



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11..02..2020
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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.532 of 2020
and
C.M.P.No.2782 of 2020

R.Nagarajan

... Petitioner

-Versus-

K.Kavipriya

... Respondent

Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 21.11.2019 made in I.A.No.1081 of 2019 in O.S.No.16 of 2019 by the learned III Additional District Judge, Puducherry.

For Petitioner : Mr.A.Veerasamy

ORDER

This civil revision petition is directed against the order dated 21.11.2019 passed by the learned III Additional District Judge, Puducherry, allowing the application filed by the petitioner in I.A.No.1081 of 2019 in O.S.No.16 of 2019 under order VI, Rule 17 r/w 151 of CPC to permit the petitioner to amend the plaint.

2. The respondent is the plaintiff in the suit. She has filed the above said suit against the petitioner for recovery of money of Rs.7,97,669/- due on a promissory note together with subsequent interest @ 6% p.a. on the principal sum of Rs.5,00,000/- from the date of plaint till date of realization. In the plaint, she has stated that when the petitioner approached her for loan, she lent a sum of Rs.5,00,000/- to her on 28.01.2016 for which the petitioner had executed a promissory note. Thereafter, despite repeated demand, the respondents neither paid interest nor principal. Hence, the suit.

3. Pending suit, after the commencement of the trial, the respondent filed an application which is under revision seeking to amend the plaint on the ground that though the respondents borrowed a sum of Rs.5,00,000/-, in para 3 of the plaint, it was



wrongly mentioned as Rs.50,000/- instead of Rs.5,00,000/-. The above mistake was only due to typographical error and the same required to be amended suitably. The court below on considering the facts and circumstances has allowed the application holding that while preparing the pleadings, a "zero" could have been omitted to be typed, due to inadvertence, and the same could be ordered to be amended. Challenging the above said order, the present revision petition has been filed.

4. The learned counsel appearing for the petitioner would vehemently contend that by way of amendment, a material fact is sought to be changed in the suit which is not permissible under law. Apart from that the petitioner has been contesting the suit on the ground that promissory is not a genuine and the same is a forged one, only in order to get over the same, the amendment application has been filed. But, the court below without considering the fact erroneously allowed the application for amendment and therefore, the order requires interference at the hands of this court.

5. On a cursory reading of the plaint, it could be seen that the averments would go to show that the petitioner borrowed a sum of Rs.5,00,000/- and executed a promissory note promising to repay the same with interest @ 24% p.a. on demand. The respondent has valued the suit claim at Rs.50,000/- instead of Rs.5,00,000/- and paid necessary court fees thereon. But in the plaint in one place, it was wrongly mentioned as Rs.50,000/-. According to the respondent, the mistake was due to typographical error, but, the actual amount lent as loan to the petitioner was Rs.5,00,000/-. Even in the cross examination of the respondent (PW1) also, the above aspect has been elicited and the respondent has stated that what was borrowed by the petitioner was Rs.5,00,000/- and not Rs.50,000/-. Having considered all those aspects, the court below rightly concluded that the mistake was only due to inadvertence and allowing the application would no way change or alter the nature of the suit nor the cause of action for the suit. On considering the facts and circumstances of the case, this court finds no error in the reasoning given by the court below in allowing the amendment application. Thus, the revision petition is devoid of merit and the same is liable only to be rejected.



In the result, this civil revision petition is dismissed and the order passed by the court below is confirmed. No costs. Consequently, connected CMP is closed.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The III Additional District Judge,
Puducherry.

+1 cc to Mr.M.Narayanaswamy Advocate sr11625

C.R.P.No.532 of 2020

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