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MP-337-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE AMIT SETH

ON THE 10th OF JULY, 2026MISC. PETITION No. 337 of 2026*STATE BANK OF INDIA**Versus**SHRIMATI RINSHI MITTAL W/O SHRI HARSH MITTAL AND
OTHERS*

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Appearance:

Shri Harshavardhan Topre - Advocate for petitioner.

Shri Santosh Agrawal - Advocate for respondents No.1 and 2.

None for respondents No.3 to 5 though served.

Shri Yogesh Parashar - Government Advocate for respondent

No.6/State.
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ORDER

1. The present miscellaneous petition under Article 227 of the Constitution of India, 1950 challenges the order dated 22.12.2025 (Annexure P/1) passed by the Sixth Additional Judge to the First Civil Judge, Junior Division, Morena (learned trial Court), Madhya Pradesh, in RCSA/107/2025, whereby the application preferred by respondents No.1 and 2/plaintiffs under Section 94 read with Section 151 of the Code of Civil Procedure, 1908 (in short "CPC") has been allowed, and the petitioner has been restrained from alienating the suit property. The suit has been fixed for filing of the written statement and reply to the application preferred by the petitioner under Order 39 Rule 1 and 2 of CPC.



2. It has been argued by the learned counsel appearing for the petitioner that the petitioner/Bank had advanced financial assistance to M/S K L Oil Industries LLP, for which, the suit property had been mortgaged in favour of the petitioner by the respondents No.3, 4 and 5. Since the respondent No.3, 4 and 5 defaulted in payment of loan amount therefore, loan account was declared NPA by the petitioner, and proceedings were initiated under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI Act, 2002). Respondents No. 3 to 5 were served notice under Section 13 (2) of the SARFAESI Act, 2002 on 05.05.2025 and 02.05.2025 (Annexure P/3), calling upon them to repay the amount of Rs.13,98,23,308/-. The respondents No.3, 4 and 5 had mortgaged the disputed property, being the sole owner and possessors thereof. However, the plaintiffs (respondents No.1 and 2), being the daughters of Ramprakash Agrawal, colluded and, with a view to evade the recovery process initiated by the bank, instituted a suit against respondents No.3, 4 and 5 seeking a decree of declaration of ownership and possession of a 1/4 - 1/4 portion of the suit property on the ground that the same being, joint Hindu property, belonged to the coparceners and that they had their share in the same and the same was mortgaged by the respondents No.3, 4 and 5 in favour of the petitioner/Bank without their consent, they are in ownership and possession. A further prayer for permanent injunction qua their share in the suit property was also prayed for.

3. Learned counsel appearing for the petitioner/Bank further argued



that initially, without impleading the petitioner/Bank as defendant, respondent No.1 and 2 moved an application under Order 39 Rule 1 and 2 CPC, which was collusively allowed *vide* order dated 06.05.2025 (Annexure P/5) but when, the petitioner/Bank continued with the proceedings, the petitioner/Bank was impleaded as party defendant in the suit on 18.08.2025. The Bank took symbolic possession of the suit property in terms of Section 13 (4) of the SARFAESI Act, 2002 on 01.12.2025. Yet, in order to frustrate and avoid the proceedings being undertaken by the petitioner under the SARFAESI Act, 2002, an application under Section 94 of CPC came to be filed by the respondents No.1, 2 and 3 seeking interim directions against the present petitioner which has been allowed by the learned trial Court *vide* order dated 22.12.2025 impugned in the present petition.

4. It is argued by the learned counsel appearing for the petitioner that the civil suit filed by the respondents No.1 and 2 is itself not maintainable. Section 34 of the SARFAESI Act, 2002 specifically excludes the jurisdiction of civil court from entertaining any suit or proceedings in respect of any matter which a Debts Recovery Tribunal (in short "DRT") or the Appellate Tribunal is empowered under this Act to determine and no injunction is to be granted by any court or any authority in respect of any action 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.

5. It is, therefore, argued on behalf of the petitioner that once, the jurisdiction of the civil court to grant an injunction in respect of the proceedings instituted by the secure creditor (bank) is itself barred by statute,



the supplemental proceedings under Section 94 of CPC could not have been permitted to be invoked by respondents No.1 and 2, and the learned trial Court could not have passed the impugned order in derogation of the provisions contained in Section 34 of the SARFAESI Act, 2002.

