



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 580 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Vikas Kashinath Gaikwad,
Adult, Occ. Business, residing
at Bhanvaj, Budhwada, Near Janata
Vidyalaya, Taluka Khalapur, Dist. Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 133 OF 2025

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Ravindra B Patil,
Adult, Occ. Business, residing at Tembhode,
Taluka Panvel, Dist. Raigad.

(As per Reg (J-II) Court's conditional order dated
14th January 2025 this CRA stands abated against
Respondent No.1)

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)

2a. Rasik Ramesh Kalyankar

2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,

...Respondents

Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

WITH

CIVIL REVISION APPLICATION NO. 252 OF 2025

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Dattatray Shrirang Lohar,
Adult, Occ. Business,
residing at Flat No. A-5/2,
Nirmal Coop Hsg Soc Ltd,
Yugantak Hsg Complex,
Sukhapur, New Panvel.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)

2a. Rasik Ramesh Kalyankar

2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,

...Respondents

Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

WITH
CIVIL REVISION APPLICATION NO. 590 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Murli K Nair,
Adult, Occ: Business,
residing at B-8, 101,
Yugantak CHS Ltd, Sukhapur,
New Panvel.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH
CIVIL REVISION APPLICATION NO. 591 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Vinod Y Ovhal,
Adult, Occ: Business,
residing at Bhanvaj Budhwada,
Near Khopoli Municipal Council,
Tal. Khalapur, Dist: Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 592 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Abhijit C Pulekar,
Adult, Occ. Business,
residing at Plot No.6/2/1/8,
Sector-15, New Panvel,
Dist. Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 593 OF 2024

Central Bank of India, through Branch Office

called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Naresh Mhaskar, Adult,
Occ: Business, residing at Plot No.4,
Survey No. 117, House No. 182,
Taloja Majkur, Tal: Panvel,
Dist: Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 594 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Kiran Shetye,
Adult, Occ: Business,
residing at Post: Tembhode,
Taluka: Panvel, Dist: Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,

Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 595 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Rajesh Kale,
Adult, Occ. Business, residing at
Plot No. 14, Road No. 18, Sector 12,
New Panvel, Dist: Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 596 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Vilas Kashinath Patil,

Adult, Indian Inhabitant
residing at Devicha Pada,
Taluka: Panvel, Dist. Raigad – 410 206.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 597 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Shankar Shravan Kamble,
Adult, Occ: Business,
residing at Harima Apartment,
Room No. 303, Plot No. 32,
Sector-3, New Panvel.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 598 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Amit Chakraborty,
Adult, Occ. Business, residing at
Om Shiva Complex, F-204, Sukhapuri,
New Panvel – 410 206,
Dist. Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 599 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Gangadhar Kunjiram Nair,
Adult, Occ. Business, residing at
Khairane, Post Panvel,
Dist. Raigad.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)

2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 600 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Sunil Anand Gaikwad,
Adult, Occ. Business,
residing at Harima Apartment,
Room No. 303, Plot No. 32,
Sector-3, New Panvel.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)
2a. Rasik Ramesh Kalyankar
2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

WITH

CIVIL REVISION APPLICATION NO. 601 OF 2024

Central Bank of India, through Branch Office
called 'Chembur Branch', situated at Saikiran
Apartment, Plot No. 2017, Central Avenue 11th
Road, Chembur,
Mumbai – 400 071.

..Applicant

Versus

1. Kishore Karkera,
Adult, Occ: Business,
residing at Plot No. 5/2/10,
Sector-17, New Panvel,
Dist: Raigad – 410 206.

2. Rohini Ramesh Kalyankar
(since deceased through legal heirs)

2a. Rasik Ramesh Kalyankar

2b. Rachana Ramesh Kalyankar,
Both Adults, Indian Inhabitants,
Rasik, Plot No. 7, Road No.4,
Sector 12, CIDCO Colony,
New Panvel, Dist. Raigad

...Respondents

Mr. Rohan Sawant, with Vikas Mulik, i/b Sunil Kadam, for the
Applicant in all Civil Revision Applications.

Mr. A.S. Khandeparkar, Senior Advocate, with Amogh K. Karandikar,
for Respondent Nos. 2a and 2b in all Civil Revision
Applications.

CORAM: N. J. JAMADAR, J.

RESERVED ON : 19th JANUARY 2026

PRONOUNCED ON : 4th FEBRUARY 2026

JUDGMENT:

1. All these Revision Applications are directed against identical orders dated 15th June 2024 passed by the learned Civil Judge, Senior Division, Panvel, whereby the Applications preferred by the Applicant-Defendant No.2, purportedly seeking the framing and trial of issue of jurisdiction as a preliminary issue and dismissal of the suit for want of jurisdiction, came to be rejected.

2. Since identical questions of facts and law arise, these Revision Applications were heard together and are being decided by this common judgment.

3. The facts in Revision Application No. 580 of 2024, assailing the order in SCS No. 57 of 2007, are noted as a representative case. The background facts can be summarised as under:

3.1 Late Rohini Ramesh Kalyankar, the predecessor-in-title of Plaintiff Nos. 1A and 1B, initially instituted a suit against Respondent No.1-Defendant No.1 only, seeking declarative reliefs, in the context of a transaction of sale of a developed plot. The Plaintiff claimed that she had developed a project, "Dwarka Bungalow Scheme" at Survey No. 117, Hissa Nos. 1 and 2, Village Taloja Majkur, Taluka: Panvel, District: Raigad.

