

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2021

CORAM:

**THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN**

**CRP (NPD).No. 2444 of 2015**

**and**

**M.P.No. 1 of 2015**

R.Sumathy

... Petitioner

Vs.

1. R.Sasikala

2. K.Ramesh

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, praying to set the fair and final order dated 16.02.2015 passed by the VIII Assistant City Civil Court, Chennai in I.A.No.19993 of 2014 in O.S.No. 6324 of 2014.

For Petitioner : M/s.S. Suseela Devi

For Respondents : Mr.S. Parthasarathy (for R1)  
: No Appearance (Notice Served)  
(for R2)

**ORDER**

This Civil Revision Petition is directed as against the fair and final order passed in I.A.No.19993 of 2014 in O.S.No. 6324 of 2014 dated 16.02.2015 on the file of the learned VIII Assistant Judge, City Civil Court,

Chennai, thereby, dismissing the petition seeking leave to defend the suit.

2. The petitioner is the defendant and the respondents are the plaintiffs. The respondents filed a suit for recovery of money, on the strength of the loan agreement dated 10.04.2012. After receipt of the summons, the petitioner filed a petition to leave to defend, on the ground that the petitioner received a sum of Rs.70,000/- and he also introduced other two persons. They also borrowed a sum of Rs.60,000/-. Since they failed to repay the said amount, the petitioner repaid the entire amount with interest. The first respondent used to collect the loan amount as regular 'Thandal' basis with enormous interest. In fact, the petitioner returned the entire chit amount in the month of February 2014 itself. Even then, the first respondent came to the petitioner's house and threatened him to settle the entire amount with exorbitant interest. She demanded Rs.4,50,000/- for the loan amount of Rs.1,30,000/-. Thereafter, she returned the entire amount and even thereafter, she came into the petitioner's house and threatened him with dire consequences. Therefore, the petitioner lodged a complaint before the Inspector of Police, P-6 Kodungaiyur Police Station, Chennai. On receipt of the same, the Inspector of Police also conducted an enquiry and

since it is a money transaction, he advised to go before the Civil Court. Further, the first respondent is politically influenced person and managed the Police personnel not to take any action as against him. On 19.02.2014, the petitioner lodged a complaint and the same was registered on 20.02.2014.

3. On a perusal of the affidavit filed in support of the petition seeking leave to defend the suit, it is seen that there are triable issues to try the same before the trial Court. The learned counsel for the petitioner also relied upon the judgments of this Court reported in 2013 (5) CTC 260 (*S.Balasubramanian -vs- V.Govindan*) and 2004 (3) CTC 321 (*K.Vasantha Devi -vs- Mahesh Kumar Rathi*). This Court repeatedly held that the affidavit filed in support of the petition seeking leave to defend the suit disclose any triable issues between the parties and then only the leave to defend would be granted without going into the correctness or otherwise of the facts stated by the petitioner seeking to leave to defend.

4. In the case on hand, on a perusal of the affidavit filed in support of the petitioner seeking leave to defend, there are triable issues and the

petitioner also stated that there are so many chit transactions between them. Without considering the same, the Court below dismissed the petition seeking leave to defend and decreed the suit.

5. Considering the above facts and submissions made, this Civil Revision Petition is allowed and the order passed in I.A.No.19993 of 2014 in O.S.No. 6324 of 2014 is set aside. However, the petitioner is permitted to defend the suit on condition that the petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) to the credit of the suit in O.S.No.6324 of 2014 within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the trial Court is directed to dispose of the suit within a period of six months thereafter. Consequently, the connected Miscellaneous Petition is closed. No costs.

सत्यमेव जयते

15.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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**G.K.ILANTHIRAIYAN,J.**

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To

The VIII Assistant City Civil Court, Chennai.



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