

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22..11..2016

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.S.No.524 of 2013

M/s.Sivaji Productions
a firm being represented
by its Managing Partner
G.Ramkumar

.. Plaintiff

Versus

Mr.Rajkumar Santhoshi @
Rajkumar Pyarelal Santhoshi
Juhu, Mumbai -49.

.. Defendant

PRAYER: Plaint filed under Order VII Rules 1 and 2 of the Code of Civil Procedure r/w Order IV Rule 1 of the Original Side Rules praying for a judgment and decree as against the defendant for the reliefs, stated therein.

For Plaintiff : Mr.S.Kanniah

For Defendant : Set exparte - No appearance

J U D G M E N T

The suit is filed by the plaintiff for recovery of money in a sum of Rs.75,00,000/- towards principal with interest at the rate of 24% per annum.

2. The plaintiff firm is engaged in the business of production, distribution and exhibition of movies in Tamil and other languages. In the course of its business, the plaintiff had approached the defendant, who is the Director of movies in Hindi languages and sought for his assistance in directing a Hindi movie, which the plaintiff had desired to produce. The plaintiff had also paid a sum of Rs.One Crore as advance to the defendant. The said sum was paid by a cheque bearing No.0679601 dated 04.05.2004 and the same was encashed by the defendant. It is stated that, unfortunately the project could not take off and the same had to be dropped. As the production of the movie was given up, the plaintiff demanded the return of the advance amount of Rs.One Crore given to the defendant, as a Director. Though initially the defendant also agreed and consented to return the said sum, within a reasonable time, however, failed to honour the commitment. The plaintiff sent a letter dated 06.03.2007, which is marked as Ex.P2 to the defendant requesting him for the repayment and the same was acknowledged by the defendant vide Ex.P3 dated 10.03.2007. As there was no payment given, through Ex.P4 dated 20.07.2007, a letter was sent by the plaintiff. In response to the same, the defendant had sent a letter dated

28.07.2007 seeking extension of time till October 2007 for settling the dues, which is marked as Ex.P5. Having waited till October, the plaintiff again sent a letter dated 10.10.2007, in Ex.P6. On receipt of the same, on 19.10.2007, vide Ex.P7, the defendant sent a reply as follows:

"I wish to inform you that my next project is scheduled to start in the month of December 2007 and at that time, I will be getting funds. I shall repay your amount in maximum four (4) instalments."

Even after that, the defendant did not keep up the promise. Hence, the plaintiff had to send reminder letters dated 07.12.2007 and 22.01.2008, which were marked as Exs.P8 and P9. On 30.01.2008, the defendant sent reply expressing his financial difficulties and sought for further time to make the first instalment.

3. While so, the defendant finally sent a cheque for Rs.25,00,000/- towards the first instalment amount, as agreed by him earlier. The plaintiff also encashed the said cheque through their banker on 23.07.2010. Thus, the defendant finally made part payment of Rs.25,00,000/-

against the outstanding amount of Rs.One Crore. The plaintiff also subsequently issued several letters vide Exs.P11, P12 and P13. Despite several reminders, the defendant failed to repay the balance amount of Rs.75,00,000/-. Hence, the legal notice was effected on 14.11.2001 as per Ex.P14. A reply was sent by the defendant on 26.12.2011, through his counsel, denying his liability for the first time. As the defendant is illegally retaining the amount payable to the plaintiff, the above suit came to be filed.

4. The suit was filed, after obtaining leave to sue against the defendant in Application No.3026 of 2013 dated 25.07.2013. Apparently, the plaint seems to have been filed on 15.07.2013, which is within the period of limitation.

5. Hence, the suit is decreed as prayed for. No costs.

LIST OF WITNESSES EXAMINED ON THE SIDE OF THE PLAINTIFF

P.W.1 - Mr.Giri Shanmugham

LIST OF EXHIBITS MARKED ON THE SIDE OF THE PLAINTIFF

<i>Sl.N o.</i>	<i>Exhib its</i>	<i>Description of documents</i>	<i>Date</i>
1	P-1	The original authorisation letter	07.04.2016
2	P-2	The office copy of the letter	06.03.2007
3	P-3	The original reply	10.03.2007

Sl.N o.	Exhib its	Description of documents	Date
4	P-4	The copy of the letter	20.07.2007
5	P-5	The original reply	28.07.2007
6	P-6	The copy of the letter	10.10.2007
7	P-7	The original reply	19.10.2007
8	P-8	The copy of the letter	07.12.2007
9	P-9	The copy of the letter	22.01.2008
10	P-10	The original reply	30.01.2008
11	P-11	The copy of the letter	24.11.2010
12	P-12	The copy of the letter	13.06.2011
13	P-13	The copy of the letter	12.10.2011
14	P-14	The photocopy of the lawyer's notice	14.11.2011
15	P-15	The reply through e-mail	26.12.2011
16	P-16	The original bank account	19.05.2002

Sd/. K.K.S.J

22.11.2016

//Certified to be a true copy//

Dated this the day of 2017

R.s/10.03.2017

COURT OFFICER

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