3.2 Defendant No.1 had evinced interest in purchasing a Bungalow Plot. Post negotiations, Defendant No.1 agreed to purchase Plot No. 86 admeasuring 160 sq mtr ("the suit plot"). An Agreement for Sale came to be executed on 7th January 2005 by and between the Plaintiff and Defendant No.1, under the terms whereof the consideration was settled at Rs.17,60,000/-. In addition, Defendant No.1 had agreed to pay 20% of the total consideration to the Plaintiff at the time of delivery of possession of the suit plot, towards charges for development for the

amenities. In the event of default in payment of the amounts as agreed, Defendant No.1 has agreed to pay interest @ 24% per annum.

3.3 The Plaintiff claims, at the time of the execution of the Agreement for Sale, Defendant No.1 had drawn a cheque of Rs.3,52,000/- towards earnest money/booking amount. Though Defendant No.1 paid the amount of Rs.14,08,000/- towards the balance consideration yet the said cheque drawn towards the first installment was dishonoured upon presentment. Defendant No.1 also committed default in payment of 20% of the amount, i.e., Rs.3,52,000/- towards the development charges. The Plaintiff repeatedly called upon Defendant No.1 to pay the outstanding amount.

3.4 In view of the persistent default, a legal notice was addressed on 16th October 2006 calling upon Defendant No.1 to pay due amount of Rs.10,20,800/-. As Defendant No.1 did not comply with the said notice, vide notice dated 28th November 2006, the Plaintiff terminated the Agreement for Sale dated 7th January 2005, and, thereby, forfeited the earnest money and offered to refund the balance amount after deducting the expenses incurred towards the stamp duty and registration charges, after the sale of the said plot to another purchaser.

3.5 Thus, initially, the Plaintiff prayed for declarations that the Agreement for Sale dated 7th January 2005 between the Plaintiff and

Defendant stood rescinded and the Defendant No.1 was entitled to receive a refund of Rs.9,32,340/-, only from the Plaintiff.

3.5 In the meanwhile, Defendant No.1 had mortgaged the suit plot with Applicant-Defendant No.2, under a Mortgaged Deed dated 11th January 2005. The Plaintiff claimed the said mortgage was in express breach of the terms of the Agreement for Sale which prohibited Defendant No.1 from creating any mortgage in respect of the suit plot until the payment of entire consideration. Thus, the Plaintiff amended the Plaint to implead the Applicant as Defendant No.2 and seek a further declaration that mortgage created by Defendant No.1 in favour of Defendant No.2 vide Mortgage Deed dated 11th January 2005 was not binding on the Plaintiff.

3.6 Defendant No.1 did not contest the suit. Defendant No.2 resisted the suit by filing Written Statement.

3.7 Defendant No.2 took out an Application seeking framing and determination of issue of jurisdiction as preliminary issue in view of the bar contained in Section 18 of the Recovery of Debts and Bankruptcy Act, 1993 ("the RDB Act"), purportedly under Section 9A of the Code of Civil Procedure, 1908 ("the Code") as it applied to the State of Maharashtra. It was also contended that in view of the orders passed by Debts Recovery Tribunal ("DRT") in Original Application No. 39 of

2008, the suit was bared by principle of *res judicata*. Defendant No.2 also sought dismissal of the suit for want of jurisdiction.

3.8 The Application was resisted by the Plaintiff.

3.9 By the impugned order, the learned Civil Judge rejected the Application negating the contention of Defendant No.2 that the Plaintiff was liable to be rejected in view of the bar of *res judicata* and the jurisdictional interdict contained in Section 18 of RDB Act. The learned Civil Judge was of the view that, since the Plaintiff had instituted the Suit for rescission of contract, only the Civil Court would have jurisdiction to entertain, try and decide the said issue.

3.10 Being aggrieved, Defendant No.2 has invoked the revisional jurisdiction.

4. I have heard Mr. Rohan Sawant, the learned Counsel for the Applicants and Mr. A.S. Khandeparkar, the learned Senior Advocate, for Respondent No.2-Plaintiff at some length. With the assistance of the learned Counsel for the parties, I have also perused the material on record including the judgment and order dated 28th April 2010 passed by the DRT and judgment and order dated 25th November 2014 passed by the DRAT.

5. Mr. Sawant, the learned Counsel for the Applicant, submitted that, the learned Civil Judge committed a factual error in construing the import of the order passed by the DRAT in Appeal No. 296 of 2010.

Indeed, the DRT in its judgment and order dated 28th April 2010 had held that no liability can be fastened on the Plaintiff, her husband, and R.R. Kalyankar Construction Pvt Ltd; Defendant Nos. 3, 4 and 5 therein. However, in the Appeal the DRAT modified the order passed by DRT and allowed the O.A. against all the Defendants. Yet, in the impugned order, the learned Civil Judge has recorded that Defendant No.2 did not succeed in DRAT also. This factual error has vitiated the approach of the learned Civil Judge and renders the impugned order perverse, submitted Mr. Sawant.

