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C.S.No.243 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 11.10.2023

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.243 of 2018 & A.No.3348 of 2018

S. Peter
S/o Soosaiya Pillai
NO.15 Varghese Avenue,
Ashok Nagar, Chennai 600083.

.. Plaintiff

vs.

1. Venkatesh,
No.165, Type-3, DDA Flat,
Sadik Nagar, New Delhi.
2. Indian Industries Security Services,
Represented by its Proprietor,
Mr.Santosh Kumar Jha,
C-10, Rajdhani Enclave,
Raju Park, Devil,
Delhi-110062.
3. Mr. Santosh Kumar Jha,
Proprietor,
Indian Industries Security services,
481/4-B, Devil Village,
Khanpur, New Delhi-110062.
4. Thakur Engineers,
Rep.by its Proprietor



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Mr.Choudary Pratapkumar
532-B, Shipra Sun City,
Indiarapuram,
Ghaziabad – 201010.

5. Vinahast Dealcom Pvt. Ltd.,
Rep. By its Director Ashok Naskar,
Having office at Room No.1, 2nd Floor,
48, Malanga Lane, Kolkata,
West Bengal – 700012.

6. Dr. Amit Shah
Ophthalmologist,
Cure Spects Hospital,
Soc Ocean Par, Manebac Soc Road,
Nehru Nagar,
Ahmedabad, Gujarat.

.. Defendants

Civil Suit filed under Order VII Rule 1 of Code of Civil Procedure read with Order IV Rule 1 of Original Side Rules Madras High Court r/w Order VII Rule 1 of the Code of Civil Procedure praying to pass a Judgment and Decree in favour of the Plaintiff and as against the Defendants, directing the Defendants to pay the Plaintiff a sum of Rs.3,23,97,328/- along with interest at the rate of 18% per annum, Principal amount Rs.2,25,23,000/- with effect from 22.09.2015 till the date of realisation with costs.

For Plaintiff : Mr.Richardson Wilson

For defendants : set exparte



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The Civil Suit is filed for recovery of Rs.3,23,97,328/- along with interest at the rate of 18% per annum, Principal amount Rs.2,25,23,000/- with effect from 22.09.2015 till the date of realisation with costs.

2. It is the case of the Plaintiff that the Plaintiff is the Chairman of Madha Gropu of Institutions which owns various colleges including Medical College. The Defendants 1 to 6 have approached the Plaintiff to provide infrastructure facilities to the Medical College and received advance amount of Rs.1,25,00,000/- (Rupees One Crore Twenty five lakhs only) by way of two cheques bearing Nos.154555 and 154556 dated 12.08.2015 for Rs.60,00,000/- and Rs.65,00,000/- respectively drawn on Indian Overseas Bank, Kundrathur, in favour of 5th Defendant.

3. After receiving the amount no infrastructure facilities have been provided. Therefore, 5th Defendant has issued three cheques for repayment of the said amount dated 27.10.2015, 31.10.2015 and 03.11.2015. When the



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cheques were presented for encashment the same have been returned for the reason 'Insufficient fund'.

4. It is the further case of the Plaintiff that in the process he has also paid a sum of Rs.2,25,00,000/- (Rupees Two Crores twenty five lakhs) to the 1st Defendant through his agent one Mr.Bharath. Thereafter, a sum of Rs.99,93,000/- was repaid by the 6th Defendant on behalf of 1st Defendant and the same has been deposited in the Plaintiff's account. Hence the 1st Defendant is still to repay a sum of Rs.1,00,23,000/-. Hence the Plaintiff filed this suit for recovery of a sum of Rs.2,25,23,000/- [Rs.1,25,00,000 + Rs.1,00,23,000].

5. On the side of the Plaintiff three witnesses were examined. Plaintiff was examined as P.W.1 and Mr.Madankumar and Mr.Gopu were examined as P.W.2 and P.W.3 and Exs.P.1 to P.13 were marked.

6. P.W.1 spoken about the nature of the transaction and the advance amount paid by him. Exs.P1 and P2 are copy of cheques marked to show



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that the advance amount of Rs.1,25,00,000/- paid to the 5th Defendant.

Ex.P.11, 12 and 13 are the cheques issued by 5th Defendant, dishonoured for insufficient of funds. To prove this Exs.P.8 and P.9 copy of the Return Memos are marked. Legal Notice issued to all the defendants marked as Ex.P5. Ex.P.7 also filed to show the debit entry for payment of Rs.1,25,00,000/-. Ex.P.3 bank statement marked to show repayment of Rs.99,93,000/- in cash by the 6th Defendant to the Plaintiff which was deposited in 12 accounts of DENA Bank in ahmedabad adding Rs.1,500/- . To show the repayment of amount, bank statement of the Plaintiff is also filed and marked as Exs.P.3, P4.

7. Considering the above this Court is of the view that the evidence of P.W.1 to P.W.3 with regard to the payment to the 1st Defendant and repayment on his behalf remain unchallenged. In such a view of the matter 1st Defendant is liable to pay a sum of Rs.1,00,23,000/- which has been established. The 5th Defendant is due to pay a sum of Rs.1,25,00,000/-. In respect of other Defendants i.e., Defendant 2,3,4 and 6 suit is dismissed.



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8. Accordingly, the suit is decreed with costs in favour of the Plaintiff directing the 1st Defendant to pay a sum of Rs.1,00,23,000/- with interest at the rate of 6% p.a.from the date of payment till the date of realisation. Similarly, Decree is also passed in favour of the Plaintiff directing the 5th Defendant to pay a sum of Rs.1,25,00,000/- with interest at the rate of 6% p.a.from the date of payment till the date of realisation with costs. In respect of other defendants i.e., Defendants 2,3,4 and 6 suit is dismissed. No costs. Consequently, connection application is closed.

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Index : Yes/No

Internet : Yes/No

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Witnesses: P.W.1 Mr.S. Peter

P.W.2 Mr. Madhan Kumar

P.W.3. Mr. Gopu

Plaintiff's side Exhibits:

Ex.P1 : Photocopy of Cheque bearing No.154555

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dated 10.8.2015 for Rs.60,00,000/-

Ex.P.2 : Photocopy of Cheque bearing No.154555
dated 10.8.2015 for Rs.65,00,000/-

Ex.P.3 : Copy of Statement of Accounts of DENA Bank
dated 14.10.2015

Ex.P.4 : Copy of Statement of Accounts of DENA Bank
dated 26.10.2015

Ex.P.5 : Office copy of legal notice dated 4.12.2017

Ex.P.6 : CD along with certificate

Ex.P.7 : True copy of Bank Statement issued by IOB, Kundrathur

Ex.P.8 : Copy of Return Memo issued by DENA Bank
28.10.2015

Ex.P.9 : Copy of Return Memo issued by DENA Bank 3.11.2015

Ex.P.10 : Copy of Return Memo issued by DENA Bank 4.11.2015

Ex.P.11 : Photocopy of cheque No.918799 dt.27.10.2015

Ex.P.12 : Photocopy of cheque No.918800 dt.31.10.2015

Ex.P.13 : Photocopy of cheque No.566472 dt.3.11.2015



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N. SATHISH KUMAR, J.

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