



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (MD) No.124 of 2020
and
CMP (MD) .No.710 of 2020

P.Mani

....Petitioner/Respondent/Defendant

vs.

N.Senthilkumar

....Respondent/Petitioner/Plaintiff

PRAYER: Petition filed under Article 227 of Constitution of India, to set aside the order dated 02.11.2019 passed in I.A.No.1 of 2019 in O.S.No.91 of 2019 on the file of the I Additional District Judge, Tiruchirappalli and thereby dismiss the I.A.No.1 of 2019 in O.S.No.91 of 2019 on the file of the I Additional District Judge, Tiruchirappalli.

For Petitioner : Mr.Shangar Murali

For Respondent : Mr.S.Manikandan
For Mr.S.Sundar Srinivasan

ORDER

This Civil Revision Petition has been filed to set aside the order dated 02.11.2019 passed in I.A.No.1 of 2019 in O.S.No.91 of 2019 on the file of the I Additional District Judge, Tiruchirappalli.

2.The petitioner herein borrowed a sum of Rs.20,86,000/- based on the two promissory notes from the respondent herein. The petitioner has paid interest till November 2018 on the said two suit promissory notes. Thereafter, when the respondent insisted for repayment of due amounts, the petitioner represented that he did not have liquid funds and gave a cheque in favour of the respondent for a sum of Rs.20,00,000/- When the said cheque was presented for collection, it was returned as 'funds insufficient'. Hence, the



respondent filed the suit in O.S.No.91 of 2019 before the I Additional District Judge (PCR), Tiruchirappalli against the petitioner herein for the relief of recovery of a sum of Rs.20,86,000/- based on the suit promissory note with subsequent interest. Pending suit, the respondent filed I.A.No.1 of 2019 to direct the petitioner to offer cash security to the suit claim and on his failure to attach the petition mentioned properties before judgment where the learned Judge has allowed the petition and directed the petitioner to furnish cash security of the claim amount of Rs.20,86,000/-. Against which, the present civil revision petition has been filed by the petitioner.

3.The learned counsel for the petitioner would submit that the petitioner has availed a sum of Rs.20,00,000/- on various dates from the respondent herein with exorbitant interest. At that time, the respondent obtained 3 signed blank cheques and 3 signed unfilled promissory notes. He further submitted that the petitioner has paid the borrowed sum of Rs.20,00,000/- on various dates to the respondent herein. Thereafter, when the petitioner demanded the respondent to return the promissory notes and cheques, the respondent has refused to give the same and thereafter, the respondent instituted the suit against the petitioner on most vexatious grounds. Pending suit, the respondent filed I.A.No.1 of 2019 to direct the petitioner to offer cash security to the suit claim and on his failure, attach the petition mentioned properties before judgment. Since the petitioner has already mortgaged the petition mentioned properties, the Court below directed the petitioner to furnish cash security of the claimed sum of Rs.20,86,000/-, if not, the properties shall be attached is unsustainable. Hence, he sought before this Court to set aside the order passed by the learned I Additional District Judge, Tiruchirappalli in I.A.No.1 of 2019 and allow this civil revision petition.

4.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

5.Perusal of record shows that petitioner has admitted that he borrowed a sum of Rs.5,00,000/- and another 15,00,000/- on various dates from the respondent. At the same time, the petitioner stated that he had repaid the entire loan amount on various dates namely 25.10.2019, 24.11.2018 and 22.12.2018 respectively, but, he has not submitted any documents for discharging his loan. Further, the respondent used the petitioner's blank cheque and filed other 3 cases is not material in the application. Considering the facts and circumstance of the case, the learned Judge allowed the application and directed the petitioner to furnish the cash security of the claimed amount of Rs.20,86,000/- in a week, if not, the properties shall be attached on payment of batta by 03.12.2019 where I do not find any infirmity in the order passed by the I Additional District Judge, Tiruchirappalli in I.A.No.1 of 2019 in O.S.No.91 of 2019.



6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2021
Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The I Additional District Judge
Trichirappalli

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to Mr. K. S. SHANGAR MURALI, Advocate (SR-1787[F] dated 22/01/2021)

+1 CC to Mr. R. SUNDAR SRINIVASAN, Advocate (SR-1690[F] dated 21/01/2021)

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(MJ)

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