



C.R.P.No.1702 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1702 of 2021

and

C.M.P.No.13183 of 2021

1.N.Arun Kumar
2.Mrs.N.Bakiyam

... petitioners

Vs.

K.Anandakumar

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 21.12.2020 in I.A.No.713 of 2018 in O.S.No.598 of 2018 on the file of Principal District Judge, Coimbatore District.

For petitioners
For respondents

: Mr.R.Rajarajan
: Insufficient address



ORDER

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The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the petition filed by the petitioners/defendants seeking rejection of the plaint.

2. The respondent herein filed a suit seeking recovery of money. According to the respondent, there has been money transaction between the respondent and the petitioners from the year 2013 onwards. The petitioners made a request to the respondent permitting him to utilise the credit limits enjoyed by the respondent in the credit cards in his name. Thus, the petitioners/defendants used to take loans by using the respondent's credit cards and used to deposit the amount within the credit limit period. This kind of transaction had taken place between the petitioners and the respondent from the year 2013 onwards and the petitioners used to repay the same in respondent's bank accounts. The respondent used to send the statement of account to the petitioners and accordingly, petitioners used to settle the amount to the respondent. During the course of said transaction, the petitioners issued some cheques in favour of respondent towards settlement of



the amount due and the same were dishonoured. Thus, as on 07.03.2018, a sum of Rs.53,91,911/- was due from the petitioners to the respondent and hence, respondent was constrained to file a suit for recovery of the money together with interest.

3. The petitioners herein filed written statement wherein they admitted the money transaction between 1st petitioner and the respondent. It was claimed that the entire money due till February 2016 was settled by him to the respondent. He further admitted that from 1st week of March 2016 on various dates, the 1st petitioner received a sum of Rs.13,00,000/-(rupees thirteen lakhs only) through credit cards of the respondent and he had been making repayment from 05.03.2016 to 23.03.2017 on various dates. Ultimately, it is the case of the petitioners that on the date of filing of the suit, there was no amount due from the petitioners to the respondent. Thus, the petitioners pleaded discharge of the amount claimed by the respondent.

4. The petitioners filed the application for rejection of the plaint on the ground that the suit claim is barred by limitation and also there was no cause



of action. The learned counsel for the petitioners submits that the respondent has not mentioned the exact date on which the cause of action arose for filing the present suit. The learned counsel further submitted that the cause of action pleaded by the respondent is also vague and hence, there is a failure of cause of action. In support of his contentions, the learned counsel relied on the judgment of this Court in the case of ***K.Murali Vs M.Mohamed Shaffir in A.S.No.52 of 2016*** .

5. A perusal of the averments found in the plaint of the respondent and the written statement filed by the petitioners would suggest that there was money transaction between the petitioners and the respondent. The petitioners pleaded discharge. The averments found in the plaint would suggest that there was a running account between the respondent and petitioners and the petitioners used to pay the amount due from time to time. In such circumstances, the argument raised by the counsel for the petitioners that the respondent failed to mention the correct date on which the cause of action for the suit arose cannot be accepted. The petitioners in the written statement clearly admitted that there was money transaction between 1st petitioner and



C.R.P.No.1702 of 2021

respondent even prior to March 2016 and he has been repaying the amount due from various dates from 05.03.2016 to 23.03.2017. Therefore, even according to the admitted case of the petitioners, the last repayment was completed by him on 23.03.2017. The present suit has been filed on 06.10.2018. In such circumstances, the objection raised by the petitioners with regard to the limitation and also failure of cause of action cannot be accepted. The Court below rightly dismissed the petition for rejection of the plaint on the ground that points raised by the petitioners can be decided only at the time of final disposal of the proceedings. From the averments found in the plaint, this Court is not in a position to come to the conclusion that suit claim is barred by limitation. In such circumstances, I do not find any error in the order passed by the Court below. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.02.2024

Index : Yes / No

Internet : Yes / No

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To

The learned Principal District Judge, Coimbatore District.

5/6



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C.R.P.No.1702 of 2021

S.SOUNTHAR, J.

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and
C.M.P.No.13183 of 2021

15.02.2024