6. Mr. Sawant would urge that, all the grounds which have been raised by Plaintiff in the instant suit qua the Defendant No.2, had been raised and negatived by the forums created under RDB Act. It has been in terms held that the security interest created in the suit plot, by way of mortgage, binds the Plaintiff-developer as well. The dispute sought to be raised falls within the exclusive jurisdiction conferred on the DRT under Section 17 of the RDB Act. Thus, as the suit is clearly barred by provisions of Section 18 of the RDB Act, the learned Civil Judge committed a grave error in law in rejecting the Application.

7. Mr. Sawant submitted that the jurisdiction of Civil Court in respect of claims relating to mortgages stands explicitly barred by the provisions of Section 18 of the RDB Act, as the aspect of security interest in the secured assets created by way of mortgage is within the

exclusive province of the jurisdiction of the Tribunal under Section 17 under the RDB Act. Mr. Sawant made a concerted effort to persuade the Court to hold that the legal position as regards the exclusion of jurisdiction of civil Court over the matters falling within the exclusive jurisdiction of the Tribunal under RDB Act in the context of the bar contained in Section 18 of the RDB Act and Section 34 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“the SARFAESI Act”) is no longer *res integra*. Reliance was sought to be placed on the judgment of the Supreme Court in the cases of **Mardia Chemicals Ltd Vs Union of India**,¹ **Jagdish Singh Vs Heeralal**² and **Sree Anandhakumar Mills Ltd Vs Indian Overseas Bank**.³

8. Mr. Sawant would urge that the three Judge Bench judgment of the Supreme Court in the case of **Bank of Rajasthan Ltd Vs VCK Shares and Stock Broking Services Ltd**⁴ which, on a reference, has enunciated that the interdict contained in Section 18 of the RDB Act, does not bar the jurisdiction of the civil court to try a suit by a borrower against the bank or a financial institution, does not govern the facts of the case at hand as the Plaintiff had participated in the proceedings before the

1 (2004) 4 SCC 311.

2 (2014) 1 SCC 479.

3 (2019) 4 SCC 788.

4 (2023) 1 SCC 1.

Tribunals under RDB Act and the defence of the Plaintiff has been finally rejected.

9. Lastly, Mr. Sawant would urge that the proposition that a Plaintiff cannot be rejected in part does not apply to a situation where there is either no cause of action against one of the Defendants or the suit against such Defendants is barred by any law. The binding efficacy of the decision in the case of **Church of Christ Charitable Trust and Educational Charitable Society Vs Ponniamman Educational Trust**⁵ is not diluted by the subsequent judgments of the Supreme Court of co-equal Benches.

10. In any event, Mr. Sawant would urge, in view of the Division Bench judgment of this Court in the case of **Sheela Ram Vidhani Vs S.K. Trading Co**⁶ which holds that the judgment in the case of **Church of Christ (Supra)** commands precedential value and needs to be followed as the subsequent judgments in the case of **Sejal Glass Ltd Vs Navilan Merchants Pvt Ltd**⁷ and **Madhav Prasad Aggarwal Vs Axis Bank**⁸ have not considered the previous binding decision in **Church of Christ (Supra)**, this Court cannot take a different view of the matter. To this end, Mr. Sawant placed reliance on a Division Bench judgment in the case of **R Parthasarathy, Asst Collector, Central Excise, Kalyan Dn and**

5 (2012) 8 SCC 706.

6 (2021) 5 BCR 409.

7 (2018) 11 SCC 780.

8 (2019) 7 SCC 158.

Anr Vs Dipsi Chemicals Private Ltd⁹ wherein it was enunciated that an interpretation (and equally a misinterpretation) of a binding decision of the Supreme Court is itself binding subsequently on coordinate Courts and can be corrected only by a higher Court.

11. Thus, looked at from any perspective, Mr. Sawant would urge, the Plaintiff in the instant case is required to be rejected qua the Applicant-Defendant No.2, in view of the incontrovertible facts and well settled position in law.

12. In opposition to this, Mr. A.S. Khandeparkar, the learned Senior Advocate for the Respondent Nos. 2a and 2b-Plaintiff, stoutly supported the impugned order.

13. Mr. Khandeparkar laid emphasis on the fact that the Agreement for Sale contained a clear prohibition against the mortgage of the suit plot (Clause 12). In the face of such clear prohibition, creation of security interest in the suit plot by way of mortgage was completely unlawful. Such security interest, under no circumstances, could have been enforced against the developer. Mr. Khandeparkar would urge the fact that DRAT in Appeal No. 296 of 2010 has decreed the Application against the Plaintiff as well, does not preclude the Plaintiff from instituting a suit seeking a declaration that the Agreement for Sale itself stands terminated and, consequently, the Deed of Mortgage is not binding on the Plaintiff.

9 1987 MhLJ 900.

14. Mr. Khandeparkar further submitted that the entire premise of the jurisdictional objection is flawed. The Defendant No.2-Bank has not resorted to any action under the SARFAESI Act. Only an Original Application was filed before the DRT under the RDB Act. Since the Plaintiff was not a party to the transaction between Defendant Nos. 1 and 2; neither a borrower nor a guarantor, the Plaintiff cannot be precluded from asserting his civil rights before the civil court.

