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A.No.5716 of 2022 in C.S.DR.No.79541 of 2022

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N.SATHISH KUMAR, J.

This application has been filed to join together all the cause of action in one suit in respect of the suit promissory notes.

2. The suit has been filed for recovery of a sum of Rs.1,05,36,869/- together with interest on Rs.99,80,000/- at 2% per month from the date of plaint till realization. It is the case of the plaintiff, that the defendant has borrowed a sum of Rs.1,00,000/- on 03.05.2012, on 25.11.2023 borrowed a sum of Rs.3,00,000/-, on 21.02.2014 borrowed a sum of Rs.30,00,000/- and a sum of Rs.11,00,000/-, on 26.02.2015 borrowed a sum of Rs.4,00,000/-. According to the plaintiff, the promissory notes have been executed by the defendant and it is a running account and the defendant has been continuously paying interest on various dates from 2015 and the last payment has been paid on 05.08.2020. Hence, the present application.



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3. Counter has been filed by the respondent stating that there is no lender and borrower jural relationship. According him, all the promissory notes are valued at less than Rs.one crore and this Court has no jurisdiction to entertain the suit as per clause 14 of Letters Patent. Clause 14 of Letters Patent is not a provision to join several causes of action contemplated to amalgamate them to enhance the valuation so as to bring the case within the pecuniary jurisdiction of this Court. Hence, according to him, as per Clause 14 of Letters Patent, this Court has no jurisdiction and if the High Court has no jurisdiction in respect of one such cause of action, causes of action cannot be combined. The learned counsel further submitted that so as to bring the case within the pecuniary jurisdiction of this Court, which is not otherwise maintainable as framed, the present application has been filed.

4. The learned counsel appearing for the applicant would submit that as per Order 2 Rule 3 of CPC, the value of the suit depend on the aggregate subject matters at the date of instituting the suit for the causes of action therefor. Hence, it is his contention that the Letters Patent cannot be



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applied. He has also brought to the notice of this Court the judgment of the Division Bench of this Court in O.S.A.No.212 of 1986 wherein it has been clearly held that where the causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregated subject matters at the date of instituting the suit. Hence, it is his contention that the statutory provisions has an over riding effect on the provisions of Clause 14 of the Letters Patent. He has also relied upon the judgements of the Division Bench of this Court **The Food Corporation of India Rep. by its Senior Regional manager, Madras – 6, Vs. M/s.Mayavaram Financial Syndicate rep. by the Managing Partner, P.Kalyanasundaram** reported in **1993[2] LW 453** and the Division Bench of Lahore High Court in **Chiragh Din Vs. Bhagwan Das** reported in **1915 SCC OnLine Lah 152**. The Division Bench of Lahore High Court in the judgment cited Supra has held as follows :

“On the point of jurisdiction we make no doubt that the learned Divisional Judge's finding is correct. The matter appears to be one of first impression and we have been



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referred to no direct authority on the point. Section 16 of the Small Cause Courts Act refers to a suit cognizable by a Court of Small Causes. O.2 R.3 of the CPC permits a plaintiff to combine in one suit against a defendant several causes of action and the value of that suit for the purpose of jurisdiction is the aggregate value of all the causes of action comprised therein.

“It is no part of Court's duty to scrutinize every item included in a suit in order to determine whether any portions of that suit were triable by a Court of Small Causes. In this case, the suit was properly framed and included several causes of action against the same defendant. The suit regarded as one single suit was certainly not cognizable by a Court of Small Causes and the Sub-ordinate Judge had jurisdiction in respect of every part of the suit.”



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5. Whereas, the learned counsel appearing for the respondent vehemently contended that in the plaint averments, there is no whisper about the loan account. Further, there is no acknowledgement duly extending the period of limitation in each of the promissory notes. Hence, submitted that once the suit promissory note is barred by law, causes of action cannot be combined at this Stage. In support of his contention, he relied upon the judgment in **The Food Corporation of India Rep. by its Senior Regional manager, Madras – 6, Vs. M/s.Mayavaram Financial Syndicate rep. by the Managing Partner, P.Kalyanasundaram** reported in 1993[2] LW 453.

6. I have perused entire materials available on record. The suit has been filed for combining 5 promissory notes for the period from 2013 to 2015 and the specific contention of the learned counsel appearing for the plaintiff is that though different promissory notes have been executed, payments were made for all the promissory notes together and last such payment was made on 05.08.2020. Hence, it is his contention that as per



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Order 2 Rule 3 of CPC causes of action could be combined. According to the learned counsel of the respondent, as per Clause 14 of Letters Patent, unless the High Court has jurisdiction in any of the cause of action, cause of action cannot be combined. Clause 14 of the Letters Patent reads as follows :

“We do further ordain that where plaintiff has several causes of action against a defendant, such causes of action not being for land or other immovable property, and the said High Court shall have original jurisdiction in respect of one of such causes of action, it shall be lawful for the said High Court to call on the defendant to show cause why the several causes of action should not be joined together in one suit, and to make such order for trial of the same as to the said High Court shall seem fit.”

