

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

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THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD) No.1694 of 2021

A.Venugopal

...Petitioner

Vs.

M/s.SBI Cards Limited
Rep. by its Managing Director
P.O.Bag No.28, GPO
New Delhi - 110001.

...Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in unnumbered OS.No.....of 2021 (CFR.No.9455 of 2021) dated 22.07.2021 (CFR.No.9455 of 2021) dated 22.07.2021

For Petitioner : Mr. B.Kumarasamy

सत्यमेव जयते

ORDER

This Civil Revision Petition is filed, challenging the order passed in unnumbered O.S.No.....of 2021 (CFR.No.9455 of 2021) dated 22.07.2021 (CFR.No.9455 of 2021) dated 22.07.2021.

2.The learned counsel for the petitioner submitted that the petitioner filed a suit against the respondent, seeking the relief of permanent injunction, restraining the defendant and their agents from illegally disturbing the plaintiff's peaceful possession and enjoyment of the suit property.

3.It is in the plaint averments that the petitioner was provided with a credit card, without ensuring that the petitioner had been informed about the terms and that, he had consented and understood his commitments. A sum of Rs.50,000/- was credited to the petitioner's account. Subsequently, the petitioner paid the due amount to the respondent. However, the respondent sending collection agents to the house of the petitioner and to his office and continued to harass the petitioner and his family members, by demanding the loan amount. Therefore, the suit was filed. The learned Trial Judge considering the plaint averments found that payment of Rs.50,000/- by the petitioner was not proved by providing any document on the side of the petitioner, to substantiate his case and finally held that the said suit is hit by Section 41 of the Specific Relief Act. The plaint was

rejected by order dated 22.07.2021. Against the order of rejection dated 22.07.2021, the present Civil Revision Petition is preferred.

4.The learned counsel for the petitioner submitted that the petitioner is prepared to pay whatever the amount due, subject to the respondent, filing a suit. Without filing a regular suit, for recovery of amount, the respondent cannot collect the money by sending collection agents and making unsolicited phone calls to the petitioner and his family members. Since the respondent had resorted to all these illegal methods, there is a necessity for the petitioner to file the present suit.

5.The relief sought in the plaint is that the respondent should be restrained from illegally disturbing the petitioner's peaceful possession and enjoyment of the suit property. There is no clear averment with regard to the fact as to whether the possession of the petitioner was being disturbed by the respondent. The only allegation is that the collection agents of the respondent, visited the house of the petitioner for demanding the loan amount. That apart, though there was a mention about the return of loan amount, the list of documents filed in the plaint shows that no document had been filed to show the repayment of the said loan amount. If the suit is

entertained, permanent injunction is granted, it would amount to preventing the respondent from initiating civil and criminal proceedings for recovery of the loan amount. That is prohibited under Section 41 of the Specific Relief Act. The learned Principal District Munsif, Coimbatore has also considered this fact and rightly rejected the plaint.

6. Therefore, this Court does not want to interfere with the order dated 22.07.2021 in unnumbered O.S.No.... of 2021. The respondent has every right to recover whatever the amount due from the petitioner only through legal means and it is not open to them to send collection agents and making unnecessary phone calls to the petitioner and his family members.

7. For the aforesaid reasons, this Civil Revision Petition stands disposed of on the above lines and the rejection order dated 22.07.2021 in unnumbered O.S.No.... of 2021 on the file of the Principal District Munsif, Coimbatore, is hereby confirmed. No costs.

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26.08.2021

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1.The Principal District Munsif, Coimbatore.

2.The Section Officer

VR Section

High Court of Madras.



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G.CHANDRASEKHARAN.J,

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