15. Mr. Khandeparkar joined the issue on the bar of jurisdiction by placing a strong reliance on the three Judge Bench judgment of the Supreme Court in case of **Bank of Rajasthan Ltd (Supra)**. Mr. Khandeparkar forcefully submitted that the decision of the Supreme Court in the case of **Central Bank of India and Anr Vs Prabha Jain and Ors**¹⁰ which has analysed all the previous precedents, including the judgment in the case of **Jagdish Singh (Supra)** and enunciated that the civil courts jurisdiction is not ousted in respect of matters which do not fall within the ambit of jurisdiction, as conferred under Section 17 of RDB Act, is a complete answer to the submissions sought to be canvassed on behalf of the Applicant.

16. Mr. Khandeparkar would urge, even if one of the reliefs survives, the Plaint cannot be rejected under Order VII Rule 11 of the Code. This position in law is consistently followed in a line of judgments.

10 (2025) 4 SCC 38.

Therefore, the endeavour of Defendant No.2 to seek the rejection of the Plaint qua Defendant No.2 cannot be countenanced.

17. Mr. Sawant, the learned Counsel for the Applicant, made an endeavour to distinguish the case of **Prabha Jain (Supra)**, it was urged that the said decision eventually proceeds on the premise that a Plaint cannot be rejected in part, even against one of the Defendants which in view of the judgment in the case of **Church of Christ (Supra)**, is not correct position in law.

18. The aforesaid rival submissions now fall for consideration.

19. First and foremost, it is necessary to note that the prayers in the Applications filed on behalf of Defendant No.2 were to frame and try the issue of jurisdiction as a preliminary issue, and dismiss the suit. In addition to the ground of bar contained in Section 18 of the RDB Act, it was contended that the suit was liable to be dismissed on the principle of *res judicata* in view of the judgment in Appeal No. 296 of 2010 delivered by the DRAT.

20. The learned Civil Judge, however, construed the Application to be one for rejection of the Plaint under Order VII Rule 11(d) of the Code, in view of bar of jurisdiction propounded by Defendant No.2 and, in the view of this Court, rightly so. The prayer for dismissal of suit was in a sense misconceived. Before this Court as well, parties have proceeded on the premise that the Application filed by Defendant No.2 and

consideration thereof by the trial Court was for rejection of the Plaint under Order VII Rule 11(d) of the Code.

21. Before advertng to the contentious issues, it is necessary to keep in view the object of the provisions contained in Order VII Rule 11 of the Code. The Court is conferred jurisdiction to reject the Plaint so as to nip in the bud a fruitless and vexatious litigation. It is well-settled that while considering the Application for rejection of the Plaint, the Court should confine the inquiry to the averments in the Plaint and the documents annexed with it. The defence of the Defendant is not at all germane, for a plea for rejection of the Plaint is by way of demurrer. Secondly, the Court is required to read the averments in the Plaint as a whole in a meaningful and not formalistic manner. When upon such a meaningful reading of the Plaint as a whole, the Court finds that the suit is manifestly vexatious and fruitless, in the sense that, either it does not disclose a clear right to sue or that it is barred by the provisions of law, the Court need not hesitate in exercising the power under Order VII Rule 11 of the Code as the rejection of such Plaint at the very threshold sub-serves the interest of public justice.

22. In the instant case, one of the grounds on which the bar to the tenability of the suit was sought to be urged was that, it was barred by the principle of *res judicata* in view of the decision of DRAT in Appeal No. 296 of 2010. The contention need not detain the Court. It is well-

recognized that a Complaint cannot be rejected under Order VII Rule 11 of the Code on the ground that the suit would be barred by the principle of *res judicata* as the said issue warrants investigation into facts and ascertainment as to whether the matter before the Court was directly or substantially in issue in the former suit. In the case of **Shrihari Hanumandas Totala Vs Hemant Vithal Kamat and Ors**,¹¹ the Supreme Court has enunciated in clear and explicit terms that a plea for rejection of the Complaint on the ground of *res judicata* would be beyond the scope of Order VII Rule 11(d), where only the averments in the Complaint will have to be perused.

23. Since the thrust of the submission on behalf of the Defendant No.2 is that the suit is barred by the provisions of Section 18 of the RDB Act, certain fundamental principles with regard to the jurisdiction of the civil court vis-a-vis a Tribunal, which is created under a statute, also deserve to be kept in mind. Jurisdiction of the civil court is of wide amplitude. In a sense, it is plenary and omnipotent. The civil court has jurisdiction to entertain all suits of civil nature, unless its jurisdiction is expressly or impliedly barred. An exclusion of the jurisdiction of the civil court is not readily to be inferred.

24. In contrast, in the context of case at hand, the DRT is a creature of RDB Act. It is empowered to exercise the powers under RDB Act and SARFAESI Act. A Tribunal is thus bound by the powers conferred on it

¹¹ (2021) 9 SCC 99.

under the provisions of the Act by which it is created. Being a creature of the statute, the Tribunal has limited jurisdiction. It has to discharge the statutory functions within the four-corners of the statute creating it. The Tribunal, thus, cannot transgress its jurisdictional limits and delve into the matters which do not strictly fall within its adjudicatory province.

