

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIANC.S.No.951 of 2006

1. Bharath Kumar
Proprietor,
Raja Lotteries,
No.10A, Sivaraman Street,
Triplicane, Chennai 600 005.

2. Reshmi Devi

... Plaintiffs

Versus

1. Valarmathi
2. Rani
3. S.Ravi (Dead)

4. Uma

5. Devi

6. Latha

7. Preethi

8. Shivani (Minor) rep. by mother and
guardian Preethi,
D.No.9, Nadar Vidhya Salai,
Madurai 1.

... Defendants

(Defendants 7 and 8 are brought on record as legal
representatives of deceased 3rd defendant as per
order dated 10.11.2011 in Appln. No.4391/2001)

Plaint filed under Order VII Rule 1 of the Code of Civil Procedure
read with Order IV Rule 1 of the Original Side Rules, praying to pass a
judgment and decree:-

- a) to pay a sum of Rs.1,47,66,139/- jointly and severally with interest @ 24% p.a. from the date of the suit till repayment.
- b) directing the defendants to pay the cost.

For Plaintiffs : Ms.Nathezhdha D.Rajasok
for M/s. Sarvabhauman Associates

For Defendants : Mr.S.N.Ravichandran

J U D G M E N T

Suit for recovery of a sum of Rs.1,47,66,139/- with interest. The second plaintiff is the mother of the 1st plaintiff. The 1st defendant is the wife of one K.A.S.Sekar, who was running the lottery business in the name of K.A.S.Sekar Lottery World, Madurai. The 2nd defendant was appointed as the sole selling agent of the Lottery Tickets by the Government of Tamil Nadu under G.O.Ms.No.318 dated 25.09.2002. Pursuant to the same, the second defendant who was carrying on business in lottery tickets in Madurai and agreed to appoint the first plaintiff as a sole selling agent for two digit lottery tickets for Chennai District. On that premise, the second defendant and the said K.A.S.Sekar had advised the plaintiffs to deposit a sum of Rupees One Crore. On the basis of the said understanding, it is averred that the second plaintiff had paid a sum of Rs.87,00,000/- with the second defendant. Subsequently by G.O.Ms.No.20 Home (Courts)-II, Dept.

dated 08.01.2003, the State Government prohibited the sale of lottery tickets in Tamil Nadu. Therefore, the contract did not come through the first plaintiff was not appointed as a sole agent. Hence, the plaintiffs sought for refund of the monies paid by them.

2. On 09.07.2003, the husband of the second defendant, viz. K.A.S.Sekar has admitted that the plaintiffs have paid a sum of Rs.87,00,000/- and agreed to repay the same. It is also claimed that the defendants paid a sum of Rs.36,00,000/- by way of seven cheques during October-November 2004. It is stated that the husband of the second defendant, viz., K.A.S.Sekar died in 2006. Thereafter, on 12.07.2006, the second defendant along with the defendants 1 and 3 to 6, executed an agreement agreeing to repay a sum of Rs.51,00,000/-. Since the said sum of Rs.51,00,000/- was not repaid despite several demands the plaintiffs have come forward with the above suit.

3. The 3rd defendant has filed a written statement raising various contentions.

4. Issues were framed and the suit was posted before the learned Additional Master for trial and during trial, the first plaintiff was examined

as P.W.1 and Exs.P1 to P13 were marked.

5. Ex.P7 is the agreement. The first plaintiff in proof affidavit has narrated as to how the money was deposited with the 2nd defendant by the plaintiffs. Ex.P6 is the letter dated 08.11.2002, in and by which the second defendant had acknowledged the receipt of Rs.70,00,000/- from the plaintiffs, who are running the business in the name of Raja Lotteries. Under Ex.P7 is agreement the defendants have admitted that the second defendant had borrowed a sum of Rs.51,00,000/- from the plaintiffs for business purposes. They have agreed to repay the same by selling a property within four months from the date of the agreement ie., on or before 30.11.2007. During the pendency of the suit, it is seen that a Memorandum of understanding has been entered into between the parties under Ex.P8 wherein the defendants 1, 2 and 5 have admitted the borrowing and agreed to pay a sum of Rs.1,75,00,000/- in full and final settlement of the amounts due to the plaintiffs.

6. After Chief-examination of the plaintiff was over, the matter was listed before the learned Master for several days for Cross-examination. Since the defendants did not appear the defendants were called absent and set ex-parte on 23.06.2017. Recording of evidence was completed

on 03.07.2017.

7. From the documents discussed above as well as the oral evidence of P.W.1, in my considered opinion, the plaintiffs have established their claim. Hence, they are entitled to decree for a sum of Rs.1,47,66,139/- with interest at 24% per annum on Rs.94,14,902/- till the date of realization. Plaintiffs are also entitled to costs of the suit.

8. In fine, the suit is decreed as prayed for with costs.

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jv

Index : Yes/ No

Internet : Yes/ No

Speaking Order/ Non-speaking Order

List of the witnesses examined on the side of the plaintiffs:

P.W.1 Bharath kumar

List of Exhibits marked on the side of the plaintiffs:

Sl. No.	Exhibits	Description of Documents
1	Ex.P1	Copy of the Tamil Nadu State Government G.O. Ms.No.318 dated 25.09.2002
2	Ex.P2	Letter dated 05.10.2002
3	Ex.P3	Letter dated 08.11.2002
4	Ex.P4	Copy of the Receipt dated 15.10.2002

Sl. No.	Exhibits	Description of Documents
5	Ex.P5	Copy of the Receipt dated 13.10.2002
6	Ex.P6	Letter dated 08.11.2002
7	Ex.P7	Agreement between plaintiffs and Defendants
8	Ex.P8	Memorandum of Understanding dated 08.03.2013
9	Ex.P9	Codicil to the Memorandum of Understanding dated 08.03.2013
10	Ex.P10	Power of Attorney dated 08.03.2013

List of the witnesses examined on the side of the defendants: Nil.

List of Exhibits marked on the side of the defendants: Nil.

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jv

To

The Sub Assistant Registrar
Original Side,
High Court of Madras.

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R.SUBRAMANIAN, J.

jv



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