***Manu/SC/0642/2022*** rendered in ***Civil Appeal No.3072 of 2022*** dated 13.05.2022, relied upon by the learned counsel for the petitioners. In the said decision, it has been made clear in Paragraph Nos.14, 14.1 and 15 that a writ petition filed under Article 227 of the Constitution of India is maintainable, if the Consumer Forum had erroneously exercised the jurisdiction without authority under law. In the instant case, the grievance of the respondent, as found in the averments contained in the complaint filed by the respondent before the District Consumer Forum is with regard to the alleged improper initiation of SARFAESI proceedings



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by the petitioners against the respondent. His grievance is also with regard to the hypothecation of machinery. The machinery in question had been hypothecated in favour of the petitioners as security for the loan availed by the respondent, and it is therefore a secured asset within the meaning of Section 2(1)(zc) of the SARFAESI Act. The grievance of the respondent, if any, with regard to the machinery thus arises only out of the measures taken by the petitioners to enforce their security interest over it. In taking such measures, the petitioners act as secured creditors recovering the amount due to them, and not as persons rendering any service to the respondent. Such a grievance cannot be camouflaged as a deficiency in service so as to bring it within the jurisdiction of the Consumer Forum. Therefore, the only remedy available to the respondent, if aggrieved by the SARFAESI proceedings, is to approach the Debts Recovery Tribunal by filing an application under Section 17 of the SARFAESI Act.

6. We have also examined the averments contained in the complaint filed by the respondent against the petitioners before the District Consumer Forum in C.C.No.206 of 2019. As seen from the said averment as well, the respondent is aggrieved only by the alleged improper initiation of SARFAESI proceedings by the petitioners against the respondent. As stated supra, the grievance of the respondent can be



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redressed only by the Debt Recovery Tribunal and not before the Consumer Forum. Despite a categorical defence raised by the petitioners before the District Consumer Forum with regard to the maintainability of the consumer complaint filed by the respondent against the petitioners, the Consumer Forum, under the impugned order dated 30.08.2023 has gone ahead and passed an award imposing damages on the petitioners which is improper and is not in accordance with law as the Consumer Forum does not have jurisdiction to entertain the complaint filed by the respondent against the petitioners. The award passed by the Consumer Forum is an award passed without authority under law. Necessarily, the same will have to be set aside by this Court. The decision relied upon by the learned counsel appearing for the petitioners in the case of ***Ibrat Faizan Vs. Omaxe Buildhome Private Limited*** reported in ***Manu/SC/0642/2022*** or ***AIR 2022 SC 2363*** rendered in ***Civil Appeal No.3072 of 2022*** dated 13.05.2022, also supports the case of the petitioners as the law is well settled that a writ petition filed under Article 227 of the Constitution of India challenging the order of the Consumer Forum which has been passed without authority of law is maintainable. But in the case on hand, this Civil Revision Petition has been filed only under Article 227 of the Constitution of India and this Court, by exercising its supervisory powers, is having the power to interfere with



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the order of the Consumer Forum, as held by the Hon'ble Supreme Court in the decision referred to supra which has been relied upon by the learned counsel appearing for the petitioners. Since the Consumer Forum, under the impugned order, has improperly exercised its power, without authority under law and has also passed the impugned order in favour of the respondent against the petitioners, we are of the considered view that the impugned order has to be quashed by this Court by exercising its power under Article 227 of the Constitution of India.

7. For the foregoing reasons, the impugned order of the District Consumer Redressal Commission, Thanjavur, dated 30.08.2023, is hereby set aside by this Court and this Civil Revision Petition filed under Article 227 of the Constitution of India is allowed as prayed for. No costs. Consequently, the connected miscellaneous petition is closed.

**(A.Q.,J.) (R.P.L.,J.)**
**20-11-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1.The District Consumer Redressal Commission, Thanjavur.

2.Section Officer
VR Section
Madurai Bench of Madras High Court
Madurai



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**ABDUL QUDDHOSE, J.**
**AND**
**RAJNISH PATHIYIL, J.**
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