

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

S.A.No. 925 of 2019
and
C.M.P.No. 19612 of 2019

1. Vemasshi Chemicals Private Limited,
rep by its Director A.Venkateswaran
2.L.N.Sivaramakrishnan
3.A.Venkateswaran ..Appellants/Appellants/Plaintiffs
Vs.
SPN.Sathiyamoorthy ..Respondent/Respondent/Defendant

Prayer: Memorandum of Second Appeal filed under Section. 100 of C.P.C. against the judgment and decree dated 25.04.2019 passed by the Learned I Additional Judge, City Civil Court at Chennai in A.S.No. 201/2018 confirming the decree and judgment dated 05.10.2017 in O.S.No. 2598/2016 by the XV Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr. G.V.Sridharan

J U D G M E N T

The plaintiffs in O.S.No. 2598 of 2016 are the appellants. The said suit was filed by the plaintiffs seeking mandatory injunction directing the respondents to return 12 blank cheques, 2 bank pro-notes and blank stamp papers signed by the plaintiffs and for permanent injunction restraining the defendant from initiating criminal and coercive action for recovery of money.

2. According to the plaintiffs, the first plaintiff had borrowed a sum of Rs.50,00,000/- from the defendant and as security for repayment, delivered 12 blank cheques, 2 bank pro-notes and signed stamp papers. The said sum of Rs.50,00,000/- was to repaid in 16 monthly installments, contending that the plaintiff has repaid the entire amount. The plaintiff has come

forward with the above suit. The defendant remained ex-parte.

3. The Courts below after analysing the evidence adduced by the plaintiffs concluded that Ex.A1, statement of accounts, alone cannot be taken as proof of discharge of loan borrowed by the plaintiffs. The Courts below concluded that Ex.A1, being a statement of accounts maintained by the plaintiff, without any supporting document, cannot be considered as proof of discharge of the debt. On the above conclusion, the Courts below dismissed the suit. Aggrieved, the plaintiff has come forward with this second appeal.

4. I have heard Mr.G.V.Sridharan, learned counsel appearing for the appellants.

5. The learned counsel appearing for the appellants would contend that the statement of accounts maintained in the usual course business can be taken as evidence of discharge. He would also submit that if only the defendant had appeared, he would have been able to prove repayment by cross-examining the witness of the defendant. I do not think such plea can be entertained. When the plaintiffs comes to Court with the specific case that they had repaid the amount, it is for them to produce satisfactory evidence before the Court to show such repayment. While the borrowing having been admitted, repayment should be proved by acceptable and tangible evidence. In absence of such evidence, the Court cannot conclude that the plaintiff repaid the debt and therefore is entitled to relief of injunctions sought for in the suit. Ex.A1, Statement of Accounts, as rightly pointed out by the lower Appellate Court, is a document without any supporting documents like receipts or bank statements to show that the money has been transferred to plaintiffs account or that the defendant realised the cheques issued by the plaintiffs and monies have been debited to the account of the plaintiffs. I find total lack of evidence on the side of the plaintiff to establish the repayment. The Courts below have on appreciation of the evidence come to a conclusion that the plaintiffs have not proved discharge. I do not think I can re-appreciate the evidence and come to a different conclusion sitting in second appeal. Hence, this second appeal fails and the same is dismissed without being admitted. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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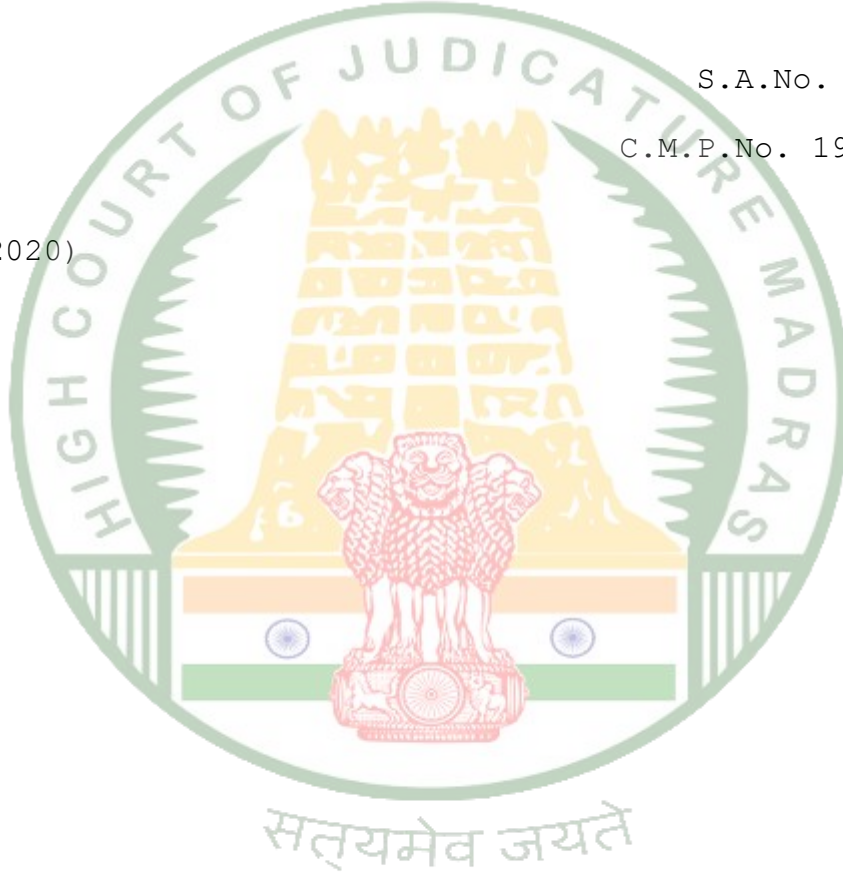
1.The I Additional Judge,
City Civil Court,
Chennai.

2.The XV Assistant Judge,
City Civil Court,
Chennai.

+lcc to Mr.G.V.Sridharan, Advocate, S.R.No.77926

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KJ(CO)
GN(07/02/2020)



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