25. The relevant part of Section 17 of the RDB Act which provides for jurisdiction, power and authority of the Tribunal reads as under:

“17. Jurisdiction, powers and authority of Tribunals.—(1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

[(1-A) Without prejudice to sub-section (1),—

(a) the Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code, 2016;

(b) the Tribunal shall have circuit sittings in all district headquarters.]

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.

[(2-A) Without prejudice to sub-section (2), the Appellate Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain appeals against the order made by

the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016.

26. Section 18 of the Act which bars the jurisdiction of Court or authority reads as under:

“18. Bar of jurisdiction.—On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17:

Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.

27. A conjoint reading of the provisions contained in Sections 17 and 18 of the RDB Act, would indicate that the Tribunal under DRT has been conferred with jurisdiction to entertain and decide applications from the banks and financial institutions for recovery of debts. The Tribunal has no jurisdiction to try suits or proceedings at the instance of the borrowers or others against the banks and financial institutions. Indeed, under Section 19, defendant may claim set-off, or, in addition, to his right of pleading of set-off, put up a counter-claim.

28. It is in this context, the decision in the case of **Bank of Rajasthan Ltd (supra)**, assumes significance. In the said case, a three Judge Bench of the Supreme Court exposted in clear and explicit terms that, there is no provision in the RDB Act, by which the remedy of a civil suit by the Defendant in a claim by the Bank is ousted, but, it is a matter of choice of that defendant. Such a defendant may file a counter-claim or may be desirous of availing of the more strenuous procedure established under the Code, and that is the choice he takes with the consequences thereof. The three Judge Bench answered the reference on the question of ouster of jurisdiction of the Civil Court in the negative, in the following terms :

“56(c) Is the jurisdiction of a civil court to try a suit filed by a borrower against a bank or financial institution ousted by virtue of the scheme of the RDB Act, in relation to the proceedings for recovery of debt by a bank or financial institution ?

The aforesaid question ought to be answered first and is answered in the negative.”

29. At this juncture, it may be apposite to appreciate the bar of jurisdiction of the Civil Court sought to be mounted with reference to the provisions contained in Section 34 of the SARFAESI Act, 2002. As noted above, Mr. Sawant sought to draw support from the pronouncements of the Supreme Court in the cases of **Mardia Chemicals**

Ltd (*supra*), Jagdish Singh (*supra*), and Sree Anandhakumar Mills Ltd (*supra*).

30. The legal position in regard to the bar of jurisdiction of the Civil Court is fairly crystallized. It may not be necessary to trace the development of law. In the context of the controversy at hand, it would be suffice to make a reference to the judgment of the Supreme Court in the case of **Central Bank of India and Anr Vs Prabha Jain and Ors** (*supra*) and a Division Bench judgment of this Court in the case of **Bank of Baroda V/s. Gopal Shriram Panda and Anr.**¹²

31. Since the judgment of this court in the case of **Bank of Baroda** (*supra*), has the imprimatur of approval by the Supreme Court in the judgment in the case of **Central Bank of India and Anr. V/s. Prabha Jain and Ors. (supra)**, in relation to the import of the judgment of the Supreme Court in the case of **Jagdish Singh (supra)**, which constituted the sheet anchor of the submission of Mr. Sawant, it may be appropriate to first note the judgment of the Division Bench in the case of **Bank of Baroda (supra)**. The Division Bench considered, on a reference, the following question :

“Whether the jurisdiction of a Civil Court to decide all the matters of civil nature, excluding those to be tried by the Debts Recovery Tribunal under Section 17 of the Securitisation Act, in relation to enforcement of

security interest of a secured creditor, is barred by

Section 34 of the Securitisation Act ?”

32. The Division Bench after an elaborate analysis, including the judgments in the cases of **Mardia Chemicals Ltd (supra)**, **Jagdish Singh (supra)**, answered the above question, as under :

“The answer, looking to the nature of the question, in our view, is in

parts :-

(A) Jurisdiction of the Debts Recovery Tribunal, to decide all matters relating to Sections 13 and 17 of the SARFAESI Act, is exclusive.

(B) In all cases, where the title to the property, in respect of which a 'security interest', has been created in favour of the Bank or Financial Institution, stands in the name of the borrower and/or guarantor, and the borrower has availed the financial assistance, it would be only the DRT which would have exclusive jurisdiction to try such matters, to the total exclusion of the Civil Court. Any pleas as raised by the borrowers or guarantors, vis-a-vis the security interest, will have to be determined by the DRT.

(C) The jurisdiction of the Civil Court to decide all the matters of civil nature, excluding those to be tried by the Debts Recovery Tribunal under Sections 13 and 17 of the SARFAESI Act, in relation to enforcement of security interest of a secured creditor, is not barred by Section 34 of the SARFAESI Act.

(D) Where civil rights of persons other than the borrower(s) or guarantor (s) are involved, the Civil Court would have jurisdiction, that too, when it is prima facie apparent from the face of record that the relief claimed, is incapable of being decided by the DRT, under Section 17 of the DRT Act, 1993 read with Sections 13 and 17 of the SARFAESI Act.

(E) Even in cases where the enforcement of a security interest involves issues as indicated in *Mardia Chemicals (supra)* of fraud as established within the parameters laid down in *A. Ayyasamy (supra)*; a claim of discharge by a guarantor under Sections 133 and 135 of the Contract Act [*Mardia Chemicals (supra)*]; a claim of discharge by a guarantor under Sections 139, 142 and 143 of the Contract Act; Marshaling under Section 56 of the Transfer of property Act [*J.P. Builders (supra)*]; the Civil Court shall have jurisdiction.

