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C.R.P.No.3421 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3421 of 2022

and

C.M.P.No.18161 of 2022

Mr.Harnaraingoel

... Petitioner

Vs.

M/s.New Fin Groups
Represented by its partners
1.Mr.A.Balasubramanian
S/o.Mr.Arumugam
No.34, Andavr Nagar, 2nd Street,
Vadapalni, Chennai – 600 026.

2.Mr.A.ManthiraMoorthy
S/o Mr.Arjunan,
No.47/B/2,
Chokkavassai North Street, C.N.Village,
Tirunelveli District – 627 001.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 02.08.2022 made in I.A.No.3 of 2021 in O.S.No.4271 of 2020 on the file of the VI Additional City Civil Court, Chennai.



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For Petitioner : Mr.G.Prabhakar

For Respondents : Mr.R.Raja Mahendran
For M/s.EVA Law Firm

ORDER

The Civil Revision Petition has been filed against the order dated 02.08.2022 made in I.A.No.3 of 2021 in O.S.No.4271 of 2020 on the file of the VI Additional City Civil Court, Chennai.

2. All Suits are to be decided on merits and in accordance with law. Parties to the Suit are entitled to defend their respective cases based on documents and evidences on record.

3. Rejection of plaint under Order VII Rule 11 of the Civil Procedure Code is to be exercised sparingly and within the ambit of the Sub-Clauses under the Order VII Rule 11 of Civil Procedure Code. The Courts are expected to be cautious, while entertaining Interlocutory Applications filed under Order VII Rule 11, since it prevents the parties from adjudication of issues on merits and in accordance with law. Cause of action alone cannot be a criteria to take a decision and the plaint as a whole must be read to understand the cause of action aroused for institution of a Suit. Even if there



is some error or omission in the cause of action, which is rectifiable and even in case, the plaint is rejected under Order VII Rule 11, the plaintiff is entitled to institute a fresh Suit under Order VII Rule XIII and therefore, the rejection of plaint can be done only with reference to the sub-clauses stipulated under Order VII Rule 11 and not otherwise.

4. The present Civil Revision Petition has been instituted against the order dated 02.08.2022 passed in I.A.No.3 of 2021 in O.S.No.4271 of 2020 on the file of the VI Additional City Civil Court, Chennai.

5. The revision petitioner is the defendant and the respondent / plaintiff instituted a Suit for Recovery of Money. The defendants filed an Interlocutory Application in I.A.No.3 of 2021 for rejection of plaint, which was dismissed by the Trial Court mainly on the ground that the 1st plaintiff and the defendant have jointly executed the Debt Deed dated 12.06.2018, reportedly at Chennai and the Debt Deed dated 12.06.2018 is taken into account for considering the application. It can be very well said that the part of the cause of action for the Suit arose at Chennai within the jurisdiction of the Court, in which the Suit was instituted. Irrespective of the fact that whether the Suit demand promissory note dated 11.06.2018 and the Debt



Deed dated 12.06.2018 are genuine and really executed by the defendant, the Debt Deed dated 12.06.2018 alleged to have executed by the defendant is important to decide the territorial jurisdiction of the Trial Court and as per the Debt Deed dated 12.06.2018, part of cause of action of the Suit arose within the limit of the Trial Court, which entertains the Suit. However, the merits in these aspects are triable issues, which all are to be adjudicated based on the documents and evidences. The plaint cannot be rejected merely on the ground that the Deed executed was a created one. The grounds raised by the revision petitioner in the Interlocutory Application are related to merits and reading of the cause of action column in the plaint would reveal bundle of facts are stated, which all are to be adjudicated on merits by framing issues.

6. The power under Order VII Rule 11 of CPC is to be exercised sparingly by the Courts. All the Suits 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 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.

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

8. 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 and by invoking Order VII Rule 13 of the Code of Civil Procedure. Thus, rejection of plaint is not a total bar of 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.



9. Careful reading of Order VII Rule 11 would reveal that the Courts are empowered to reject the plaint on certain specific circumstances. On certain specific circumstances, the language employed in Order VII Rule 11 Sub-clause (a) is that “*where it does not disclose a cause of action*”, it does not states that “where there is no cause of action”. There is a difference between “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.

10. 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 at 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*”. Thus, Rule 11 contemplates “*rejection of plaint*”. Once the plaint



is not 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.

11. 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.

12. 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.

13. In view of the facts and circumstances, this Court do not find any infirmity in respect of the orders passed by the Trial Court and the parties are expected to contest the Suit through documents and evidences on record and all the grounds raised regarding the jurisdictional aspects by the revision petitioner may be raised before the Trial Court at the time of adjudication.

14. Accordingly, the order dated 02.08.2022 passed in I.A.No.3 of 2021 in O.S.No.4271 of 2020 stands confirmed and the consequently, the Civil Revision Petition in C.R.P.No.3421 of 2022 is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.01.2023

Skr/Jeni
Index : Yes
Neutral Citation : Yes
Speaking order

To



The Judge,
VI Additional City Civil Court,
Chennai.

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S.M.SUBRAMANIAM, J.

Skr

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