IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.12.2016

PRONOUNCED ON 19.12.2016

CORAM

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.635 of 2013

K.B.Raju .. Plaintiff

vs.

1. K.Srinivasan
2. S.Krishnakumari .. Defendants

Civil Suit filed under Order IV Rule 1 of Original Side Rules 1956 read with Order VII Rule 1 CPC praying for the following judgment and decree against the defendants.

a) A sum of Rs.27,86,732/- together with interest on the principal sum of Rs.13,50,000/- at the rate of 36% per annum from date of plaint till realisation.

b) costs of the suit;

For Plaintiff : Mr.T.M.Hariharan

For defendants : No appearance

JUDGMENT

The suit is filed for recovery of a sum of Rs.27,86,732/- together with interest on the principal sum of Rs.13,50,000/- at the rate of 36% per annum from date of plaint till realisation.

2.The brief facts of the case of the plaintiff are as follows:

The defendants are manufacturers of pressure vessels for industrial use. They approached the plaintiff in the second week of April 2009 for financial help of Rs.13,50,000/- for their business purpose. The plaintiff agreed to advance the said amount within fifteen days. Accordingly, he has advanced the said amount of Rs.13,50,000/- in seven instalments commencing from 18.04.2009 to 30.04.2009. The defendants have executed promissory notes for the amount received by them and agreed to pay interest at the rate of 36% per annum. The defendants agreed to repay the amount with interest by March 2011. However, they have not made any payment. Besides, the defendants have also deposited original sale deed dated 29.04.2005 with intent to create equitable mortgage on 03.04.2009. Inspite of repeated demands and legal notice dated 26.12.2011, the defendants failed to repay the principal as well as the interest. Hence, the suit for recovery of a sum of Rs.27,86,732/- with interest on the principal sum of Rs.13,50,000/- at the rate of 36% per annum from 09.04.2012 till the date of repayment.

3. Though notice was served on the defendants long back, they have not chosen either to appear in person or through counsel. Therefore, they were set e*x parte* by this Court *on 10.9.2014.*

4. On the side of the plaintiff, plaintiff examined himself as P.W.1 and Ex.P.1 to Ex.P.11 were marked.

5. Heard the learned counsel for the plaintiff and perused the records.

6. P.W.1, in his evidence, has clearly spoken about the advance of Rs.13,50,000/- to the defendants for their business purpose and he has advanced the said amounts in seven instalments commencing from

18.04.2009 and ending with 30.04.2009. The defendants also executed promissory notes Ex.A.1 to Ex.A.7 for various amounts for the above said Rs.13,50,000/- promising to repay the amount with interest at the rate of 36% per annum. It is also the further evidence of the plaintiff that the defendants having received the amount and executed the promissory notes, have failed to pay the principal as well as the interest, inspite of repeated demands made by the plaintiff. He has also issued legal notice, which is unclaimed by the defendants.

7. Ex.A.1 promissory note dated 18.04.2009 for a sum of Rs.2,00,000/, Ex.A.2 promissory note dated 21.04.2009 for another sum of Rs.2,00,000/- were executed by the defendants. Similarly, Ex.A3 promissory note dated 23.04.2009 for another sum of Rs.2,00,000/- and Ex.A.4 promissory note dated 25.04.2009 for another sum of Rs.1,50,000/- was executed by the defendants. Similarly, Ex.A.5 promissory note dated 27.04.2009 for another sum of Rs.2,00,000/-, Ex.A.6 promissory note dated 28.04.2009 for another sum of Rs.2,00,000/- and Ex.P.7 promissory note dated 30.04.2009 for another sum of Rs.2,00,000/- were executed by the defendants. A legal notice was also issued by the plaintiff under Ex.P.8. The same was returned as unclaimed as could be seen from Ex.A.9 and

Ex.A.10.

8. From the promissory notes executed by the defendants, it could be seen that they have executed the promissory notes after receipt of the amount on various dates and agreed to pay interest at the rate of 36% per annum. The evidence of P.W.1 and the above documents remain unchallenged in the absence of any evidence on the side of the defendant. Moreover, this suit has been filed on 09.04.2012 within three years from the date of Ex.A.1 promissory note. Hence, this Court has no other option except to conclude that the plaintiff has proved his case by oral and documentary evidence.

9. Accordingly, the suit filed by the plaintiff for recovery of a sum of Rs.27,86,732/- is decreed together with interest on the principal sum of Rs.13,50,000/- at the rate of 6% per annum from date of plaint till realisation with costs.

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Index : Yes/No
Internet : Yes/No

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N.SATHISH KUMAR, J

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