

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

C.S.No.1185 of 2008

State Express Transport Corporation
Tamilnadu Limited,
Pallavan Salai,
Chennai - 600 002.
Rep by its Managing Director ... Plaintiff

Vs.

G.Haridoss ... Defendant

Prayer:

Plaint under Order VII Rule 1 of Civil Procedure Code,
read with Order IV Rule 1 of O.S.Rules praying to pass a
decree and judgment against the defendant

1. directing the defendant to pay of sum of
Rs.25,40,737/- to which the plaintiff corporation has
incurred a loss described morefully hereunder in the
claim schedule.
2. directing the defendant to pay the plaintiff a sum of
Rs.10,67,110 towards the interest for the sum payable
for the loss incurred.
3. directing the defendant to pay the plaintiff the cost
of the suit.

For Plaintiff : Mr.K.Udhayakumar

JUDGMENT

In the plaint it is averred among other things that the plaintiff Corporation is having one of its booking counter at Thirupathy where the defendant was working as a Reservation Counter Clerk from the year 1999 onwards. The plaintiff is facilitating advance booking of journey tickets to the passengers for their travel, through computer and it is the usual practise to reserve 8 no. seats in a single ticket within a period of thirty days and such tickets can be cancelled subject to rules and regulations of the plaintiff Company/ Corporation.

2.It is further averred in the plaint that the reservations are done in shifts by working Reservation Counter Clerks and every shift will have separate transaction list for the tickets booked, cancelled or modified which shall be done by the concerned Reservation Counter Clerk and it is also his duty to remit the collection of cash as indicated in the transaction list together with remittance challan, way bill along with original tickets cancelled during his shift time and the said documents will be sent to audit centres for checking. It is the specific case of the plaintiff that the defendant

while working as Reservation Counter Clerk, in their office at Thirupathy has indulged in mis-appropriation of collection money by making false entries in the transaction list and also modified transaction list to make up his mal-practise and the loss suffered by the Corporation.

3.It is also averred by the plaintiff that on account of the mis-appropriation committed by the defendant, a sum of Rs.25,40,737/- being due and payable by him and in this regard a demand notice was sent for which the defendant has sent a reply dated 24.02.2004 denying the averments made in the notice and also made false and un-tenable allegations. The plaintiff simultaneously lodged a police complaint based on which the Chittoor Police Station, Thirupathy has registered a case in Crime No.64 of 2004 for the commission of offences under Sections 409 and 468 of IPC against the defendant. The plaintiff has also forwarded the original records along with the covering letter dated 08.04.2005. It is also the specific case of the plaintiff that the said mal-practise came to their knowledge only on receipt of the Auditor's Report dated 05.04.2005 and hence came forward to file the suit for recovery of money of Rs.25,40,737/- with interest of Rs.10,67,110/- with other consequential relief from the defendant.

4.The service on the defendant could not be effected and paper publication was ordered and inspite of it, the defendant did not choose to enter appearance and therefore, he was called absent and set exparte.

5.The following issues are framed for adjudication:

1. Whether the suit is barred by limitation?
2. Whether the defendant has indulged in mal-practice and as a result, he has to compensate the loss to the plaintiff?
3. To what relief the plaintiff is entitled?

6.On behalf of the plaintiff, the Assistant Manager (Audit) was examined as P.W.1 and through him, exhibits Ex.P1 to Ex.P6 were marked.

7.The learned counsel appearing for the plaintiff has drawn the attention of this Court to Ex.P6 Auditor's Report dated 05.04.2005 and would submit that since the mal-practise committed by the defendant came to the knowledge of the plaintiff only on receipt of the Auditor's Report, the suit is within the period of limitation.

8.Issue No.1:

A perusal of the plaint averments would disclose that the plaint was amended with regard to the Audit Report and the suit came to be filed, plaint came to be presented on 19.07.2007 and since it is within the period of three years from the receipt of the Auditor's Report under Ex.P6 Auditor's Report dated 05.04.2005, this Court is of the view that the suit is not barred by limitation.

9.Issue No.2:

The details of amount mis-appropriated by the defendant has been clearly exhibited in Ex.P6 Auditor's Report dated 05.04.2005. The plaintiff before institution of the suit has sent a demand notice under Ex.P2 for which, the defendant has sent a reply dated 24.02.2004 under Ex.P3 denying the allegations and admitted his liability to a sum of Rs.1272/-. The plaintiff has also initiated criminal prosecution by lodging F.I.R., under Ex.P4 dated 27.02.2004 and also forwarded the original documents to the investigating agency under Ex.P5.

(ii) The learned counsel appearing for the plaintiff would submit that the plaintiff by marking Ex.P1 to P6 have clearly proved their claim and prayed for decree of the

suit.

(iii) This Court on careful scrutiny of the pleadings, oral and documentary evidence is of the considered view that the plaintiff has probabilsed his case, by producing tenable materials and therefore, it is entitled to get a decree as prayed for with cost. Therefore, issue no.2 is answered in affirmative and in favour of the plaintiff.

10.Issue no.3:

Plaintiff is entitled to the decree as prayed for.

11.Hence, there shall be a judgment and decree as follows:

1. The defendant shall pay a sum of Rs.25,40,737/- to the plaintiff Corporation.
2. The plaintiff is also entitled to a sum of Rs.10,67,110/- towards interest.
3. The plaintiff is also entitled to costs.

sd/.M.S.N.J
25.11.2015

//Certified to be a true copy//

Dated this the day of 2016

R.s/12.04.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.