

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 16TH DAY OF APRIL 2021

THE MASTER

C.S. No.326 of 2020

Mr. R. Vivek Anand,
S/o. Rajalingam,
No. 81/32, Patel Road,
Perambur, Chennai 600 011.

... Plaintiff

Vs.

Mr. K. Ravi,
S/o. L. Kuberan,
N.5, Railway Colony First Street,
Nelson Manickam Road,
Aminjikarai, Chennai 600 029.

...Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and decree against the defendant directing the defendant:

(a) To pay a sum of Rs.1,10,00,000/- (Rupees One Crore and Ten Lakhs Only) with future interest at 24% p.a. on Rs.1,10,00,000/- (Rupees One Crore and Ten Lakhs Only) from the date of plaint till the date of realisation;

(b) To pay the cost of this suit.

This Suit coming on this day before this Court for hearing in the presence of Mr.V.K. Rajagopalan, Advocate for the plaintiff herein and the defendant herein not appearing in person or by Advocate and upon reading

the plaint filed herein and this Court having observed that the plaintiff has established this case against the defendant, moreover, the defendant has entered appearance through their counsel but has not filed leave to defend application and so adverse inference is drawn against the defendant, it is ordered and decreed as follows:-

That the defendant herein, do pay the plaintiff herein, a sum of Rs. 1,19,22,643/- (Rupees one crore nineteen lakhs twenty two thousand six hundred and forty three Only) with further interest at the rate of 18 % p.a. On the sum of Rs.1,10,00,000/- (Rupees one crore and ten lakhs only) from this date till the date of realisation.

2. That the defendant herein, do pay the plaintiff herein, the costs of this suit as and when taxed by the taxing officer of this Court and noted in the margin thereof.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
16th DAY OF APRIL 2021.

Sd/-

ASSISTANT REGISTRAR(O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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EVK

30/04/2021

C.S. No.326 of 2020

ORDER

DATED : 16.04.2021

THE MASTER

FOR APPROVAL: 22/07/2021

APPROVED ON: 23/07/2021

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(b) To pay the cost of this suit.

This suit coming on this day before this court for hearing the court made the following order:-

This suit has been filed under Order VII Rule 1 of Original Side Rules

r/w. Order XXXVII Rule 2 of CPC to try as a summary suit and to pass a judgment and decree directing the Defendant to pay a sum of Rs.1,10,00,000/- (Rupees One Crore and ten lakhs only) with future interest @ 24 % P.A. on Rs.1,10,00,000/- (Rupees one crore and ten lakhs only) from the date of plaint till the date of realization.

As per the Original Side Rules the defendant has to file the application seeking leave to defend the suit within 10 days of service of summons. In this case the defendant has entered appearance through their counsel but has not filed leave to defend application. Thus, the Hon'ble Single Judge has directed the matter to be posted before the Master for further proceedings. Even after giving sufficient opportunities to the defendant, he has not chosen to contest the case and therefore, this court is constrained to pass Judgment in this suit.

Heard. Suit documents perused. It is the case of the plaintiff that he is doing Construction and Real Estate business. The plaintiff also states that the defendant is also doing the same Real Estate Business in Aminjikarai area. In the first week of August, 2018, the defendant approached the plaintiff on the ground that he is urgently in need of Rs.1,20,00,000/- (Rupees one crore and twenty lakhs only) to purchase some property for Real Estate business and also agreed to pay necessary interest for the same and also repay the amount at the earliest. Believing his words, the plaintiff

asked the defendant to come and collect the money from his residence during third week of August, 2018. Accordingly the defendant went to the plaintiff's house on 23.08.2018 and received Rs.1,20,00,000/- (Rupees one crore and twenty lakhs only) from the plaintiff. On the same day the defendant also executed three pro notes each for Rs.40,00,000/- (Rupees forty lakhs only) in favour of the plaintiff and the defendant also agreed to pay interest @ 24% P.A. to the plaintiff.

The plaintiff further states that on various dates the defendant paid various amounts and accordingly the defendant paid upto Rs.10,00,000/- to the plaintiff herein. And the last payment paid by the defendant is for Rs.2,00,000/- on 21.08.2019 to the plaintiff herein. After that no payment was made. So still Rs.1,10,00,000/- is yet to be paid by the defendant herein along with interest. Later, a cheque dated 20.02.2020 for Rs.5,00,000/- given by the defendant to the plaintiff and requested him to deposit after one week. Accordingly the plaintiff approached the defendant bank during first week of March, 2020 for clearance, but the bank informed to the plaintiff that no amount is available in his account to honour the cheque. Immediately the plaintiff contacted the defendant and informed the same to him. But the defendant has not shown any interest in settling the due amount, the reason best known to them.

The plaintiff further states that after 21.08.2019 the defendant not

make any further payment either towards principal or interest till this date. Hence to claim Rs.1,10,00,000/- from the defendant, the plaintiff issued a legal notice dated 28.09.2020 and call upon him to pay the amount within 7 days from the receipt of the notice. The defendant sent reply dated 19.10.2020 and pray for some more time for settling the amount. Even after that also he has not shown any interest in making payment. Hence this suit.

From the above averments and the documents filed on behalf of the Plaintiff, it is seen that the Plaintiff has established the case against the defendant. Moreover, the defendant has entered appearance through their counsel but has not filed leave to defend application and so adverse inference is drawn against the defendant. Hence the Plaintiff is entitled to the relief as prayed for. In the result, the suit is decreed directing the Defendant to pay a sum of Rs.1,10,00,000/- (Rupees One crore and ten lakhs only) with future interest @ 18% P.A. on Rs.1,10,00,000/- (Rupees one crore and ten lakhs only) from the date of plaint till the date of realization.

Sd./-THE MASTER

16/04/2021

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Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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