Komathi Vs SMFG India Credit Co Ltd (formerly known as Fullerton)

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SooperKanoon Citation : sooperkanoon.com/1428849

Court : Chennai Orders

Decided On : Apr-28-2026

Judge : Honourable Mr Justice Senthilkumar Ramamoorthy

Appeal No. : OA/172/2026

Appellant : Komathi

Respondent : SMFG India Credit Co Ltd (formerly known as Fullerton)

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY O.A. Nos. 172 to 174 of 2026

1. Komathi

2. Rajeshwari V

3. V. Manjula

All are residing at No.28/12, Trustpuram 10th Street, Kodambakkam, Chennai - 24. ..Applicants in all applications Vs SMFG India Credit Co. Ltd (formerly known as Fullerton) Commerzone IT Park, Tower B, 1st Floor, No.111, Mount Poonamallee Road, Porur, Chennai 600 116. ..Respondent in all applications Prayer in O.A.No.172 of 2026: Application is filed under Order XIV Rule 8 of Act, 1996, seeking an order of Interim Injunction restraining Respondent or their men, agents, representatives or anyone acting through or under the Respondent from interfering with the peaceful possession of the property of the Applicant.

Prayer in O.A.No.173 of 2026: Application is filed under Order XIV Rule 8 of Page1 of 6 Act, 1996, seeking an order of Interim Injunction restraining Respondent or their men, agents, representatives or anyone acting through or under the Respondent from harassing the applicants and vandalizing the property of the applicants.

Prayer in O.A.No.174 of 2026: Application is filed under Order XIV Rule 8 of Act, 1996, seeking an order of Interim Injunction restraining Respondent from charging any interest of the loan account pending rendering accounts to the satisfaction of the Applicant and/or this Honble Court. In all applications: For Applicants: Mr. Sandeep Kumar Ambalavanan For Respondent: Mr. V.Balasubramani

COMMON ORDER

The applicants had availed of credit facilities from the respondent under loan agreement dated 31.01.2020. As security, the applicants created an equitable mortgage in favour of the respondent. Such mortgage is evidenced by memorandum of deposit of title deeds dated 11.02.2020. The documents filed by the applicant along with these applications include notice dated 02.01.2026 under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. Said notice, in turn, refers to demand notice dated 14.10.2025 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act). Page2 of 6

2. In these circumstances, the applicants have approached this Court to

prevent interference with their peaceful possession of the property described in the schedule to these applications and to restrain the respondent from charging any interest on the loan account.

3. On 26.02.2026, an interim order as prayed for in O.A.Nos.172 to 174 of 2026 was granted. Said order remains in force as on date.

4. Learned counsel for the respondent submits that the applicants

approached Debt Recovery Tribunal - II, NDN(SA)/351/2026 under Section 17 of the SARFAESI Act challenging measures taken by the respondent under Section 13(4) thereof. Consequently, it is contended that these applications are liable to be rejected.

5. The above contention is countered by the applicants by relying upon

the judgment of the Bombay High Court in Tata Motors Finance Solutions Limited v. Naushad Khan c/o.Nazbul Hoda Khan, Commercial Arbitration Petition (L) No.8654 of 2022 and Commercial Arbitration Application (L) No.3908 of 2023, order dated 20.12.2023. Learned counsel submits that the Bombay High Court examined the law on the issue and concluded that the SARFAESI Act merely provides for an enforcement mechanism and does not Page3 of 6 preclude initiation of arbitration proceedings. He also relies upon an order of this Court in Cholamandalam Investments and Finance Company Ltd. v. Ram Nath Agarwal Radhey Lal and others, (2024) ibclaw.in 899 HC.

6. The SARFAESI Act enables a bank or financial institution to enforce

its security interest without approaching Court. The issuance of a demand notice under Section 13(2) is a pre-condition. Once measures are initiated under Section 13(4) of the enactment, it is open to the borrower/guarantor or any other person aggrieved to approach the jurisdictional Debts Recovery Tribunal under Section 17 of the statute. In the case at hand, applicants have done so.

7. The relief requested in O.A.No.172 of 2026 is to restrain the

respondent from interfering with the applicants peaceful possession of the property. The relief requested in O.A.No.173 of 2026 is to restrain the respondent from harassing the applicants and vandalising the properties of the applicants. Both these remedies are directly related to the enforcement of the equitable mortgage by the respondent under the SARFAESI Act. If aggrieved by measures taken by the respondent in this regard, the statutory remedy available to the applicants is to approach the jurisdictional Debts Recovery Tribunal. Therefore, these applications cannot be entertained.

8. The relief requested in O.A.No.174 of 2026 is to restrain the respondent from charging any interest on the loan account. Such an interim

order cannot be granted. The applicants are bound by the terms of the loan

agreement and cannot request the assistance of the Court to rewrite such contract.

9. For reasons aforesaid, the applicants are not entitled to interim orders prayed for in these applications. Therefore, these applications are dismissed without any order as to costs. 28-04-2026 KJ

SENTHILKUMAR RAMAMOORTHY,J.

Kj O.A. Nos. 172 to 174 of 2026 28.04.2026