

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD)No.3214 of 2019

and

C.M.P.No.20944 of 2019

1.M/s.Coastal Plastochem Private Limited,
Rep. by its Director Mr.Rajendrakumarlunia
Suit No.8, IInd Floor, Dr.Rajiv Towers,
231, Purasaiwakkam High Road,
Chennai - 600 007.

2.Mr.Rajendrakumarlunia
Director M/s.Coastal Plastochem Private Limited,
Suit No.8, IInd Floor, Dr.Rajiv Towers,
231, Purasaiwakkam High Road,
Chennai - 600 007.

... Petitioners

Vs.

Vandana Daga

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order and decree passed in I.A.No.9012 of 2018 in O.S.No.5126 of 2016 dated 26.02.2019 by the learned II Assistant Judge, City Civil Court at Chennai.

For Petitioners : Mr.R.K.Ramaiah

For Respondent : Mr.P.Manikannan

ORDER

This revision petition has been filed against the fair and decretal order passed in I.A.No.9012 of 2018 in O.S.No.5126 of 2016 dated 26.02.2019 by the learned II Assistant Judge, City Civil Court, Chennai.

2.Before the trial Court, the revision petitioners were the defendants against whom the respondent herein, who is the plaintiff in the trial Court, filed the under Chapter suit for recovery of money of Rs.5,00,000/- with interest.

3.The case of the plaintiff before the trial Court was that, though there is no contact with the plaintiff and the defendants, both the plaintiff and the defendants having account in the same Bank and therefore, the Bank Manager i.e., V.K.Sidhana, Branch Manager of Union Bank of India, Sowcarpet Branch, Chennai - 600 003, claimed to have introduced the 2nd defendant, who is the Director of the 1st defendant Company, to the plaintiff and on that premises, it was claimed that, the Bank Manager made a recommendation to the plaintiff to advance a sum of Rs.5,00,000/- as the 2nd defendant was

in financial need. Therefore, it is the further claim of the plaintiff that, believing the words of the Manager of the Bank, who only introduced the 2nd defendant, a sum of Rs.5,00,000/- had been paid by the plaintiff through the cheque from the account of the plaintiff and the said amount has been credited in the account of the defendants.

4.In order to repay the same, the 2nd defendant claimed to have issued 10 cheque leafs each for Rs.50,000/- to repay the said loan by way of instalment, but the same seems to have not been honoured. Therefore, in order to recover the said amount of Rs.5,00,000/- advanced by the plaintiff to the defendants, that too, by way of transaction through instrument from account to account, the said suit was filed as an under Chapter suit for recovery of the said money with interest.

5.Where, under Order XXXVII Rule 3(5), the revision petitioners/ defendants filed the present application in I.A.No.9012 of 2018 to seek leave from the Court to defend.

6.The trial Court, after having considered the merits of the case and hearing both sides, has dismissed the said application seeking for leave to defend, filed by the defendants, as against which, the present revision has been filed.

7.Heard Mr.R.K.Ramaiah, learned counsel for the petitioner and Mr.P.Manikannan, learned counsel, who entered through the caveat, for respondents.

8.It is the definite case of the plaintiff that, the plaintiff does not know the 2nd defendant or his Company and he was introduced only by the Bank Manager concerned. Both the 2nd defendant and his Company as well as the plaintiff are having accounts on the same Bank. Only on the strength of the introduction given by the Bank Manager concerned, it was the claim of the plaintiff that, she paid the said amount of Rs.5,00,000/-.

9.The mode of payment was through instrument i.e., cheque from the account of the plaintiff and the said amount has been credited to the account of the defendants and the said factor has not been denied by the defendants.

10.It is also the case of the defendants that, the 2nd defendant does not know the plaintiff and he further claimed that, at the relevant point of time, the 2nd defendant, in his account, was having a sum of Rs.1 Crore and therefore, he was not in need of financial assistance. Therefore, the question of demanding any loan from any one much less the plaintiff did not arise, and therefore, the very claim made by the plaintiff that he advanced the said loan as per the request of the 2nd defendant as introduced or recommended by the Bank Manager concerned is a lie and therefore, based on such transaction, the plaintiff does not entitled to get back Rs.5,00,000/- and therefore, the very cheque leafs claimed to have been given by the 2nd defendant was a cheque leafs with forged signature of the 2nd defendant and therefore, in order to prove his case, the defendants wanted leave to defend the case and therefore, the said application was filed, which was, without considering in proper perspective by the Court below, dismissed and therefore, the same is required to be interfered with in this revision.

11.I have heard the said submissions made by the learned counsel appearing for the revision petitioner and I have gone through the records placed before this Court including the impugned order.

12.It is the case where money has been transacted from account to account by instrument and that has been admitted by the defendants, especially the 1st defendant. The claim therefore made by the plaintiff before the Court below by filing an under Chapter suit is justifiable. Therefore, this Court feels that, no justifiable reason has been given, as has been contemplated under Rule 3(5) of Order XXXVII of C.P.C. and therefore, absolutely, there is no infirmity in the order passed by the trial Court where the trial Court has considered all these aspects.

13.Moreover, on behalf of the revision petitioners/defendants, no documents have been filed and nothing was marked, whereas, on behalf of the respondent/plaintiff, Exs.R.1 to R.4 were marked and those documents had proved the case *prima facie* in favour of the plaintiff to proceed further in the under Chapter suit.

