**CS.No.146 of 2021**

**ABDUL QUDDHOSE, J.**

The suit has been filed for recovery of a sum of Rs.10,24,17,520/- together with interest and costs.

2. The defendants borrowed a sum of Rs.2,00,00,000/- from the plaintiff on 20.08.2011 and they have jointly executed a Promissory Note in favour of the plaintiff. Under the said Promissory Note, the defendants have agreed to repay the said amount on demand together with compound interest thereon @ 18 % per annum. According to the plaintiff, the defendants have made four part payments between 20.08.2011 and 14.06.2012, amounting to Rs.21,00,000/- towards interest. According to the plaintiff, on 25.01.2013, the defendants wanted the plaintiff to adjust the Chit prize amount of Rs.4,89,035/- to the loan account and the said adjustment was made and the first defendant had assured to settle the accumulated interest and the principal amount. According to the plaintiff, the defendants did not make any payment either towards interest or the Principal amount.

3. According to the plaintiff, the defendants have approached the plaintiff company during the month of December 2013 and sought for further loan of

Rs.1,00,00,000/- and the second defendant submitted a letter dated 15.12.2013 to grant further loan and expressed her willingness to deposit the title deeds of the properties owned by the second defendant. According to the plaintiff, the defendants have also wanted to cancel the promissory note dated 20.08.2011 and to execute a fresh promissory note. According to the plaintiff, out of Rs.1,00,00,000/-, the defendants wanted to credit a sum of Rs.75,00,000/- towards loan account and to pay the balance sum of Rs.25,00,000/- to the defendants. According to the plaintiff, the defendants have submitted the Original Title Deeds bearing document No. 5657 of 2011 dated 12.08.2011 and the said property is situated at Neyveli Village, Uttukottai Taluk, Tiruvallur District together with the letter dated 15.12.2013 evidencing the submission of the Original Title Deeds of the property owned by the second defendant as collateral security with an understanding that they would take back the original title deeds after discharge of the loan outstanding with interest thereon.

4. According to the plaintiff, the new loan amount of Rs.1,00,00,000/- was also granted to the defendants and cancelled the Promissory Note dated 20.08.2011 and executed a fresh Promissory note on 13.01.2014 for a sum of Rs.3,00,00,000/-. According to the plaintiff, after crediting the loan account of the defendants, the outstanding in the loan account of the defendants as on

13.01.2014 was a sum of Rs.3,00,85,579/-. According to the plaintiff, the defendants have jointly agreed to repay the said amount together with the compound interest at 18% per annum.

5. It is the case of the plaintiff that during December 2016, the defendants have approached the plaintiff and expressed their inability to discharge the loan with interest thereon. According to the plaintiff, the defendants have jointly executed a fresh promissory note dated 13.12.2016 in the office of the plaintiff company for a sum of Rs.5,06,60,544/- which was the outstanding amount as on that date and they agreed to jointly repay the said amount on demand together with compound interest thereon @ 18% per annum within one year. According to the plaintiff, despite the undertaking given by the defendants, they failed to pay any amount to the plaintiff, even though they have acknowledged their liability at Rs.5,06,60,544/-.

6. It is the case of the plaintiff that several cheques issued by the defendants also got dishonoured for insufficient funds and proceedings under section 138 of the Negotiable Instruments Act has also been instituted against the defendants which is pending on the file of the Metropolitan Magistrate (Fast Track Court - III) Saidapet, Chennai in CC.No.5805 of 2018. Before instituting

this suit, the plaintiff has also sent a legal notice dated 15.02.2021 calling upon the defendants to pay the outstanding loan amount together with interest which has been duly acknowledged by the defendants on 16.02.2021 & 22.02.2011 respectively. Since no money was forthcoming, the plaintiff has instituted this suit.

7. The suit summons has been duly served on the defendants and even though a learned counsel has entered appearance on behalf of the defendants, no written statement has been filed by the defendants within the prescribed period and hence, they were set exparte on 18.11.2021 and thereafter, the matter was posted before the learned Master for recording evidence.

8. The plaintiff's authorised representative Mr.N.K.Shanmugam was examined as PW1 before the learned Master. In his proof affidavit, he has reiterated the contents of the plaint filed in support of CS.No.146 of 2021. Through PW1, the following documents were marked as exhibits:

| ***Exhibits*** | ***Nature of documents*** |
|---|---|
| P1 | Original Board Resolution dated 02.12.2021 |
| P2 | Original Request letter of the 2nd defendant seeking Additional Loan dated 15.12.2013 |
| P3 | Original Letter submitted by the defendants for submitting the Original Title Deeds of the second defendant dated 15.12.2013 |

| *Exhibits* | *Nature of documents* |
|---|---|
| P4 | Certified copy of the demand promissory note dated 13.12.2016 |
| P5 | Certified copy of the Cheque No.000314 of the First defendant drawn on M/s.Karur Vysya Bank Limited dated 19.02.2018 |
| P6 | Certified copy of the Cheque No.000312 of the First defendant drawn on M/s.Karur Vysya Bank Limited dated 20.02.2018 |
| P7 | Certified copy of the Cheque No.000313 of the First defendant drawn on M/s.Karur Vysya Bank Limited dated 20.02.2018 |
| P8 | Certified copy of the Legal Notice issued for Dishonour of Cheques to the first defendant by Plaintiff dated 19.03.2018 |
| P9 | Certified copy of the complaint in C.C.No.5805 of 2018 filed before the learned Metropolitan Magistrate (Fast Track No.III) Saidapet, Chennai dated April 2018 |
| P10 | Office copy of the Legal Notice sent by the Plaintiff to the Defendants dated 15.02.2021. |
| P11 | Acknowledgement card from 2nd defendant dated 16.02.2021 |
| P12 | Acknowledgement card from 1st defendant dated 22.02.2021 |
| P13 | Original Statement of accounts of the Defendants dated 28.02.2021 |

9. As seen from the evidence available on record, it is clear that the defendants are defaulters in the repayment of the loan to the plaintiff. As seen from Ex.P4, they have executed a demand promissory note dated 13.12.2016 in favour of the plaintiff for a sum of Rs.5,06,60,544/- and several cheques have also been returned dishonoured which were issued by the defendants to the plaintiff towards part payments of the loan which has been marked as Ex.P5,

Ex.P6 & Ex.P7. It is also seen that in respect of dishonoured cheques which were returned due to insufficient funds, the plaintiff has already instituted criminal proceedings under section 138 of the Negotiable Instruments Act before the learned Metropolitan Magistrate (Fast Track Court - III) Saidapet, Chennai in CC.No.5805 of 2018 and a certified copy of the complaint has also been marked as Ex.P9. Prior to the institution of this suit, a legal notice was also sent by the learned counsel for the plaintiff to the defendants on 15.02.2021 and the said legal notice was marked as Ex.P10. Both the defendants have duly acknowledged the said legal notice as seen from Ex.P11 & Ex.P12. The plaintiff has also filed original statement of account pertaining to the loan transaction entered into with the defendants which has been marked as Ex.P13 which discloses the amount payable by the defendants to the plaintiff which is the suit claim.

10. From the evidence available on record, it is clear that the plaintiff has proved his claim and therefore, the suit will have to be decreed as prayed for. Accordingly the suit is decreed as prayed with costs.

08.12.2021

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**ABDUL QUDDHOSE, J.**

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**C.S.No.146 of 2021**

**08.12.2021**