



C.R.P.No.151 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.151 of 2023

and

C.M.P.No.1284 of 2023

Mr.R.Ganesh

... Petitioner

Vs

ICICI Bank Ltd.,
Rep.by Legal Manager,
No.1, Cenotaph Road, Teynampet,
Chennai-600 018.

... Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Order and Decretal Order passed in I.A.No.2 of 2022 in O.S.No.1398 of 2022 by the XXII Asst. City Civil Court at Chennai.

For Petitioner : Mr.K.Muthamil Raja



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ORDER

The Civil Revision Petition has been filed against the order dated 09.12.2022, passed in I.A.No.2 of 2022 in O.S. No.1398 of 2022. The revision petitioner is the defendant and the respondent instituted a suit for recovery of money.

2.The revision petitioner/defendant filed an I.A. No.2 of 2022 under Order VII Rule 11 to reject the plaint. The Trial Court adjudicated the issues and made a finding that the plaintiff has stated that the bank sanctioned a car loan of Rs.6,49,500/- on 17.11.2018 and the revision petitioner/defendant has agreed to repay the same in 67 months instalments at the rate of Rs.15,018/- with the interest of 18.00 per cent, per annum. The plaintiff has also filed the documents along with the plaint, that is, the loan application submitted, wherein the revision petitioner had applied for loan and a copy of disbursement memo was also filed. When there is a definite



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cause of action projected in the plaint and the relevant documents are filed, the trial court dismissed the Interlocutory application for rejecting the plaint.

3.The power under Order VII Rule 11 of CPC is to be exercised sparingly by the Courts. All the suit are to be adjudicated on merits and in accordance with the law. Lenient view is certainly not desirable when the plaint and cause of action reveals certain facts and therefore, the Courts are expected to be doubly cautious while exercising the power under Order VII Rule 11 of CPC. There may be vexatious suits which all are instituted by the litigants. May that as it be. Even in such cases, if there are certain doubtful facts or otherwise, then conducting a trial would be more preferable than rejecting the plaint. Order VII Rule 11 of CPC enumerates rejection of plaint on certain circumstances as contemplated under sub-clause (a) to (f) in Rule 11.

4. Order VII Rule 13 of CPC denotes: *“The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force*



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preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.”

5.Holistic reading of Order VII Rule 11 and Rule 13 of CPC would reveal that Order VII Rule 11 is intended to reject the plaint more on technical grounds rather on merits. Thus, even in case, a plaint is rejected under Order VII Rule 11 by the Courts, then the plaintiff is entitled to institute a fresh suit by correcting the cause of action or the mistakes or otherwise, by invoking Order VII Rule 13 of the Code of Civil Procedure. Thus, rejection of plaint is not a total bar for institution of a fresh suit by the plaintiff which can be instituted after setting out the correct cause of action or by rectifying the errors or mistakes if any found, which was the basis for rejection of the plaint.

6.Careful reading of Order VII Rule 11 would reveal that the Courts are empowered to reject the plaint on certain specific circumstances. The language employed in Order VII Rule 11 Sub-clause (a) is that “*where it*



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does not disclose a cause of action”, it does not state “where there is no cause of action”. There is a difference between the phrases “no cause of action” and “it does not disclose a cause of action”. In the second phrase, there is a cause of action but it was not disclosed in the plaint. That exactly is the reason to reject the plaint. If so, the plaintiff would naturally be entitled to set out the cause of action in a correct manner and institute a fresh suit as per Order VII Rule 13 of CPC. In this regard, Order VII as a whole must be considered by the Courts.

7.Order VII Rule 7 denotes relief to be specifically stated in the plaint. Accordingly, every plaint shall specifically state the relief which plaintiff claims, either simply or alternatively, and it shall not be necessary to ask for general or other relief which may always be given by the Court, just to the same extent as if it had been asked for, and the same rule shall apply to any relief filed by the defendant in his written statement. Rule 9 speaks about “*procedure on admitting the plaint*”, Rule 10 stipulates “*return of plaint*”. Rule 11 contemplates “*rejection of plaint*”. Once the plaint is not



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in compliance with the other rules contemplated under Order VII, then such claims are to be rejected under Rule 11 of CPC. If it is rejected on the ground stipulated under Rule 11, then the plaintiff is entitled to institute a fresh suit, setting out the corrections or cause of action as the case may be and proceed with the suit. No other ground, on which the plaint was rejected, other than those mentioned under Rule 11, can be saved under Rule 13, except when the suit was instituted afresh, correcting the cause of action or mistakes or otherwise.

8.Holistic reading of the Order VII would clarify that no plaint is to be rejected on merits. The Trial Court cannot adjudicate the merits in an Interlocutory Application filed under Order VII Rule 11. Even if the cause of action is improperly set out, the plaint as a whole must be read and merely on the basis of the facts in one paragraph or in the cause of action paragraph, plaint need not be rejected under Order VII Rule 11 of CPC.



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9.This exactly is the reason why this Court has to emphasise that the power under Order VII Rule 11 has to be exercised sparingly and even if the plaint is rejected on the ground stipulated under Rule 11, then the plaintiff is entitled to institute a fresh suit by setting out the correct cause of action or correcting the mistakes on which the plaint was rejected, or otherwise. The intention of the Court is not to deprive a person to get relief on the adjudication of the facts on merits. The spirit of the code in this aspect is to be borne in mind by the Courts while dealing with the Interlocutory Applications filed under Order VII Rule 11 of CPC.

10.In view of the fact, the plaint as a whole must be read along with the cause of action, for the purpose of forming an opinion whether a plaint is required to be rejected or not. In the present case, the cause of action column indicates a definite cause and further the plaintiff has filed documents to establish the cause of action. Therefore, the issues are to be adjudicated between the parties on merits and in accordance with the law by way of



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trial. Thus, the petitioner has not established any acceptable ground for the purpose of interfering with the order.

11. Accordingly, the Order dated 09.12.2022, passed in I.A.No.2 of 2022 in O.S. No.1398 of 2022 stands confirmed, thus, the Civil Revision Petition in C.R.P.No.151 of 2023 stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order
Internet : Yes
Index: Yes



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S.M.SUBRAMANIAM, J.

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