6. It is also argued by the learned counsel appearing for the petitioner that since symbolic possession of the suit property in terms of Section 13 (4) of the SARFAESI Act, 2002 has already been taken by the petitioner/Bank, even the relief pertaining to restoration of possession of the mortgaged property, the respondents No.1 and 2 are required to approach the DRT in terms of Section 17 (3) of the SARFAESI Act, 2002, which, now pursuant to the amendment incorporated with effect from 01.09.2016, provides that the relief of restoration of possession is available to the borrower or any other persons aggrieved.

7. In support of his contentions, reliance is placed by the petitioner's counsel upon an order dated 01.08.2023 passed by this Court in *Second Appeal No.2295/2022 (Sabana vs. Vikash Shrivastava and Others)* wherein, the dismissal of a similar suit on an application filed under Order 7 Rule 1 (D) of CPC was affirmed. Reliance is also placed upon an order passed by the Coordinate Bench of this Court at Jabalpur in *M.P.No.5406/2024 (M.P.Krishi Upaj Mandi Samiti and Others vs. Prakash Nagpal and Others)* decided on 25.10.2025, to contend that once the suit itself is not maintainable, then invocation of supplemental proceedings under Section 94 of CPC is also not maintainable. Reliance is further placed upon an order dated 08.03.2022 passed by the Coordinate Bench of this Court in



M.P.No.4804/2021 (Dr. Anandchandra Bansal vs. Punjab National Bank and Others), whereby, in similar circumstances, the trial Court 's refusal to grant temporary injunction was affirmed.

8. *Per contra*, learned counsel appearing for the respondents No.1 and 2, by referring of I.A.No.3250/2026, i.e, an application for dismissal of petition, submits that since the order under challenge has been passed under Section 94 of CPC, which is, in sum and substance, the power prescribed under the Code for grant of temporary injunction under Order 39 Rule 1 and 2 CPC, therefore, invocation of present miscellaneous petition under Article 227 of the Constitution of India is not maintainable, as the petitioner has the statutory remedy of filing an appeal under Order 43 Rule 1 (r) CPC. It is further argued by the learned counsel appearing for the respondents that the issue of maintainability of the civil suit in view of the bar contained under Section 34 of the SARFAESI Act, 2002 has been considered by the Apex Court in the case of *Central Bank of India and Another vs. Smt. Prabha Jain and Others, 2025 (4) SCC 38*, wherein it has been held that the relief of declaration of title, partition in respect of the property cannot be decided by the DRT and for the said relief, the jurisdiction in respect thereof vests with the civil Court. He submits that in the pending civil suit, the respondent Nos. 1 and 2 are seeking protection of their title and interest qua their share in the property jointly owned and possessed by them alongwith respondents No.3, 4 and 5. The said relief cannot be granted by the DRT and therefore, the civil suit filed by them is maintainable. It is also pointed out by the learned counsel appearing for the respondents that prior to passing of the order dated



22.12.2025, impugned in the present petition, the learned trial Court, *vide* order dated 08.12.2025, has rejected the application preferred by the petitioner under Order 7 Rule 11 CPC seeking rejection of the plaint on the very same grounds as are argued and raised in the present petition. The petitioner though had filed the present petition on 15.01.2026, but the factum of rejection of their application under Order 7 Rule 11 CPC raising same grounds has been conveniently suppressed by the petitioner. There is no disclosure whatsoever as regards the rejection of the application under Order 7 Rule 11 CPC by the petitioner. He submits that once, the trial Court, rightly or wrongly, has decided the issue of jurisdiction and declined to reject the plaint by rejecting the application seeking dismissal filed by the petitioner, the said judicial order, though interlocutory, binds the parties till it is set aside by any higher forum. As per the knowledge of respondents No.1 and 2, the petitioners have not challenged the order dated 08.12.2025 passed by the trial Court and therefore, cannot be permitted to argue the grounds afresh without challenging the order dated 08.12.2025.

