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C.S.No.182 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 05.08.2025

Pronounced on : 22.08.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.182 of 2013

N.Vedavalli

... Plaintiff

Vs

Ramyashri Natarajan

... Defendant

Prayer: This Civil Suit has been filed under Order IV Rule 1 of O.S. Rules read with Order VII Rule I of CPC, praying for a judgment and decree,

(a) Directing the defendant to pay a sum of Rs.50,00,000/- towards principal together with the interest at the rate of 18% p.a. from the date of borrowals till the date of plaint, a sum of Rs.26,25,000/- in all totalling to a sum of Rs.76,25,000/- together with the future interest at the rate of 18% p.a. from the date of plaint till the date of realization.

b) Directing the defendant to pay the cost of the suit.

For Plaintiff : No appearance
For Defendant : M/s.R.Maheswari



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JUDGMENT

The suit had been filed seeking a direction against the defendant to pay a sum of Rs.50,00,000/- towards principal together with interest and for costs.

2.The suit came up for hearing on 23.08.2024. There was no representation on behalf of the plaintiff. The suit was directed to be posted under the caption for dismissal on 27.08.2024. On 27.08.2024, there was no representation on behalf of the plaintiff and therefore, the civil suit was dismissed for non prosecution. Thereafter, on 30.08.2024, the following order was passed:

This court by its order dated 27.08.2024 has dismissed the suit for non-prosecution.

2. Learned counsel for the defendant has submitted that the counter claim has been filed along with the written statement with necessary stamp duty. She seeks to mark the documents of the defendant.

3. Considering the submission made by the learned counsel for the defendant and since counter claim has been filed by the defendant along with the stamp duty and written statement,



this court directs the Registry to post the counter claim before the learned Additional Master for recording evidence on 06.09.2024 for marking of documents by the defendant.

3.In the counter claim filed in the suit, the defendant had stated that she was made to believe by the plaintiff that the sister of the plaintiff was working in Gold Control Section of the Central Excise Department and that the plaintiff was an agent in the Central Excise Department. It had been further stated that in a scheme promoted by the Central Excise Department, goods and household articles are sold at manufacturing costs without subjecting them to excise duty, sales tax etc., which is 1/3rd price of the maximum retail price. The condition was that the goods would be delivered only after 90 days of the 1/3rd payment, out of which 5% commission will be given to the plaintiff by the Central Excise Department and the plaintiff stated that she was ready to share this commission amount with the defendant equally. The defendant promoted the scheme and was able to gather 200 customers and the plaintiff collected 1/3rd amount from these customers in the presence of the defendant. On the 90th day after collection of these payments, the plaintiff handed over the invoice of certain



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firms/companies which was handed over to the customers who took delivery of the goods from the dealers. The plaintiff however did not pay the commission of 2.5% to the defendant as promised. The defendant had demanded payment of the said amount and the plaintiff stated that it would be paid only if the number of customers are increased. It had been stated that the plaintiff collected Rs.64.25 lakhs from the customers in the presence of the defendant. The defendant further stated that the plaintiff stated that she would return the amount after selling the flats allotted by the Tamil Nadu Housing Board. The defendant paid Rs.7.08 lakhs to the plaintiff to settle the outstanding for the said flats and to enable the flats to be sold. The plaintiff also executed two promissory notes in favour of the defendant. The plaintiff executed a deed of undertaking dated 28.12.2007 and a promissory note dated 27.12.2007 for a sum of Rs.1,68,00,000/-for the amount to be paid by the plaintiff to the customers through the defendant towards the settlement of the amount collected from them and towards the personal loan amount of Rs.25,00,000/-. It had been further stated that on 28.07.2009, the plaintiff obtained two blank signed promissory notes from the defendant along with the cheques drawn on