14.Therefore, the reasoning given and the conclusion arrived at by the trial Court in the impugned order is perfectly in order and therefore, it does not require any interference from this Court.

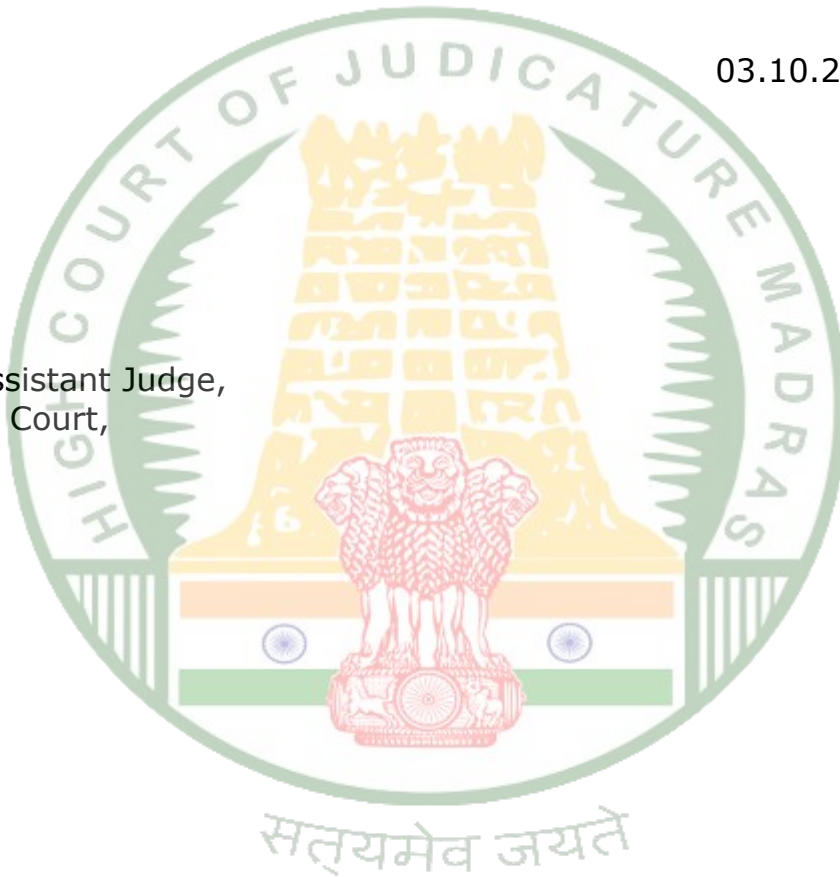
15.In the result, the Civil Revision Petition fails and accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

03.10.2019

Sgl

To

The II Assistant Judge,
City Civil Court,
Chennai.

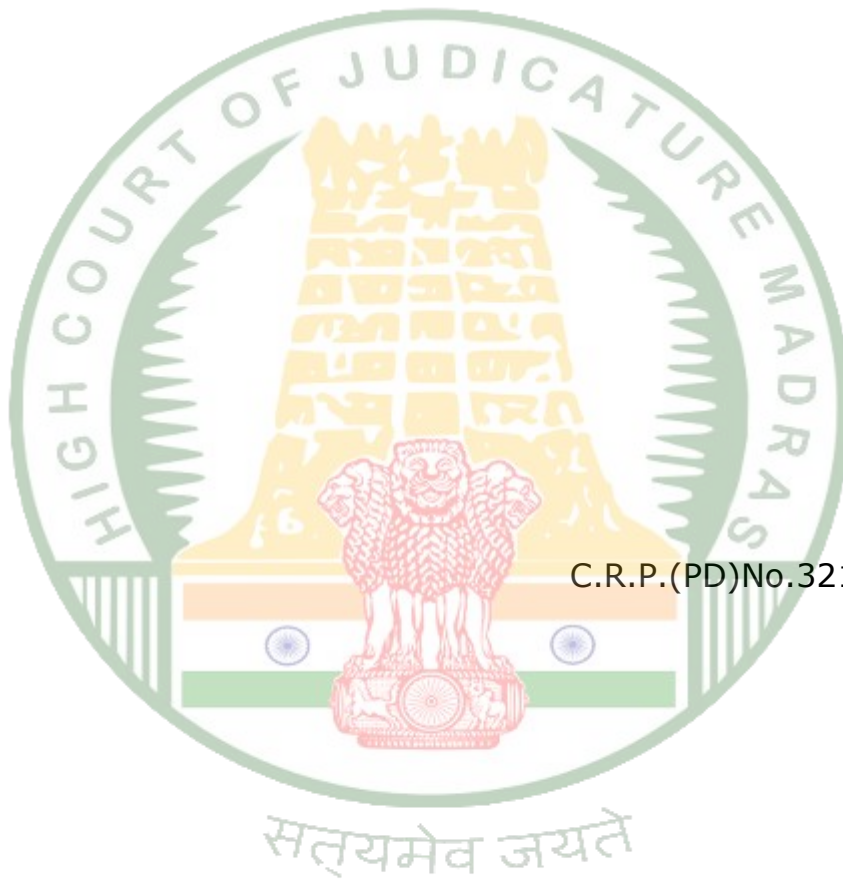


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R.SURESH KUMAR, J.

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