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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 20th March, 2019

+ RFA 229/2019 & CM Nos. 12831/2019, 12832/2019

MEENAKSHI PURIA Appellant

Through: Mr. Ajay Kumar Thakur,
Mr. K.D. Bhalla and
Mr. Naresh Kumar, Advs.

versus

ARUN JAIN Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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J U D G M E N T (O R A L)

1. This appeal arises out of judgment and order dated 17th September, 2018, whereby the learned Additional District Judge (hereinafter referred to as the “Ld. ADJ”) has decreed the suit of the plaintiff, against the defendant, for a sum of ₹ 6 lakhs alongwith interest @ 18% per annum from the date of the loan given by the plaintiff, i.e. from 27th August, 2013, till realisation, alongwith costs.

2. The defendant is in appeal. The plaintiff, in his suit, averred that the appellant/ defendant, (who would be referred to hereinafter as “the defendant”) had taken a loan from him of ₹ 6 lakhs on 27th August, 2013 and that, at the said point of time, the defendant gave an

assurance that she was a subscriber of M/s Valentinos Chit Fund Pvt. Ltd. for two shares of ₹ 3,36,000/- each and that, out of the prize amount, of ₹ 3 lakhs, which she expected to receive against each share, she would pay back the loan taken from the plaintiff.

3. Despite the period of one year, for which the loan had been granted, the defendant defaulted in repaying the loan amount with interest, as a result whereof, the plaintiff had to issue a legal notice dated 14th March, 2015 to the defendant.

4. On the said notice also failing to result in repayment of the loan by the defendant, the plaintiff moved the learned ADJ by way of CS 124/2015 (renumbered as CS 511/2016) from which the present appeal emanates. In the trial court, summons of the suit was served on the defendant, who failed to file written statement despite the lapse of the period of 30 days postulated for the said purpose in the Code of Civil Procedure, 1908. As a result, the learned trial court closed the right of the defendant to file written statement.

5. The defendant challenged the said decision before this Court, by way of CRP 113/2017 (*Meenakshi Puria v. Arun Jain*) which, the appellant candidly acknowledges, was dismissed by this Court on 12th May, 2017 with the observation that the order of the learned ADJ did not suffer from any illegality.

6. Mr. Ajay Thakur, learned Counsel for the defendant/appellant candidly acknowledges that the defendant did not pursue the matter further by challenging the judgment dated 12th May, 2017 of this Court before any higher forum. As such, the said judgment has attained finality.

7. As a result, the written statement of the defendant was not taken on record. Apparently, the defendant also moved an application under Order 9 Rule 7 of the Code of Civil Procedure, 1908 on 11th February, 2016, which was also dismissed by the learned ADJ *vide* an order dated 14th December, 2016, which the defendant never chose to challenge. There being no written statement having been filed by the defendant, no evidence was led by her. The plaintiff in his affidavit has reiterated his averment in that plaint that the defendant had taken a loan of ₹ 6 lakhs from him on 27th August, 2013 and had given two affidavits as well as receipt of payment of the share amount to the M/s Valentino Chit Fund Company thereagainst. These affidavits and receipts, the learned ADJ has noticed, are present on the record of the suit in original, though, the defendant had sought to contend that they were stolen by the plaintiff from the Chit Fund Company.

8. The learned ADJ has held that the defendant had been unable to dent the case of the plaintiff and had also not questioned the signatures appearing on Ex. PW-1/2 and Ex.PW-1/3 which were the affidavits of the defendant, in which she admitted the debt owed to the plaintiff. The said documents admit the debt owed to the plaintiff, and

acknowledges authorizing the foreman of the Chit Fund Company to create a lien on the price amount of ₹ 3 lakhs in favour of the plaintiff.

9. Keeping in mind the testimony of the plaintiff and the aforementioned documents executed by the defendant, which were led in evidence by the plaintiff, as well as the fact that the signatures of the defendant therein had not been questioned by her, the learned ADJ has decreed the suit of the plaintiff, in the terms already noted in para 1 hereinabove.

10. Having heard learned counsel for the defendant/appellant, I am unable to find any ground, whatsoever, to interfere with the impugned judgment. It is a simple case of a loan advanced by the plaintiff to the defendant which was not repaid by her. The learned ADJ cannot be said to have been fallen in error in directing repayment of the loan amount with interest in the terms as contained in the aforementioned order.

11. For all the above mentioned reasons, this appeal does not merit admission. It is, accordingly, dismissed *in limine* with no order as to costs.

C. HARI SHANKAR, J

MARCH 20, 2019/kr