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C.R.P.(NPD).No.3482 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

C.R.P.No.3482 of 2023
and C.M.P.No.21682 of 2023

1.Sanjay @ Sanjay Sait
2.Manisha ... Petitioners

Vs.

1.R.V.Venkatesan
2.S.Karthikeyan
3.S.Muruganandam
4.Marimuthu ... Respondents

PRAYER: This Civil Revision Petition has been filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order, dated 01.08.2023 passed by the III-Additional City Civil Court, Chennai in I.A.No.5 of 2022 in O.S.No.2731 of 2019 .

For Petitioners : Mr.K.Jagannathan

ORDER

This Revision Petition has been filed by the petitioners herein challenging the order, dated 01.08.2023 passed by the III-Additional City Civil Court, Chennai in I.A.No.5 of 2022 in O.S.No.2731 of 2019 .



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2. According to the petitioners, they have filed a petition under Order VII Rule 11 of Civil Procedure Code to reject the plaint in the above suit. The petitioners would state that the plaintiff had filed the suit for recovery of a sum of Rs.80,00,000/- based on the promisory note written in Tamil. He would further submit that his name and his father's name is incorrect and that he is not conversant in Tamil language. The contention of the plaintiff is that he and his wife had come down to Chennai and borrowed money from the 1st respondent in Chennai when they were residing at Pudukottai. The petitioners claim is that they never came to Chennai to meet the 1st respondent and only to grab on the suit scheduled property, the suit has been filed by the petitioner. The 1st respondent does not have the capacity to lend Rs.80,00,000/-. The property at Pattukottai is worth more than 1.75 Crore and no documents have been filed in support of his claim and therefore, he prayed for rejection of the plaint.

3. The plaintiff/1st respondent had filed a counter stating that there is no legal and substantial ground to file such a petition under Order VII Rule 11 CPC and the same has to be dismissed when the



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petitioner has filed the above application without mentioning any specific grounds mentioned in Rule 11 or any other valid grounds for rejection of the said plaint.

4. According, to the petitioner, the rejection of plaint is sought under Order VII CPC, the petitioner herein has not specifically stated the proper provision under which he claims for rejection of the plaint. However, the petitioner attempting to raise a ground regarding the cause of action as mentioned in the said application. Further, when there is no legal grounds and averments, the petitioners at the time of borrowing the money, they have mentioned their name as per the above suit and now they cannot escape from the clutches of law from the legal liability to pay the borrowed money. The petitioners further submitted that they never came to Chennai and no documents like PAN card and Aadhaar card are filed along with the plaint which is totally not required and that the petitioners submits that they have to adduce evidence to show that the 1st respondent has got the capacity to lend such a huge amount of cash and without any security he would have given a huge amount when it is known to him that the petitioners are owning a house at Pattukottai, worth Rs.1.75 Crores is false and



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unworthy in basis and that their claim is not correct.

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5. Further, all these are the facts which are to be decided by a way of full fledged trial by adducing appropriate evidence and therefore, the same has to be dismissed. Further, he has stated that he has arranged this money through various sources, but, no evidence was produced along with the plaint. Only at the time of letting in evidence, he has to prove the same and the petitioners and the respondents are known to each other for several years and that the claim that he does not have a legal demand or note does not arise when it is not mandatory. Further he stated that without obtaining any Aadhaar Card, PAN card or any post dated cheques, it is not warranted as the petitioners are known to the respondents for several years and particularly from the year 2006 onwards, he used to come to his house at Chennai on several occasion and their presence in his brother-in-laws marriage held at Madurai in 2008 would show that they are close nexus to each other and only for the business purposes he has got the same and further, there are some documents, which would be filed at the time of the trial to prove all these aspects. Further, the petitioner submitted that the primary evidence, the original documents and other



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necessary evidence can be let-in by him to prove his case.

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6. At this juncture, it is not correct for filing this application and there is no legal legs to stand on and the same has to be dismissed. The trial Court after considering the said counter and the application filed by the parties, has considered whether the plaint can be rejected under Order VII Rule 11 CPC. For better appreciation Order VII Rule 11 is extracted hereunder:-

Order VII Rule 11 .Rejection of plaint:-The plaint shall be rejected in the following cases:

“(a)Where it does not disclose a cause of action;

(b)Where the relief claimed is under valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c)Where the relief claimed is properly valued but the plaint is written upon proper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time



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time to be fixed by the Court, failed to do so;

(d)Where the suit appears from the statement in the plaint to be barred by any law;

[(e)Where it is not filed in duplicate;]

[(f)Where the plaintiff fails to comply with the provisions of Rule 9:]

[Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff].”

7. It is to be seen that the payment of money itself was denied by the petitioner herein that the plaintiff had advanced a sum of Rs.80,00,000/- as loan on the basis of the promissory note alleged to have been executed by the defendants 1 and 2 and the plaintiff. Whether they came to Chennai to avail loan or whether the amount has been borrowed by them or not whether it is a concocted story or not cannot be decided at the threshold and the same has to be found only after the trial has been conducted and after letting in appropriate



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evidence. The trial Court cannot step into the shoes of the defendants and then try the same and reject the plaint. Only after going through the evidence let-in by both the parties it can decide so and after giving opportunities to the concerned parties to prove the defence and the same can be decided and whether to reject the plaint or not cannot be decided at this juncture.

8. A plaint cannot be straight away rejected on the basis of the allegations made in the application and the counter, the Court has to go through the entire plaint and only after coming to know whether it falls under Order VII Rule 11, the same can be rejected. Essentially when the plaint discloses a cause of action, the averments made in the plaint as well as the defence taken by the respondents can be considered and appropriate orders can be passed. The rejection of said plaint under Order VII Rule 11, the averments made in the plaint can be examined and no other external factor can be taken into consideration and decided. The disputed question of fact whether there was any averment of loan by the parties concerned or execution of the promissory note is genuine, one can be decided only after considering the evidence let-in by the concerned parties and the trial Court has not



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done any mistake in the order passed. Therefore, this Court is not inclined to set aside the order passed by the trial Court as there is no irregularity or illegality in the same.

9. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2023

Index:Yes/No
Internet:Yes/No
Speaking Order/Non Speaking Order

gba

To

The Additional City Civil Court - III,
Chennai.



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V.BHAVANI SUBBAROYAN., J.

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