(F) Examples as indicated in para 22.3, are illustrative of the Civil Court's jurisdiction.

(G) The principles laid down in para 33 (i) to (ix) of *Sagar Pramod Deshmukh (supra)* are in accordance with what we

have discussed and held above.”

(emphasis supplied)

33. The Division Bench has held in clear and explicit terms that the jurisdiction of the Civil Court to decide all the matters of Civil nature, excluding those to be tried by the Tribunal under Sections 13 and 17 of the SARFAESI Act, 2002, in relation to enforcement of security interest of a secured creditor, is not barred by Section 34 of the SARFAESI Act, 2002. Where civil rights of persons other than the borrowers or guarantors are involved, the Civil Court would have jurisdiction, especially when it is *prima facie* apparent from the face of the record that the relief claimed is incapable of being granted by the Tribunal under Section 17 of the Recovery of Debts and Bankruptcy Act, 1993 (“the RDB Act”) read with Sections 13 and 17 of the SARFAESI Act, 2002.

34. In the case of **Central Bank of India and Anr Vs Prabha Jain and Ors (supra)**, the Supreme Court was dealing with a fact situation which resembled with the facts of the case at hand in regard to the prayers. In the said case, Plaintiff therein was asserting a right of inheritance in a property in which security interest was created and, incidentally, Defendant No.2 – Central Bank had decided to proceed in accordance with the provisions of SARFAESI Act, 2002. The Plaintiff had, inter alia, sought the following reliefs :

- “(1) declaration that the sale deed executed by the brother-in-law of the Plaintiff in favour of the borrower was illegal;
- (2) declaration that the mortgage deed executed by the borrower in favour of the bank was illegal;
- (3) delivery of possession of the subject property”

35. It is in that context, the Supreme Court held that, so far as the first and second reliefs were concerned, they were not in relation to any measures taken by the secured creditor under Section 13(4) of the SARFAESI Act, 2002. Rather, those reliefs were in relation to action taken prior to the secured creditor stepped into the picture and well prior to the creditor invoking the provisions of SARFAESI Act, 2002. Therefore, the Tribunal would have no jurisdiction under Section 17 of the SARFAESI Act, 2002 to grant declarations sought in the first and second reliefs.

36. To retain emphasis, reverting to the facts of the case, it may be apposite to note that, the Plaintiffs in the instant case, are seeking the following reliefs :

- “(a) declaration that the agreement for sale dated 7 January 2005 between the Plaintiffs and Defendant No.1 is rescinded;
- (aa) declaration that the mortgage deed executed between Defendant No.1 and Defendant No.2 Bank is not binding on the plaintiffs;

(b) direction as to which Defendants, the Plaintiffs should refund the balance amount as agreement for sale is rescinded.”

37. If the principles adverted to above, are applied to the facts of the case at hand, the Tribunal would have no jurisdiction under Section 17 of the SARFAESI Act, 2002, much less, under Section 17 of the RDB Act, to grant declarations sought in prayer clauses (a) and (aa), extracted above.

38. While explaining the ratio in the case of **Jagdish Singh (supra)**, the Supreme Court in the case of **Central Bank of India and Anr Vs Prabha Jain and Ors (supra)**, observed, inter alia, in relation to the Division Bench Judgment of this Court in the case of **Bank of Baroda (supra)**, as under :

“29. In para 24 (of Jagdish Singh) this Court held that DRT has jurisdiction with respect to “measures” taken by the secured creditor under Section 13(4) and that in respect of such matters, the civil court’s jurisdiction is ousted. However, thereafter, there is no further discussion on the nature of the suit and without recording any finding that DRT has the power to decide partition suits, this Court straightaway affirmed the rejection of the plaint under Order VII, Rule 11. While doing so, this Court missed to consider that under Section 17, DRT has no power to partition properties and hence, civil court’s jurisdiction to grant a decree of partition cannot be said to be ousted. When there is no finding in the judgment that the DRT has the jurisdiction

to grant the relief of partition, the judgment cannot be said to be a precedent on that point.

30. The aforesaid was looked into by a Division Bench of the Bombay High Court in Bank of Baroda (supra), and the reasonings assigned in our view are very commendable.....” (emphasis supplied)

39. In view of the aforesaid clarification of law, in the context of the jurisdiction of the Tribunal under Section 17 of the SARFAESI Act, 2002, reliance placed by Mr. Sawant on the decisions in the cases of **Jagdish Singh (supra)** and **Sree Anandhakumar Mills Ltd (supra)**, which followed **Jagdish Singh (supra)**, does not advance the cause of the submission on behalf of the Applicant.

40. As the provisions contained in Section 18 of the RDB Act, 1993 and Section 34 of the SARFAESI Act, 2002, are not prima facie attracted, in view of the nature of the suit and the reliefs claimed therein, in the facts of the case at hand, the submissions made as regards the conundrum over the rejection of the plaint, in part, is not required to be delved into elaborately.

