

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.3333 of 2015
and M.P.No.1 of 2015

A.Venkatramani ...Petitioner

Vs

Usha Mehra.L ...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.8811 of 2014 in O.S.No.1143 of 2014 dated 01.04.2015 by the IV Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.V.Arunagiri

For Respondent : Notice served-No appearance

ORDER

The Civil Revision Petition is directed as against the order passed in I.A.No.8811 of 2014 in O.S.No.1143 of 2014 dated 01.04.2015 by the IV Assistant Judge, City Civil Court, Chennai, thereby dismissed the petition,

filed by the petitioner for leave to grant to defend the suit.

2.The respondent is the plaintiff, who filed the suit for recovery of money on the promissory note dated 14.10.2010.

3.According to the plaintiff, the petitioner and another person are the Directors of the 1st defendant viz., M/s Sanraa Media Limited. They approached the respondent through their finance agent – Anil Traders for a loan of Rs.50,000/-. It was disbursed to the defendants and the 2nd and 3rd defendants as the Directors of the 1st defendant they executed pro-note in favour of the respondent herein. Further, the case of the plaintiff is that through the finance agent, the defendant paid a sum of Rs.3,800/- towards the part payment of the principle and failed to pay the balance of the principle and also they accumulated the interest. Hence the suit for recovery of money.

4.A sum of Rs.36,200/- as the balance principle and also Rs.23,890/- as interest. The petitioner is the 2nd defendant in the said suit and he filed a petition to leave to defend the suit on the ground that he is not the Director of the 1st defendant Company and the pro-note itself is not

valid one, since no one has filled the borrowers name in the 1st line itself. Further, the suit itself barred by limitation, since the pro-note was allegedly executed on 14.10.2010. The suit filed only on 25.02.2014. Therefore, the suit was barred by limitation. The respondent averred in the plaint that the finance agent of the defendant viz., Anil traders paid a sum of Rs.13,800/- towards the part payment of the principle on 08.08.2011. Therefore, from the date of part payment, limitation was calculated and filed the suit. Whereas on perusal of the letter 08.08.2011, issued by the so called finance agent, viz., Anil Traders, revealed that they paid only a sum of Rs.3,800/- by the cheque bearing No.559072. But the respondent demanded a sum of Rs.13,800/- and filed a suit for a sum of Rs.36,200/- for balance principle. That apart, the petitioner name is Venkataramani and instead of that the respondent filed a suit as Venkataraman. Further, the respondent failed to produce any of the document to show that the petitioner is one of the Director of the 1st defendant Company. Therefore, there are so many triable issues in the suit and as such the Court below ought to have given opportunity to the petitioner to defend the suit.

5.In view of the above the order passed in I.A.No.8811 of 2014 in

O.S.No.1143 of 2014 dated 01.04.2015 by the IV Assistant Judge, City Civil Court, Chennai, is set aside and the Civil Revision Petition is allowed.

6.In view of the above Judgment and decree in O.S.No.1143 of 2014 dated 01.04.2015 is hereby set aside. The petitioner is permitted to file his written statement within a period of two weeks from the date of receipt of a copy of this order before the trial Court. Thereafter, the trial Court is directed to dispose of the suit within a period of three months from the date of filing the written statement. No costs. Consequently connected miscellaneous petition is closed

10.02.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The IV Assistant Judge, City Civil Court, Chennai.

G.K.ILANTHIRAIYAN.J,

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