

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.11.2016

PRONOUNCED ON: 25.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

S.A.No.435 of 2011

& MP.No.1 of 2011

1.V.Rajakantham
2.P.Veerasekaran

... Appellants

Vs.

Corporation Bank,
Rep. by its Branch Manager,
Anniyur Branch,
Anniyur Post,
Villupuram District

... Respondent

Prayer:- This Memorandum of Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and decree dated 21.01.2010 made in the appeal in A.S.No.56 of 2009 on the file of the Principal District Judge, Villupuram confirming the judgment and decree dated 30.09.2004 made in the suit in O.S.No.63 of 1997 on the file of the Principal District Munsif, Villupuram.

For Appellants : Mr.S.Krishnasamy

For Respondent : Mr.A.Arunbabu

J U D G M E N T

Challenge in this Second Appeal is made by the defendants against the judgment and decree dated 21.01.2010 made in A.S.No.56 of 2009 on the file of the Principal District Judge, Villupuram confirming the judgment and decree dated 30.09.2004 made in O.S.No.63 of 1997 on the file of the Principal District Munsif Court, Villupuram.

2.Suit has been laid for recovery of money.

3.Claiming that the first defendant in particular had received a loan from the plaintiff Bank for a sum of Rs.6,500/- for the construction of Gobar Gas Plant by executing a demand promissory note in favour of the plaintiff on 15.06.1985 and also the hypothecation agreement and the second defendant executing a Guarantee Agreement for the same and the defendants also having agreed to repay the amount by signing other necessary papers in favour of the Bank and pleading that in as much as the defendants failed to repay the amount with interest as promised, the plaintiff has laid a suit for recovery of money. The defence taken is that the defendants did not borrow the suit amount as claimed and that the at the most the defendants had received only a sum of Rs.1500/-

and therefore, the suit laid by the plaintiff Bank for recovery of the suit amount is to be rejected. The Courts below have on a proper appreciation of the oral and documentary evidence adduced by the respective parties was pleased to decree the suit in favour of the plaintiff. Challenging the same, the Second Appeal has been preferred.

4. On a analysis of the reasonings and the findings given by the Courts below in accepting the case of the plaintiff and rejecting the defence put forth by the defendants it could be seen that the Courts below have not misdirected in any manner against the well established principles of law. Therefore, no warrant of interference is made out to disturb the findings of the Courts below in upholding the case of the plaintiff.

5. That apart, it is found that the value of the subject matter of the suit is only Rs.23,670/-. Such being the position, as rightly argued by the learned counsel for the respondent, no Second Appeal shall lie from any decree, when the subject matter of the original suit is for recovery of money not exceeding Rs.25,000/-, as per Section 102 of the Civil Procedure Code.

6. In the light of the above facts, I do not find any substantial question of law involved in this Second Appeal. It is also found that

the Second Appeal is not maintainable, in view of the embargo placed under Section 102 of the Code of Civil Procedure. Resultantly, the Second Appeal fails and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

.11.2016

Index: Yes/No

Internet: Yes/No

dn

To

1. The Principal District Judge,
Villupuram

2. The Principal District Munsif,
Villupuram

T.RAVINDRAN.J.,

Dn

S.A.No.435 of 2011

.11.2016