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Indian Overseas Bank for Rs.3,00,000/-, Rs.1,50,000/-, Rs.1,00,000/-, Rs.5,00,000/- and for another sum of Rs.5,00,000/- respectively. The plaintiff had misused the promissory notes and made false claims against the defendant. The plaintiff then handed over three post-dated cheques for Rs.10,00,000/-, another sum of Rs.10,00,000/- and Rs.15,00,000/- respectively. The cheques got dishonoured when presented for payment. The defendant then lodged a complaint with the Valasaravakkam Police Station and FIR in Crime No.192 of 2010 had been registered and subsequently transferred to the CCB Egmore and it is pending before the Judicial Magistrate-I, Poonamallee in C.C.No.330 of 2012 for the offences punishable under Sections 406 and 420 IPC. It had been further stated that the plaintiff had suppressed all these facts in her plaint and it was under those circumstances, the counter claim had been filed seeking the judgment and decree against the plaintiff for a sum of Rs.1.68 crores together with interest and costs.

4.Since the suit had been dismissed, the defendant was permitted to tender evidence. Accordingly, the defendant examined her husband as DW1 and marked Exs.D1 to D38. Ex.D1 was the certified copy of the



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promissory note given by the plaintiff to the defendant for a sum of Rs.1.68 crores dated 27.12.2007. Ex.D2 was the copy of the deed of undertaking given by the plaintiff dated 28.12.2007. Exs.D3 to D5 and D8 to D10 are the copies of the three cheques and the cheque return memos. Ex.D6 was the copy of the complaint given to the Commissioner of the police, dated 05.03.2010. Ex.D14 was the certified copy of the FIR in Crime No.192 of 2010, dated 30.03.2010. Ex.D15 to D37 were the copies of the deposition of the witnesses during the trial in the Judicial Magistrate - I Court at Poonamallee. In her evidence, the defendant's husband was examined as DW1 and once again reiterated the facts as stated in the counter claim and stated that the counter claim should be decreed as prayed for.

5.On the basis of the pleadings, the following issues arise for consideration:

- (i)Whether the counter claim is to be decreed as prayed for?*
- (ii)To what other relief is the defendant entitled to?*

6.Heard the learned counsel for the defendant.



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7. The issues's answer:

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The suit in C.S.No.182 of 2013 had been filed by the plaintiff seeking a judgment and decree against the defendant for a sum of Rs.50,00,000/- together with interest and costs. The suit was dismissed by the judgment dated 27.08.2024. However, the defendant had filed counter claim and therefore, the learned Single Judge had directed the defendant to tender evidence. It is the case of the defendant that the plaintiff had told that her sister was working in Gold Control Section of the Central Excise Department and that the plaintiff was an agent in the Central Excise Department. Under the scheme promoted by the Central Excise Department, the goods and household articles which are confiscated are brought under auction without subjecting them to excise duty or sales tax. The total cost would be 1/3rd price of the maximum retail price. The goods would be delivered 90 days after the 1/3rd payment is made and 5% commission would be given to the plaintiff by the Central Excise Department. The plaintiff and the defendant agreed to divide the commission equally between them. It is the case of the defendant that she gathered customers and they purchased various items put out on auction. It



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had been stated that the plaintiff however did not share her share of the commission amount received. The defendant had been putting pressure on the plaintiff. The plaintiff had then issued promissory note for a sum of Rs.1.68 crores, which is the amount claimed in the counter claim. The plaintiff also issued three cheques, which were dishonoured and which had been marked as documents during the course of evidence. Ex.D1 was the certified copy of the promissory note dated 27.12.2007. Ex.D2 was the certified copy of the deed of undertaking given by the plaintiff in favour of the defendant for Rs.1.68 crores dated 28.12.2007. Exs.D3 to D5 are the certified copies of the three cheques issued by the plaintiff. Exs.D8 to D10 are the certified copies of the cheque return memos. It is thus seen that the plaintiff had admitted to the liability while issuing the promissory notes and while issuing the three cheques. The defendant had also lodged a police complaint and FIR in Crime No.192 of 2010 had been registered by the Valasaravakkam Police Station and the certified copy has been marked as D14.