41. Mr. Sawant would urge that, in view of the Division Bench judgment of this Court in the case of **Sheela Ram Vidhani (supra)**, so far as this Court is concerned, the position stands settled that the decision of the Supreme Court in the case of **Church of Christ (supra)**,

that the plaint as a whole can be rejected against some of the Defendants needs to be followed.

42. In the case of **Kaycee Corporation V/s. Suresh Ramchand Mehta and Ors.**¹³, this Court had an occasion to deal with the question as to whether the plaint can be rejected as a whole against some of the Defendants, in the context of the submissions based on the decision in the case of **Sheela Ram Vidhani (supra)**. After referring to a three Judge Bench judgment in the case of **D. Ramachandran v/s. R.V. Janakiraman and Ors.**¹⁴, this Court opined that the attention of the Division Bench of this Court did not seem to have been drawn to the said prior three Judge Bench judgment in the case of **D. Ramachandran (supra)**. The observations in para No.23 read as under :

“23. Firstly, the proposition that a plaint can be rejected, as a whole against defendant No.5, or for that matter, on account of the declarations sought in respect of the consent decree, cannot be accepted unreservedly. It is pertinent to note that in the case of Sheela Ram Vidhani (supra), attention of the Division Bench of this Court does not seem to have been drawn to a Three-Judge Bench judgment of the Supreme Court in the case of D. Ramchandran vs. R. V. Jankiraman and others, which preceded the decision in the case of Church of Christ (supra). In the case of D. Ramchandran (supra), the Three-Judge Bench has explicitly enunciated that under Order VII Rule 11(a) of the Code, there cannot be

13 2025 SCC Online Bom 1431

14 (1999) 3 SCC 267

a partial rejection of the plaint or the petition. In the said decision, a reference was made by the Supreme Court to an earlier judgment in the case of *Roop Lal Sathi vs. Nachhattar Singh Gill* (supra), wherein the Supreme Court enunciated that where the plaint discloses no cause of action, it is obligatory upon the Court to reject the plaint as a whole under Order VII Rule 11(a) of the Code, but the rule does not justify the rejection of any particular portion of a plaint.”

43. Mr. Sawant made an endeavour to draw a distinction between partial rejection of the portion of the plaint, which was the case in **D. Ramchandran (supra)**, and rejection of the plaint as a whole qua one of the Defendants.

44. In the case of **Church of Christ (supra)**, a two Judge Bench of the Supreme Court considered the decision in the case of **Roop Lal Sathi V/s. Nachhattar Singh Gill**¹⁵ pressed into service in support of the proposition that the rejection of the plaint in respect of one of the Defendants was not sustainable. In paragraph No.29, the Supreme Court observed as under :

“29. Finally, learned senior counsel for the respondent submitted that in view of a decision of this Court in *Roop Lal Sathi V/s. Nachhattar Singh Gill* (supra), rejection of the plaint in respect of one of the defendants is not sustainable. We have gone through the facts in that decision and the materials

placed for rejection of plaint in the case on hand. We are satisfied that the principles of the said decision does not apply to the facts of the present case where the appellant-1st defendant is not seeking rejection of the plaint in part. On the other hand, the 1st defendant has prayed for rejection of the plaint as a whole for the reason that it does not disclose a cause of action and not fulfilling the statutory provisions. In addition to the same, it is brought to our notice that this contention was not raised before the High Court and particularly in view of the factual details, the said decision is not applicable to the case on hand.” (emphasis supplied)

45. The decision in the case of **Church of Christ (supra)**, as is evident, proceeds on the premise that there was no cause of action in a suit for specific performance against one of the Defendants against whom the plaint as a whole was rejected by the learned Single Judge of the High Court.

46. In the case of **Sejal Glass Ltd (supra)**, a two-judge Bench of the Supreme Court was confronted with a situation where, in a commercial suit, the plaint was directed to be bifurcated, in the sense, that it disclosed no cause of action against the directors of the company, but was to continue against the defendant No.1 company. Holding that the judgment was wrong on principle, the Supreme Court traced the precedents on the rejection of the plaint and enunciated that, if the plaint survives against certain defendants and/or properties, Order VII

Rule 11 will have no application at all, and the suit as a whole must then proceed to trial.

47. In the case of **Madhav Prasad Aggarwal Vs Axis Bank (supra)**, the Notice of Motion filed by Axis Bank, one of the Defendants in the suit, came to be allowed and the suit filed by the appellant therein, was rejected against the Axis Bank by invoking the provisions under Order VII Rule 11(d) of the Code, by the Division Bench of this Court, as being barred by the provisions contained in Section 34 of the SARFAESI Act, 2002.

48. Following the decision in the case of **Sejal Glass Ltd. (supra)**, a two-Judge Bench of the Supreme Court enunciated the law, inter alia, as under :

“10. We do not deem it necessary to elaborate on all other arguments as we are inclined to accept the objection of the appellant(s) that the relief of rejection of plaint in exercise of powers under Order 7 Rule 11(d) of CPC cannot be pursued only in respect of one of the defendant(s). In other words, the plaint has to be rejected as a whole or not at all, in exercise of power Order 7 Rule 11 (d) of CPC. Indeed, the learned Single Judge rejected this objection raised by the appellant(s) by relying on the decision of the Division Bench of the same High Court. However, we find that the decision of this Court in the case of Sejal Glass Limited (supra) is directly on the point. In that case, an application was filed by the defendant(s) under Order 7 Rule 11(d) of CPC stating that the plaint disclosed no cause of action.