9. At this stage, in rejoinder arguments, learned counsel appearing for the petitioner submits that the order of rejection of their application under Order 7 Rule 11 CPC by the learned trial Court *vide* order dated 08.12.2025 is challenged and pending before this Court in Civil Revision (C.R.) No.264/2026. However, in the present case, the issue arising for consideration is whether, the injunction could have been granted by the trial Court or not. He is unable to dispute the fact that there is absolutely no disclosure of rejection of the petitioner's application filed before the learned



trial Court under Order 7 Rule 11 CPC *vide* order dated 08.12.2025 in the present petition.

10. Heard the learned counsel appearing for the parties and perused the record.

11. Admittedly, the proceedings under Section 94 of CPC are supplemental in nature. The perusal of the order dated 22.12.2025 indicates that the application filed under Section 94 of CPC by respondents No.1 and 2 was opposed by the petitioner primarily on the ground of alleged bar of the jurisdiction of the civil court to grant the final relief in terms of Section 34 of the SARFAESI Act, 2002. However, the learned trial Court, placing reliance upon the judgment of the Apex Court in the case of *Prabha Jain (supra)*, rejected the said grounds and finding that in case, the suit property is alienated during the pendency of the suit, which has raised legal issues for adjudication, the same would incur in multiplicity of proceedings and cause irreparable injury to the plaintiffs thereby, restrained the petitioners from alienating the suit property till disposal of an application under Order 39 Rule 1 and 2 CPC.

12. It is noteworthy that the petitioner before this Court in the present petition is a nationalized bank falling within the ambit of "State" as defined under Article 12 of the Constitution of India. Therefore, it was all the more incumbent upon the petitioners as well as the Officer In Charge ("OIC") of the case that they ought to have disclosed all material facts in the present petition. However, the petitioners very conveniently suppressed the material facts that they had moved an application under Order 7 Rule 11 CPC seeking



rejection of the suit filed by the respondents No.1 and 2 on the very same grounds and that the learned trial Court, *vide* order dated 08.12.2025, rejected the said application, thereby holding the civil suit to be maintainable.

13. It is the duty of litigants to disclose all material facts required for the decision-making process of the Court, and the failure to do so disentitles them from the grant of relief. This aspect has also been impressed upon by the Apex Court in the case of *Bhaskar Laxman Jadhav and Others vs. Karamveer Kakasaheb Wagh Education Society and Others*, 2013 (11) SCC 531 wherein it has been observed that:

"44. It is not for a litigant to decide what fact is material for adjudicating a case and what is not material. It is the obligation of a litigant to disclose all the facts of a case and leave the decision-making to the court. True, there is a mention of the order dated 2-5-2003 in the order dated 24-7-2006 passed by the JCC, but that is not enough disclosure. The petitioners have not clearly disclosed the facts and circumstances in which the order dated 2-5-2003 was passed or that it has attained finality.

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46. More recently, in *Ramjas Foundation v. Union of India* [(2010) 14 SCC 38 : (2011) 4 SCC (Civ) 889] the case law on the subject was discussed. It was held that if a litigant does not come to the court with clean hands, he is not entitled to be heard and indeed, such a person is not entitled to any relief from any judicial forum. It was said: (SCC p. 51, para 21)

"21. The principle that a person who does not come to the court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the



principle is that every court is not only entitled but is duty-bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case.”

[Emphasis Supplied]

14. In the considered opinion of this Court, since the aforesaid order dated 08.12.2025 was passed by the trial Court prior to the impugned order dated 22.12.2025, and the order impugned in the present petition is sought to be challenged on similar grounds of maintainability of the suit itself, then, it was incumbent upon the petitioners to have placed on record the order dated 08.12.2025 passed by the learned trial Court but, the same has been suppressed, all the more, the factum of rejection of the application under Order 7 Rule 11 CPC has been suppressed in the present petition, therefore, this Court has no hesitation to hold that the petitioner had not approached this Court with clean hands. Thus, on this ground alone, the petitioner is not entitled to any equitable relief before this Court.

15. Further, as has been admitted by the learned counsel appearing for the petitioner during the course of arguments, the order dated 08.12.2025 passed by the learned trial Court rejecting the application under Order 7 Rule 11 CPC has been challenged by the petitioner/Bank in Civil Revision (C.R.) No.264/2026. The issue as regards the maintainability of the suit filed by the respondents No.1 and 2 is, therefore, required to be considered and decided in the pending Civil Revision arising out of the main proceedings, and the petitioners cannot be permitted to seek adjudication of the said issue in the present petition arising out of supplemental proceedings.



