



C.S.No.285 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.285 of 2021
and A.No.3405 of 2021

Biju Varghese

.. Plaintiff

Versus

1.M/s.Care IT Solutions Pvt Ltd
Represented by its Managing Director
S.Hariharan
No.481, Anna Salai
2nd Floor, Nandanam
Chennai – 600 035

2.S.Hariharan
3.Shanthi Raghavachari

.. Defendants

Civil Suit filed under Order IV Rule 1 of Original Side Rules 1956 read with Order VII Rule 1 of CPC praying for the following judgment and decree against the defendants.

a) directing the defendants to jointly and severally to pay a sum of Rs.6,97,60,000/- to the plaintiff with interest @ 18 pa on the principal sum of



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Rs.4,36,00,000/- from the date of the plaint to till the date of realisation;

WEB COPY b) to pay the cost

For Plaintiff : Mr.K.Sridhar

For defendant : Set exparte

JUDGMENT

This suit has been filed, directing the defendants to pay a sum of Rs.6,97,60,000/- to the plaintiff with interest @ 18 pa on the principal sum of Rs.4,36,00,000/- from the date of the plaint to till the date of realisation .

2. It is the case of the plaintiff that the first defendant is carrying on software and allied business at Chennai. The second defendant is the Managing Director of the first defendant Company and the third defendant is the wife of the second defendant. The defendants had borrowed a sum of Rs.4,36,00,000/- from the plaintiff on 21.06.2017 for their urgent business needs promising to repay the same along with interest at the rate of 18% p.a.,. The Defendants had executed a promissory note on 21.06.2017 besides depositing title deeds by executing MOU in favour of the plaintiff on 22.06.2017. Since the defendants have failed to repay the amount despite



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repeated demand, the plaintiff has filed the suit for recovery of money.

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3. Defendants remained *ex parte*, despite service of summons. On the side of the plaintiff, the plaintiff examined himself as P.W.1 and Ex.P.1 to Ex.P.11 were marked.

P.W.1 – Mr.Biju Varghese

<i>S.No.</i>	<i>Date</i>	<i>Description of documents</i>	<i>Exhibit</i>
1.	21.06.2017	Promissory Note executed by the defendants in favour of the plaintiff	P-1
2.	22.06.2017	MOU executed by the defendants in favour of the plaintiff	P-2
3.	12.04.2017	Certified copy of the Agreement of Construction executed by M/s.Aston Construction Pvt. Ltd in favour of the second defendant registered as Doc.No.3466 of 2017 before SRO, Guduvanchery	P-3
4.	12.04.2017	Certified copy of the Sale Deed executed by B.Lakshmi and another in favour of the 2 nd defendant registered as Doc.No.3467 of 2017 before SRO, Guduvanchery	P-4



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<i>S.No.</i>	<i>Date</i>	<i>Description of documents</i>	<i>Exhibit</i>
5.	12.04.2017	Certified copy of the Agreement of Construction executed by M/s.Aston Construction Pvt. Ltd in favour of the second defendant registered as Doc.No.3468 of 2017 before SRO, Guduvanchery	P-5
6.	12.04.2017	Certified copy of the Sale Deed executed by B.Lakshmi and another in favour of the 2 nd defendant registered as Doc.No.3469 of 2017 before SRO, Guduvanchery	P-6
7.	12.04.2017	Certified copy of the Agreement of Construction executed by M/s.Aston Construction Pvt. Ltd in favour of the second defendant registered as Doc.No.3470 of 2017 before SRO, Guduvanchery	P-7
8.	12.04.2017	Certified copy of the Sale Deed executed by B.Lakshmi and another in favour of the 2 nd defendant registered as Doc.No.3471 of 2017 before SRO, Guduvanchery	Ex-P8
9.	12.04.2017	Certified copy of the Agreement of Construction executed by M/s.Aston	Ex-P9



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<i>S.No.</i>	<i>Date</i>	<i>Description of documents</i>	<i>Exhibit</i>
		Construction Pvt. Ltd in favour of the second defendant registered as Doc.No.3472 of 2017 before SRO, Guduvanchery	
10.	12.04.2017	Certified copy of the Sale Deed executed by B.Lakshmi and another in favour of the 2 nd defendant registered as Doc.No.3473 of 2017 before SRO, Guduvanchery	Ex-P10
11.	22.07.2020	Encumbrance Certificate	Ex-P11

4. Heard the learned counsel for the plaintiff and perused the records.

5. P.W.1, in his evidence, has clearly spoken about the execution of the documents and receipt of the consideration by the defendants. The suit is based on the promissory note and the deed of understanding. The evidence of P.W.1 with regard to the borrowal of the amount and the execution of the promissory note remains uncontroverted. Once the execution of pro-note is spoken by the plaintiff, the legal presumption gets attracted which has not been rebutted by the defendant.



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6. Considering these aspects and the evidence of P.W.1 is not even challenged and uncontroverted, the plaintiff is certainly entitled to judgment. In view of the above, I am of the view that the plaintiff has established the case.

7. Accordingly, the suit is decreed, with costs, for Rs.6,97,60,000/- with subsequent interest at the rate of 6% p.a., on the principal amount of Rs.4,36,00,000/- from the date of the plaint to till the date of realisation. Consequently, connected application stands closed.

20.03.2024

dhk

Internet : Yes

Index : Yes / No

Speaking order / Non Speaking order



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N.SATHISH KUMAR, J.

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