The civil court held that the plaint is to be bifurcated as it did not disclose any cause of action against the director's defendant(s) 2 to 4 therein. On that basis, the High Court had opined that the suit can continue against defendant No.1 company alone. The question considered by this Court was whether such a course is open to the civil court in exercise of powers under Order 7 Rule 11(d) of CPC. The Court answered the said question in the negative by adverting to several decisions on the point which had consistently held that the plaint can either be rejected as a whole or not at all. The Court held that it is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendant(s) and continue the same against the others. In no uncertain terms the Court has held that if the plaint survives against certain defendant(s) and/or properties, Order 7 Rule 11(d) of CPC will have no application at all, and the suit as a whole must then proceed to trial.

.....

12. Indubitably, the plaint can and must be rejected in exercise of powers under Order 7 Rule 11(d) of CPC on account of non compliance of mandatory requirements or being replete with any institutional deficiency at the time of presentation of the plaint, ascribable to clauses (a) to (f) of Rule 11 of Order 7 of CPC. In other words, the plaint as presented must proceed as a whole or can be rejected as a whole but not in part. In that sense, the relief claimed by respondent No.1 in the notice of motion(s) which commended to the High Court, is clearly a jurisdictional error. The fact that one or some of the reliefs claimed against

respondent No.1 in the concerned suit is barred by Section 34 of 2002 Act or otherwise, such objection can be raised by invoking other remedies including under Order 6 Rule 16 of CPC at the appropriate stage. That can be considered by the Court on its own merits and in accordance with law. Although, the High Court has examined those matters in the impugned judgment the same, in our opinion, should stand effaced and we order accordingly.” (emphasis supplied)

49. I am conscious of the position that in the case of **Sheela Ram Vidhani Vs S.K. Trading Co (supra)**, the Division Bench of this Court has held that the decision in the case of **Church of Christ (supra)**, commands precedential value in contradistinction to **Sejal Glass Ltd. (supra)** and **Madhav Prasad Aggarwal (supra)**. Yet with all humility at my command, it must be noted that, in a line of decisions prior to and post **Church of Christ (supra)**, the Supreme Court has consistently enunciated the principle that a plaint cannot be rejected in part, and, if one of the reliefs survives, the suit must go for trial.

50. In the case of **V. Narayanaswamy V/s. C.P.Thirunavukkarasu**¹⁶, a three-judge Bench of the Supreme Court enunciated that, where the election petition does not disclose any cause of action it has to be rejected. The Court, however, cannot dissect the pleadings into several parts and consider whether each one of them discloses a cause of

16 (2000) 2 SCC 294

action. The petition has to be considered as a whole. There cannot be a partial rejection of the petition.

51. In the case of **Central Bank of India and Anr Vs Prabha Jain and Ors (supra)**, as well, the Supreme Court after following the decision in the case of **Madhav Prasad Aggarwal (supra)**, enunciated that even if the third relief (that of possession) was barred by Section 17(3) of the SARFAESI Act, 2002, still the plaint must survive because there cannot be a partial rejection of the plaint under Order VII Rule 11 of the Code. Hence, even if one relief survives, the plaint cannot be rejected under Order VII Rule 11 of the Code. It was held, since the first and second reliefs were not clearly barred by Section 34 of the SARFAESI Act, 2002, and were within the Civil Court's jurisdiction (like the case at hand), the plaint cannot be rejected under Order VII Rule 11 of the Code.

52. In the case of **Kum. Geetha and Ors. V/s. Nanjundaswamy and Ors.**¹⁷, the Supreme Court observed that in an application under Order VII Rule 11 of the Code, the plaint cannot be rejected in part. This principle is well established and has been consistently followed since 1936 decision in the case of **Maqsd Ahmad V/s. Mathra Datt and Co.**¹⁸

A reference was made by the Supreme Court to the decisions in the cases of **Sejal Glass Ltd Vs Navilan Merchants Pvt Ltd (supra)** and **Madhav Prasad Aggarwal Vs Axis Bank (supra)**.

¹⁷ (2024) 14 SCC 390

¹⁸ 1936 SCC Online Lah 337

53. The aforesaid being the position in law, in my considered view, the principle that a plaint cannot be rejected in part, either in relation to a property or the reliefs or defendants, is well ingrained and has been consistently followed. Moreover, the decision in the case of **Madhav Prasad Aggarwal (supra)**, appears nearer home to the controversy at hand.

54. For the foregoing reasons, the impugned orders do not warrant any interference in exercise of the revisional jurisdiction. The Civil Revision Applications, thus, deserve to be dismissed.

55. Hence, the following order :

: O R D E R :

- (i) Civil Revision Applications stand dismissed.
- (ii) No costs.

[N. J. JAMADAR, J.]

56. Mr. Sawant, the learned Counsel for the Applicants, seeks continuation of ad-interim relief in the nature of the stay to the proceedings before the trial Court.

57. The suits are instituted in the year 2007. Thus, at this length of time, this Court does not consider it expedient to stay the proceedings before the trial Court.

58. Oral Application for stay, thus, stands rejected.

[N. J. JAMADAR, J.]