

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.15 of 2016

J.Paul Hermit Mascrenhas ... Plaintiff

Vs

P.V.Arun ... Defendant

Plaint filed under order IV Rule 1 of O.S. Rues read with Order VII Rule 1 of C.P.C., praying for judgment and decree as follows:

- i) To direct the defendant to pay the plaintiff a sum of Rs.15,82,667/- being the amount lent to the defendant together with interest at the rate of 24% per annum on Rs.10,00,000/- from date of plaint till the date of realization;
- ii) To direct the defendant to pay the plaintiff a sum of Rs.10,00,000/- towards mental agony, damages and loss incurred by the plaintiff due to the delayed payment of the loan amount by the defendant
- iii) for cost of the suit;

For Plaintiff : Mr.P.V.Balasubramaniam
For M/s.BFS Legal

For Defendant : No appearance. Set ex-parte
on 15.11.2018

JUDGMENT

The suit has been filed for recovery of sum of Rs.15,82,667/- together with subsequent interest at 24% per annum on Rs.10,00,000/- from the date of the plaint till the date of realisation.

2. According to the plaintiff, the defendant and the plaintiff were working together at M/s.Sterlite Industries in Tuticorin and in the year 2013, the defendant sought Rs.12,00,000/- for production of a movie viz., " Vennila Veedu". Immediately, the plaintiff had transferred the amount through online transfer (RTGS) dated 18.03.2013, 27.03.2013 and 30.03.2013 from his ICICI Bank Account, Tuticorin to the defendant's ICICI Bank account, at Anna Nagar Branch, Chennai. The plaintiff would further state that the defendant had repaid a sum of Rs.2,00,000/- and for his failure to repay the balance amount of Rs.10,00,000/- along with interest, issued a legal notice Ex.P5, for which, he sent a reply with baseless allegations through Ex.P6. Hence, the present suit.

3. Despite service of summons, the sole defendant has neither entered appearance nor filed written statement through counsel or in person. Hence, he set ex-parte.

4. The plaintiff examined himself as PW1 and his evidence narrated the transaction between the parties and also produced Ex.P1-copy of email sent by the plaintiff to

the defendant dated 05.05.2014, Ex.P2-copy of email sent by the defendant to the plaintiff dated 19.05.2014, Ex.P3-copy of email sent by the plaintiff to the defendant dated 20.05.2014, Ex.P4-copy of email sent by the defendant to the plaintiff dated 20.05.2014, Ex.P5-copy of legal notice sent to the defendant along with delivery report, dated 11.02.2015, Ex.P6-copy of reply notice sent by the plaintiff to the defendant dated 06.03.2015 and Ex.P7-rejoinder notice sent to the defendant by the plaintiff dated 27.04.2015.

5. The learned counsel for the plaintiff further submitted that the plaintiff has proved his case and the Suit will have to be decreed.

6. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P4, this Court is of the view that the plaintiff has proved his case and the Suit is liable to be decreed and accordingly, the Suit stands decreed as prayed for. There is no order as to costs.

Sd/-M.K.K.S.J

15/11/2018

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//Certified to be true copy//

Dated at Madras this the day of 2019.
JJ 25/06/2019

COURT OFFICER(O.S.)

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