



WEB COPY



A.No.2123 of 2022

in

C.S.No.49 of 2018

N.SATHISH KUMAR.J.,

This application has been filed seeking to reject the plaint in C.S.No.49 of 2018 on the ground that the suit claim is barred by limitation.

2. It is the contention of the applicants/defendants that except one loan amount of Rs.10,00,000/- which was made on 19.11.2014 through RTGS all other payments were made between 2012 and 2014. Hence, the suit is *ex facie* barred by limitation and the same is liable to be dismissed.

3. It is the further contention of the applicants/defendants that there was no cause of action within the jurisdiction of this court.

4. A counter affidavit has been filed by the respondent/plaintiff opposing the application.

5. While it is well settled that as far as rejection of plaint on the ground that there is no cause of action is concerned, the plaint averments alone have to be read independently to find out whether there is cause of action or not. It is the specific case of the respondent/plaintiff that he has advanced loan on several dates to the applicants/defendants to the tune of Rs.10,08,00,000/- from 2012 to 2014 and all



the loan amounts were made through bank by way of either cheque or RTGS and the amounts were disbursed from the bank situated within the jurisdiction of this court. Plaintiff Doc. No.3 which is a bank statement has been filed to substantiate the said contention of the plaintiff. That apart, it is also the specific assertion of the plaintiff that the loan amounts were paid through bank in a running account and last such payment was made in 2017. The bank statements for the period from 2012 to 2014 has been filed along with the plaint in support of the said averments. The suit has been laid in 2017 within the period of three years from the last payment. When there was averment to the effect that it was a running account between the parties and the amounts were transacted through bank at this stage, the defendants cannot plead that the suit is liable to be rejected on the ground of limitation alone since the limitation is a mixed question of law and fact and it has to be decided only at the time of trial. Therefore, this court does not find any merit in the application and the same is liable only to be dismissed.

In the result, the application is dismissed.

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