

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.980 OF 2015
AND M.P.NO.1 OF 2015

J.Vinodkumar Jutmal Ji ... Petitioner

Vs.

R.Jayanthi ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order as made in I.A.No.302 of 2014 in O.S.No.533 of 2013 dated 07.10.2014 on the file of the II Additional Subordinate Judge, Salem.

For Petitioner : Mr.T.Shanmugam

ORDER

This Civil Revision Petition is directed against the order dated 07.10.2014 passed in I.A.No.302 of 2014 in O.S.No.533 of 2013 by the learned II Additional Subordinate Judge, Salem.

2.The petitioner is the defendant in O.S.No.533 of 2013. The

respondent had instituted the suit against the petitioner contending that the defendant / petitioner borrowed a sum of Rs.5,00,000/- from the plaintiff through a cheque dated 10.07.2012 for his family and business expenses and the cheque was collected through his Bank on 12.07.2012. Though the defendant had agreed to return the amount within three months with interest at the rate of 18% per annum, he failed to repay the amount. Hence, the plaintiff issued a legal notice on 30.08.2013 demanding the amount with interest. But the defendant sent a reply on 18.9.2013 with false allegations.

3.The petitioner filed a written statement on 25.03.2014. The petitioner also filed an application in I.A.No.302 of 2014 on 04.06.2014 under Order VII Rule 11(a) of the Civil Procedure Code for rejection of the plaint. The petitioner has averred in the affidavit filed in support of the application that the plaintiff has not produced any material for borrowal of the amount and there was no cause of action for filing the suit against the petitioner. The application was resisted by the plaintiff by filing a counter. The Trial Court dismissed the application on 07.10.2014. Aggrieved by the same, the present Civil Revision Petition is filed.

4.Mr.T.Shanmugam, learned counsel for the petitioner submitted

that there is no cause of action to file the suit against the petitioner and even as per the allegations of the plaintiff, the defendant has borrowed the money through a cheque dated 10.07.2012, undertaking to return the amount within a period of three months, but the plaintiff has not given any reason for issuing legal notice on 30.08.2013. The learned counsel further submitted that the respondent does not disclose sufficient cause of action for the delay in issuing the notice.

5. Order VII Rule 11 of the Civil Procedure Code reads as follows :

“11. Rejection of plaint

The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the*

plaint to be barred by any law;

[(e) where it is not filed in duplicate; (f) where the plaintiff fails to comply with the provisions of rule 9];

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]

6.A reading of the above provision would show that a suit can be rejected for non-disclosure of cause of action, if the claim is under-valued, the plaintiff failed to furnish sufficient stamp duty after its return by the office and the suit is barred by any law.

7.In the case on hand, the plaintiff has categorically stated that the defendant has borrowed money through a cheque dated 10.07.2012 and he has also collected the amount through his Bank on 12.07.2012. However, he failed to repay the amount.

8.In my considered opinion, the plaint discloses cause of action to

file suit against the defendant and the plaint cannot be rejected on the sole ground that the plaintiff has not disclosed sufficient cause of action for the delay in issuing the legal notice. Hence, I do not find any illegality or irregularity in the order impugned in this Civil Revision Petition.

9.In the result, this Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

17.03.2015

Index : Yes/No
Internet : Yes/No
DS/TK

To

The II Additional Sub Court
Salem.

K.KALYANASUNDARAM, J.

DS/TK

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