8.The learned counsel for the defendant had placed reliance on the



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principles in the law of indemnity which states that *if a man, having the possession of property which gives him the character of owner, affirms that he is owner, and thereby induces a man to buy, when in point of fact the affirmant is not the owner, he is liable to an action.* This had been so stated in ***Adamson Vs. Jarvis*** reported in ***(1827) 4 Bingham 66.***

9.In Ex.D2/Deed of Undertaking, the plaintiff had admitted to the execution of the promissory note dated 27.12.2007 for a sum of Rs.1.68 crores. The plaintiff had not entered appearance to deny the said document. In view of these reasons, I hold that the defendant is entitled to a judgment and decree against the plaintiff as prayed for together with costs. The counter claim stands decreed as prayed for with costs.

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Index: Yes/No

Internet: Yes/No

Speaking order: Yes/No

Plaintiff side Witnesses:

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Nil

Defendant side Witnesses:

D.W.1 – Mr.V.Natarajan

Plaintiff side Documents:

Nil

Defendant side Documents:

Ex.D.1	27.12.2007	Certified copy of the Pro-Note given by plaintiff to defendant for Rs.1.68 crores
Ex.D.2	28.12.2007	Certified copy of the deed of undertaking given by plaintiff in favour of defendant for Rs.1.68 crores
Ex.D.3	17.12.2009	Certified copy of the Cheque No.084366 for Rs.10 lakhs drawn on State Bank of Travancore, T.Nagar Branch by plaintiff in favour of defendant's husband
Ex.D.4	24.12.2009	Certified copy of the Cheque No.084367 for Rs.10 lakhs drawn on State Bank of Travancore, T.Nagar Branch by plaintiff in favour of defendant
Ex.D.5	27.12.2009	Certified copy of the Cheque No.084368 for Rs.15 lakhs drawn on State Bank of Travancore, T.Nagar Branch by plaintiff in favour of defendant.
Ex.D.6	05.03.2010	Original Complaint to Commissioner of Police
Ex.D.7	05.04.2010	Photocopy of the order passed by the High Court in Crl.O.P.No.6509 of 2010.
Ex.D.8	22.05.2010	Certified copy of the Cheque Return Memo of State Bank of Travancore, T.Nagar Branch for Cheque No.084366
Ex.D.9	22.05.2010	Certified copy of the Cheque Return Memo of State Bank of Travancore, T.Nagar Branch for Cheque No.084367



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Ex.D.10	22.05.2010	Certified copy of the Cheque Return Memo of State Bank of Travancore, T.Nagar Branch for Cheque No.084368
Ex.D.11	25.01.2011	Photocopy of the order passed by the High Court in Crl.O.P.No.1120 of 2011
Ex.D.12	24.07.2007	Photocopy of the Pro-Note for Rs.4.33 lakhs in favour of V.Natarajan
Ex.D.13	27.07.2007	Photocopy of the Pro-Note for Rs.2.75 lakhs in favour of V.Natarajan
Ex.D.14	30.03.2010	Certified copy of the FIR No.192 of 2010, dated 30.03.2010 filed before JM – I, Poonamallee Court.
Ex.D.15	16.12.2013	Certified copy of the Deposition of PW1 (Ramyashri Natarajan), the defendant herein together with cross examination of PW1 dated 28.04.2014, 27.06.2014 and 01.07.2014 before Poonamallee Court dated 16.12.2013.
Ex.D.16	16.12.2013	Certified copy of the Deposition of PW2 (V.Natarajan), together with cross examination of PW2 dated 05.07.2014 before Poonamallee Court dated 16.12.2013.
Ex.D.17	19.12.2013	Certified copy of the Deposition of PW3 (N.Suresh), together with cross examination of PW3 dated 08.07.2014 before Poonamallee Court dated 19.12.2013.
Ex.D.18	19.12.2013	Certified copy of the Deposition of PW4 (A.G.Shankar), together with cross examination of PW4 dated 08.07.2014 before Poonamallee Court dated 19.12.2013.
Ex.D.19	19.12.2013	Certified copy of the Deposition of PW5 (S.Ravi), together with cross examination of PW5 dated 11.07.2014 before Poonamallee Court dated 19.12.2013.



