**Application No.4152 of 2021**
**in C.S.No.209 of 2019**

**N.ANAND VENKATESH,J.**

This application has been filed by the applicant/plaintiff seeking for the relief of summary judgment under Order XIII-A of CPC.

2.The applicant/plaintiff has filed the present suit against the respondents/defendants for the relief of recovery of money. The case of the applicant is that the respondents approached the applicant for financial assistance in order to purchase a property. The respondents also submitted a loan application seeking for a loan of a sum of Rs.2,00,00,000/-. At the time of submitting the loan application, a sale agreement entered into with the prospective vendor was also submitted before the applicant. Based on the documents submitted by the respondents, the loan application was scrutinized and a loan agreement was entered into on 27.05.2017. The loan agreement provided for the terms and conditions and the total loan amount of Rs.2,00,00,000/- was agreed to be repaid back in 180 equated monthly installments.

3.Towards the above loan amount, the respondents also deposited the title deed of a property which was registered as Document No.1702 of 1979. Pursuant to the loan agreement, the applicant paid a sum of Rs.1,90,00,000/- by way of cheque directly in the name of the Vendor.

4.The further case of the applicant is that the sale deed after execution was presented for registration before the authorities on 28.06.2017. However, the document was kept as a pending document and the memorandum of deposit of title deed which was also presented for registration was kept as a pending document.

5.The applicant thereafter realised that there was a cloud in the title over the property and there was an issue even with regard to the identity of the property and that is the reason why the documents were kept pending in the registration office. The applicant further came to know that a fraud has been played by presenting fabricated documents wherein, the vendor seems to have been impersonated.

6.In the meantime, the amount became due and payable by the respondents and not even a single installment was paid to the applicant. The applicant left with no other alternative, filed the above suit for recovery of money against the respondents.

7.The respondents did not chose to file the written statement within the mandatory period and hence, their right to file the written statement was forfeited by an order passed by this Court on 09.07.2021.

8.The respondents filed an application in A.No.3030 of 2021, seeking for the rejection of plaint on the ground that the suit is not maintainable and the applicant ought to have initiated proceedings only under the Recovery of Debts and Bankruptcy

Act, 1993. This application came to be heard by this Court and by an order dated 08.10.2021, the application was dismissed and this Court held that the applicant has not been included specifically as a financial institution under the relevant enactment and hence, the present suit is maintainable.

9.Pursuant to the above order passed by this Court, the applicant/plaintiff has chosen to file the present application seeking for summary judgment on the ground that the respondents have admitted the loan amount taken from the applicant.

10.The respondents have filed a counter affidavit. The stand taken by the respondents is that the mere dismissal of the application for rejection of plaint cannot be a ground for passing a summary judgment against the respondents. It is further stated that the respondents do not admit the liability and even though the respondents have not filed the written statement, they are entitled to contest the claim made by the applicant.

11.Heard Ms.V.V.Uthra, learned counsel for the applicant and Mr.Ravichandran Sundaresan, learned counsel for the respondents.

12.The present application has been filed before this Court mainly on the ground that the respondents have admitted their liability in categoric terms. In order to substantiate this plea, the stand taken by the respondents in the affidavit filed in support of A.No.3030 of 2021, is extracted hereunder:

> "3.I submit that the respondent/plaintiff has filed the above suit for recovery of money which was advanced by way of loan to us and it was only by way of collateral security we have deposited the original title deed of the property, with the respondent/plaintiff.

13.The learned counsel for the applicant submitted that the respondents having admitted taking loan from the applicant, cannot be permitted to wriggle out of the said admission and the learned counsel specifically placed reliance upon order XII Rule 6 of CPC., wherein, a judgment can be passed merely based on an admission.

14.The learned counsel for the respondents tried to convince this Court by submitting that the stand taken at paragraph 3 of the affidavit filed in support of the earlier application does not constitute an admission.

15.The plain reading of the averments made in the affidavit and which has been extracted supra, clearly shows that the respondents have admitted the advancement of loan by the applicant. This admission has been made in their own affidavit and the respondents cannot be allowed to get away from this admission. When this admission was made by the respondents, they were under the impression that the loan amount can be recovered by the applicant only under the relevant enactment and not by filing a civil suit. This stand taken by the respondents was rejected by this Court. It is true that the mere rejection of an application for rejection of plaint, cannot end up in a summary judgment automatically. However, the present application has been filed not on the ground that the earlier application for rejection of plaint was dismissed, but on the ground that a specific admission was made by the respondents of having availed loan facilities from the applicant.

16.Order XII Rule 6 of CPC., deals with judgment on admissions. A plain reading of the said provision shows that admission of a fact can be made either in the form of pleadings or in the form of letters and it can be even be oral. The only prerequisite is that the admission must be clear, unambiguous and unconditional. Useful reference can be made to the judgments of the Hon'ble Supreme Court in ***Charanjit Lal Mehra and Others v. Kamal Saroj Mahajan and Another*** reported in ***AIR 2005 SC 2765*** and ***Karam Kapathi and Others v. Lal Chand Public Charitable Trust and Another*** reported in ***2010 4 MLJ 585 (SC)***.

17.In the present case, the admission has been made by the respondents in the form of pleadings. Such pleadings are available in the affidavit filed by the respondents in support of Application No.3030 of 2021. The respondents having made such a categoric admission, cannot be allowed to get over the same. It is too much of an expectation on the side of the respondents that the affidavit will confine itself only for the rejection of plain application and it cannot be used for any other purpose. Such a stand taken by the respondents does not carry any merit and it has to be straightaway rejected.

18.The respondents having admitted availing loan facilities from the applicant, have to necessarily face the consequences for not repaying back the amount. Section 58 of the Indian Evidence Act,1972 makes it very clear that facts admitted need not be proved. The applicant will be entitled for the relief sought for in this suit since the respondents have admitted the liability and it is not necessary for the applicant to any further prove the same. Even otherwise, the documents filed along with the plaint and the averments made in the plaint clearly makes out a case for the applicant to recover the money from the respondents.

19.The upshot of the above discussion leads to the inescapable conclusion that the plaintiff will be entitled for a summary judgment in the present case. Accordingly, the present application is allowed. Considering the fact that this Court will be imposing costs in the suit, no separate cost is imposed in this application.

**19.01.2022**
**1/2**

KP
Internet: Yes

**N.ANAND VENKATESH, J.**

KP

**Application No.4152 of 2021**
**in C.S.No.209 of 2019**

**19.01.2022**