A perusal of the Clause 14 of the Letters Patent makes it clear that if the High Court has original jurisdiction in respect of one such causes of action, it shall be lawful to combine all such causes of action. Similarly Order II



Rule 3 reads as follows :

3. Joinder of causes of action.

(1) Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit.

7. In this regard it is relevant to note that the Division Bench of this Court in **The Food Corporation of India rep. by its Senior Regional Manager, Madras – 6 Vs. Mayavaram Financial Syndicate rep. by the Managing Partner P.Kalyana Sundaram**, this Court has held as follows :

(2.)WHERE the causes of action are united, the jurisdiction or the court as regards the suit shall depend on the amount or value of the aggregate subject matters at the date of instituting the suit. This statutory provision has an over-riding



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effect on the provisions in Clause 14 of the Letters Patent dated 28.12.1865. In fact, Clause 14 of the Letters Patent is only an enabling Clause permitting the High Court to join several causes of action in one suit. That does not in any manner dispense the High Court from observing a principle like the one embodied in O. 2, R. 3 C.P.C. It is therefore clear that the claim as it is made up of three claims forming a total of Rs. 1,13,123.30 can very well be presented before this court for being entertained. The issue is answered affirmatively.”

In the above judgment, it has been further held that

“4-A. It is not a provision wherein joinder of several causes of action is contemplated to amalgamate them to enhance the valuation so as to bring the case within the pecuniary jurisdiction of this court. In fact, this clause has made no reference to the pecuniary jurisdiction of the court. All that it says is, ‘High Court shall have original jurisdiction



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in respect of one of such causes of action?. Local limits of the ordinary original jurisdiction of the High Court are determined by the provisions in the original recitals of the Letters Patent of this court amended from time to time by the Madras High Court (Jurisdictional Limits) Amendment Act, 1927 as well as Madras High Court (Jurisdictional Limits) Amendment Act, 1947. In clause 12 of the Letters Patent, a clear mention is made of the High Court, in exercise of its ordinary original civil jurisdiction, empowered to receive, try and determine suits of every description if, in the case of suits for land or other immovable property, such land or property is situated, or, in all other cases, if the cause of action has arisen either wholly, or in case the leave of the court has been first obtained in part within the local limits of the ordinary original jurisdiction of the Court, or, if the defendant at the time of commencement of the suit is dwelling or is carrying on business or personally working for gain within such limits,



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with one exception, that the said High Court shall not have such a original jurisdiction in cases falling within the jurisdiction the Small Cause at Madras, in which the debt or damage, or value of the property sued for does not exceed one hundred rupees.

The Division Bench of this Court has further held that :

“The above observations, thus, take us to the conclusion :- the objection as to the jurisdiction to try the suit on the ground that its value was raised by misjoinder of causes of action, is misconceived to the extent that unless shown to be less than Rs.100/- falling within the jurisdiction of Small Cause Court, the High Court's original jurisdiction would extend to suits of every variety, if conditions under Clause 12 of the Letters Patent are satisfied. Since S.15 of the Code of Civil Procedure is not applied to the original jurisdiction of High Court and there is no other provision to which any recourse can be had for the purpose of compelling the plaintiff/respondent to



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institute the suit in the Court of the lowest grade competent to try it, we hold on the basis of the afore-mentioned authority of the Full Bench of this Court and the principle that lack of pecuniary jurisdiction is only an irregularity and not a total lack of jurisdiction, the suit even if it is valid less than Rs.1 lakh is no incompetent on the original side of this Court.”

8. Though the judgemnt of the Single Judge in **Sundaram Finance Limited** case Supra, has held that causes of action cannot be combined, it is relevant to note that the Division Bench of this Court has held that principle that lack of pecuniary jurisdiction is only an irregularity and not a total lack of jurisdiction, the suit even if it is valid less than Rs.1 lakh is no incompetent on the original side of this Court.

9. The Division Bench of this Court has categorically held that statute has over riding effect of provision of the clause 14 of the Letters Patent. In view of the above, this Court is bound to follow the decision of



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the Division Bench of this Court. With regard to the limitation and other aspects, it can be agitated only during the trial, since it is mixed question of law and fact and those things cannot be gone into at this stage.

10. Accordingly, this application is Ordered.

11.12.2023

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