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Ex.D.20	06.01.2014	Certified copy of the Deposition of PW6 (N.Gopalakrishnan), together with cross examination of PW6 dated 11.07.2014 before Poonamallee Court dated 06.01.2014.
Ex.D.21	06.01.2014	Certified copy of the Deposition of PW7 (P.Lalithkumar Kothari), together with cross examination of PW7 dated 30.07.2014 before Poonamallee Court dated 06.01.2014.
Ex.D.22	06.01.2014	Certified copy of the Deposition of PW8 (B.Karthikeyan), together with cross examination of PW8 dated 15.07.2014 before Poonamallee Court dated 06.01.2014.
Ex.D.23	22.01.2014	Certified copy of the Deposition of PW9 (Chengalraya Reddy) before Poonamallee Court
Ex.D.24	22.01.2014	Certified copy of the Deposition of PW10 (C.Packiriswamy), together with PW10 cross examination dated 15.07.2014 before Poonamallee Court.
Ex.D.25	22.01.2014	Certified copy of the Deposition of PW11 (R.Palanichamy), together with PW11 cross examination dated 15.07.2014 before Poonamallee Court.
Ex.D.26	22.01.2014	Certified copy of the Deposition of PW12 (G.Thanigavel), together with PW12 cross examination dated 22.07.2014 before Poonamallee Court.
Ex.D.27	05.02.2014	Certified copy of the Deposition of PW13 (Murali Mohan), together with PW13 cross examination dated 22.07.2014 before Poonamallee Court.
Ex.D.28	05.02.2014	Certified copy of the Deposition of PW14 (V.Ravichander), together with PW14 cross examination dated 05.08.2014 before Poonamallee



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		Court.
Ex.D.29	05.02.2014	Certified copy of the Deposition of PW15 (K.Purushothaman), together with PW15 cross examination dated 22.07.2014 before Poonamallee Court.
Ex.D.30	05.02.2014	Certified copy of the Deposition of PW16 (M.Murugavel), together with PW16 cross examination dated 17.07.2014 before Poonamallee Court.
Ex.D.31	14.02.2014	Certified copy of the Deposition of PW17 (S.Rajalakshmi) before Poonamallee Court.
Ex.D.32	14.02.2014	Certified copy of the Deposition of PW18 (M.Selvaraju), together with PW18 cross examination dated 15.07.2014 before Poonamallee Court.
Ex.D.33	14.02.2014	Certified copy of the Deposition of PW19 (P.L.Somasundaram, Stamp Vendor), together with PW19 cross examination dated 30.07.2014 before Poonamallee Court.
Ex.D.34	21.02.2014	Certified copy of the Deposition of PW20 (P.Govindan), together with PW20 cross examination dated 22.07.2014 before Poonamallee Court.
Ex.D.35	05.03.2014	Certified copy of the Deposition of PW21 (B.Mahadevan), together with PW21 cross examination dated 02.08.2014 before Poonamallee Court.
Ex.D.36	05.03.2014	Certified copy of the Deposition of PW22 (Kalidas), together with PW22 cross examination dated 05.08.2014 before Poonamallee Court.
Ex.D.37	19.03.2014	Certified copy of the Deposition of PW23 (S.Saravanan), together with PW23 cross



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		examination dated 21.08.2014 & 27.08.2014 before Poonamallee Court and Certified copy of the Deposition of PW24 (Murugeswari), together with PW24 cross examination dated 27.08.2014 before Poonamallee Court.
Ex.D.38	21.09.2024	Original unregistered Special Power of Attorney Deed in favor of DW1 V.Natarajan by his wife Ramyasri Natarajan (Defendant)

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C.V.KARTHIKEYAN, J.

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Pre-delivery Judgment in

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