



C.R.P.No.117 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.117 of 2023

K.Roseline Mallika

... Petitioner

Vs

A.R.V.Balachandar

... Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order of the Trial Court dated 23.12.2021 made in I.A.No.1 of 2019 in O.S.No.4701 of 2019 on the file of VII Additional Court, Chennai and allow the above said I.A.

For Petitioners : Mr.D.S.Ramesh



C.R.P.No.117 of 2023

ORDER

WEB COPY

The civil revision petition is filed against the fair and decretal order dated 23.12.2021 passed in I.A.No.1 of 2019 in O.S.No.4701 of 2019. The revision petitioner is the defendant and the respondent instituted a suit for recovery of money.

2.The suit was instituted based on the impugned promissory note executed by the revision petitioner/defendant. The revision petitioner filed an Interlocutory Application in I.A.No.1 of 2019 seeking permission from the Trial Court to defend the suit for recovery of money filed on the promissory notes. The Trial Court considered the grounds raised by the revision petitioner elaborately and made a finding that the version of the defendant in the leave to defend the petition is totally contrary to her version in the police complaint made on 15.02.2012.

3.The police complaint given by the defendant to the Commissioner of Police dated 15.02.2012 would show that the defendant was lending



C.R.P.No.117 of 2023

money to said Devaki who used to re-lend the same to others at a higher rate of interest. The defendant borrowed a sum of Rs.60,00,000/-(Rupees Sixty Lakhs only) from the plaintiff and gave it to the said Devaki for refinancing the same for a higher interest rate. Apart from the plaintiff, the defendant also borrowed a sum of Rs.49,00,000/- (Rupees Forty-nine Lakhs only) from one Kannan and gave it to Devaki. Since the said Devaki did not pay back the money borrowed by her, the defendant gave a complaint to the Commissioner of Police claiming that the said Devaki has to return Rs.1,34,00,000/- (Rupees One Crore and Thirty-four Lakhs only) to her. There is no denial of the police complaint dated 15.02.2012, in the leave to defend the petition filed by the defendant.

4.The Trial Court made a clear finding that the defendant did not deny the execution of the pro-note. When the execution of the pro-notes are admitted, then the presumption of consideration, dated of execution, etc. can be statutorily presumed u/s.118 of the Negotiable Instrument Act. It is the duty of the defendant to rebut such presumption. Under these circumstances,



C.R.P.No.117 of 2023

the Trial Court formed an opinion that there is no valid defence on the part of the defendant to grant leave to defend the suit.

5.This Court is of the considered opinion that certain presumptions cannot be a ground to grant permission to defend the suit. In every suit, the defendants may come out with certain stories. The genuinity of the claim or grounds raised is to be ascertained with reference to the document presented along with the plaint by the plaintiff.

6.In the present case, the promissory note and its execution were not denied by the defendants/revision petitioner. Once the execution of the promissory notes are admitted, then the right of defence, in respect of the money suit, goes and in the present case, the other circumstances and the grounds raised by the revision petitioner/defendant were also considered by the Trial Court and found to be unacceptable.



C.R.P.No.117 of 2023

7. These being the facts and circumstances, this Court does not find any reason to entertain the civil revision petition, and consequently Civil Revision Petition stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

sha

23.01.2023

Speaking Order

Internet : Yes

Index: Yes

Copy to:

VII Additional Court, Chennai.



WEB COPY



C.R.P.No.117 of 2023

S.M.SUBRAMANIAM, J.

sha

C.R.P.No.117 of 2023

23.01.2023