16. The judgments relied upon by the petitioners' counsel on the question of maintainability of the suit are, therefore, not required to be adverted to at this stage. It is open for the petitioner to make his submission in the said regard in the pending Civil Revision (C.R.) No.264/2026.

17. Be that as it may. In *Preetpal Singh and Ors. v. State of M.P and Ors., 1988 J LJ 549*, it was held that Section 94 of CPC deals with supplementary proceedings and does not press the merits of the case and as such, the trial court has the jurisdiction to pass an order under Section 94 without deciding the merits of the case. The Court before which a question of jurisdiction is raised has power to issue interim injunctions without first finally deciding the question of jurisdiction. Therefore, on this count also, the present petition does not have any merit. Relevant para of *Preetpal Singh and Ors. (supra)* is reproduced here under:

"5. After hearing the counsel, I am satisfied that this appeal deserves to be allowed with a direction to the lower Court to reconsider the matter afresh on the question of prima facie case leaving aside the question of jurisdiction involved. My reasons for the same are as under:-

While hearing the matter pertaining to the grant of temporary injunction, the Court cannot be regarded to deal with the suit on merits. The proceedings pertaining to the grant of temporary injunction are supplemental proceedings, which so not press merits of the Case. This is clear from Sec. 94 C. P. C. which deals with supplemental proceedings and clause (c) whereof, deals with the power of the Court to grant temporary injunction. A Court, before which a question of jurisdiction has been raised, has power to issue an interim injunction without first finally deciding the question of jurisdiction. Since prima facie until such question is decided in the negative, a Court has jurisdiction



to do all acts and take any action that may be sanctioned by law in connection with the Case. This is what has been held by Tapp, J. in *Allah Baksh Fazal Din v. Koran Chard* MANU/LA/0435/1931 : AIR 1931 Lah 690. Such a situation arose first before this Court in the case of *M. P. S. v. R. T, C, v. Amarsingh* (Civil Revision No. 879/81) decided on 27-4-82 by late Hon, Shri Justice H. G. Mishra, who held that when such a question is referred, the plaintiff has to satisfy the Court that he has fair question as to the existence of a legal right, claimed by him in the suit, is well recognised in India as well as in England. Again the Division Bench of this Court in the case of *Naresh Kumar* (Supra) held that when a question of jurisdiction of Civil Court is raised and the Court is considering the case of grant or refusal of temporary injunction, the Court has no jurisdiction to decide the suit on the basis of the reply filed under O. 39, Rr. 1 and 2 C.P.C., to say that the Court has no jurisdiction and suit is barred under the provisions of the M. P. Cooperative societies Act. The Division Bench further observed in that case that can only be done after the written statement is filed and a preliminary issue is raised and is decided. Thereafter again this matter came before this Court in *Laxminarayan v. State of M. P.* 1988 MPWN (1) 117 wherein this Court held that the question relating to the maintainability and jurisdiction of the Court can-not be decided after the written statement is filed and the issue is raised. This is not the stage, while considering an application under O. 39 Rr. 1 and 2 C. P. C. Even assuming that the Court has no jurisdiction, the Court has power to grant temporary injunction. Hence, this is well settled that while considering the application for grant of temporary injunction, the Court has to apply its mind to see whether on the plaint allegations or on facts, a prima facie case has been made out or not. In my opinion, the trial Court committed an illegality while rejecting the application of the plaintiffs' on the ground that the Civil Court's jurisdiction was barred. Though the



trial Court held that there is an irreparable injury and the balance of convenience is in favour of the plaintiff. But the trial Court, in my opinion, has not applied its mind to the facts whether the facts pleaded and the documents produced, a prima facie case, a fair question to be tried has been made out or not. In such circumstances, it is not possible for this Court in the appellate jurisdiction to grant temporary injunction at this stage and it is proper to direct the trial Court to pass a suitable order after considering whether the plaintiffs have made out a prima facie case or not."

[Emphasis Supplied]

18. In the peculiar facts and circumstances of the case and in view of the considerations made hereinabove, no case for interference in the present proceedings in exercise of jurisdiction under Article 227 of the Constitution of India having limited scope of interference is made out. Accordingly, interference is declined, and the present miscellaneous petition is ***dismissed***.

(AMIT SETH)
JUDGE

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