



A.No.444 of 2020  
in  
C.S.No.534 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :13.08.2021

Pronounced on :19.08.2021

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

A.No.444 of 2020  
in  
C.S.No.534 of 2019

R.Rajaram  
S/o V.N.Ramanujam  
Padma Srinivasan Memorial-  
Vidiyalaya Matriculation School,  
No.8, Bhavani Nagar,  
Lakshmipuram,  
Chennai 600 099.

..Applicant/Defendant

/versus/

V.V.Ramani

..Respondent/Plaintiff

Prayer: Civil Suit has been filed under Order XIV, Rule 8 of O.S. Rule read with Order 7, Rule 11 of C.P.C., praying to reject the plaint as there is no cause of action to file the above said suit in this regard.



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For Applicant :Mr.G.Thangavel

For Respondent :Mr.R.Raman Laal

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### ORDER

*(The case has been heard through Video Conferencing)*

The suit is for recovery of Rs 1,71,20,256/- with interest at the rate of 24 % p.a.

2.The case of the plaintiff, as stated in the plaint, is that, the plaintiff family and the defendant family are known to each other. The defendant is running a school in the name and style of 'Padma Srinivasan Memorial Vidyalaya Matriculation School' at Chennai. For expansion of the said school, the defendant borrowed money from the plaintiff, her father and her brother.

3.From the family members of the plaintiff, the defendant since 1997 has been borrowing money for his business and family expenditures on various dated by executing pronotes, cheques and deposit of title deeds creating equitable mortgage. Also a simple mortgage deed was obtained



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on 28/01/1997 in respect of his property situated at No.8, Bhavani Nagar, Lakshmipuram, Madavaram Village land to an extent of 2840 sq.ft.

4.For the total due payable, the defendant has paid only a sum of Rs.4,65,000/- towards interest on various dates from 24/05/2008 to 15/10/2014. For the balance amount of Rs.1,49,12,735/-, a consolidated pro-note in the name of the plaintiff, dated 30/11/2015 given by the defendant, which is exclusive of the mortgage loan. The defendant has not paid any interest or principal due and payable under the pro-note. As far as the mortgage loan dated 28/01/1997, taking shelter under the endorsement made in the document dated 09/12/2002, the defendant has filed suit for redemption before the District Munsif Court, Thirvottiyur in O.S.No.36/2016 and the said suit is pending.

5.For the recovery of money lend against the pro-note, the present suit is filed.

6.The defendant, has filed the instant application for rejection of plaint on the ground that, the plaint averments about the alleged money



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transactions, which are barred by limitation. The defendant borrowed only Rs.50,000/- on 28/01/1997 and executed a registered mortgage deed in respect of the property at Madavaram Village. The plaintiff is in possession of blank cheques given by the defendant as security. The allegations regarding various borrowings from the plaintiff and her brother V.L.Kumar are misleading and without impleading the said Kumar, the suit is bad. The plaint does not disclose clear cause of action for claiming a sum of Rs.1,71,20,256/. No proper explanation is given for arriving at the said sum. The plaintiff is prohibited to raise such a false claim without establishing existence of a loan as stated in the suit.

7.The loan of Rs.95,000/- borrowed from the father of the plaintiff was discharged by the defendant through cash payment. The cheques given as security were retained by the plaintiff's father for the reasons best known. Towards the mortgage, the defendant has paid Rs.50,000/- to the plaintiff's father and got endorsement on 09/02/2002. The defendant paid the loan due under the mortgage but the plaintiff did not come forward to release the mortgage with ulterior motive and misuse the blank



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cheques, which were retained by her father, as her father died on 07/02/2003.

8.The alleged pro-note dated 30/11/2015 is totally denied as false. Same created for the purpose of limitation to cheat the defendant. The suit with misleading facts filed counter to the redemption suit pending before the Thiruvottiyur Court. The said pronote is a forged document. Non-est in the eye of law. As admitted by the plaintiff, the last payment by the defendant to the plaintiff was on 19/06/2015. Thereafter, she admits that the defendant did not pay any money. Therefore, the suit filed on 29/11/2018 is hopelessly barred by limitation. Hence, the plaint is to be rejected.

9.According to the learned counsel for the plaintiff, the suit is based on pro-note executed by the defendant on 30/11/2015. The limitation for filing the suit for recovery of money is 3 years from the date of money due and payable. The plaint for recovery of money presented on 29/11/2018 is well within the period of limitation. The redemption suit



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filed by the defendant is in respect of mortgage loan availed by the defendant on 28/01/1997. The cause of these two suits are different. The defendant, taking advantage of the endorsement made for receipt of the interest regarding the other loans, has filed suit for redemption, as if he has paid the entire mortgage loan, which fact denied by the plaintiff herein as defendant in that suit. The instant suit is well within limitation. Neither Or XII Rule (6) CPC nor Or VII Rule (11) of CPC apply to the facts of the case.

10.Heard the counsels and perused the pleadings.

11.The plaint as such disclosed that the defendant on 30/11/2015 had executed a pro-note for a sum of Rs.1,45,12,735/-. As per the plaint, this is the amount due and payable by the defendant as on the date of executing the pro-note, this is in consolidation of all his earlier borrowings made under pro-note, deposit of title deed or letter of undertaking, except the mortgage loan. The letter dated 30/11/2015 written by the defendant to the plaintiff requesting the plaintiff to return



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the original title deed of his Madavaram property which is under mortgage with the plaintiff, for the purpose of verification to avail loan from Reliance Capital Limited indicates that, on the date of executing the pro-note, the original title document in respect of the defendant property was with the plaintiff herein. Therefore, the contention of the defendant that the pro-note dated 30/11/2015 is forged, created for the purpose of this case are all disputed facts which could be decided only after trial. The pro-note purported to have been executed by the defendant along with the letter both dated 30/11/2015 prima facie indicates that on that date, the defendant had promised to pay the plaintiff a sum of Rs.1,45,12,735/- with interest at the rate of 24%.

12.The rest of the plaint pleading and the documents relied also substantially indicates the money transaction between the parties. Whether the suit claim is correct and whether the pro-note is valid are all matter for trial. As far as limitation is concerned, the suit for recovery of money is based on the pronote dated 30/11/2015. The suit is filed on the last date of expiry of 3 years period. The defendant's plea to take the last



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date of payment of interest for reckoning limitation in the given facts is not correct. As far as pronote is concerned, being a note on demand, the limitation commences from the date on which it is executed unless, the date of payment is fixed for a future date in the note itself. Further, the limitation will get extended on every transaction made in respect of the amount shown in the pronote. Hence, the suit is not barred by limitation.

13.The other factual allegations and denial can be decided only after examination of witnesses and documents.

14.Since the plaint averments discloses cause of action and triable issues, **the application to reject the plaint is dismissed.** No order as to costs.

Sd./-G.J.J  
19.08.2021

//Certified to be true copy//  
Dated at Madras this the                      day of                      2021.

COURT OFFICER(O.S.)  
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JJ 06/09/2021