



C.S.No.183 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.S.No.183 of 2023

R.Kavitha

.. Plaintiff

Versus

S.Sharmila

.. Defendant

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 defendant to pay a sum of Rs.1,26,44,500/- with subsequent interest @ 12 pa on the principal amount of Rs.1,21,00,000/- from the date of the suit to till the date of realisation;

b) Awarding cost

For Plaintiff : M/s.P.Saravana Sowmiyan

For defendant : Set exparte



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JUDGMENT

WEB COPY This suit has been filed, directing the defendant to pay a sum of Rs.1,26,44,500/- with subsequent interest @ 12 pa on the principal amount of Rs.1,21,00,000/- from the date of the suit to till the date of realisation.

2.It is the case of the plaintiff that the defendant has borrowed a sum of Rs.1,21,00,000/- on several occasions from the plaintiff and her husband, and executed a promissory note besides depositing title deeds. He also executed a promissory note on 10.01.2023 and agreed to pay interest @ 12 pa. The defendant has paid interest only upto March 2023 and thereafter she failed to pay the interest. Since the defendant has failed to repay the amount, the plaintiff arranged funds and paid the entire principal amount of Rs.1,08,00,000 to her husband on 15.05.2023, in turn, her husband Mr.N.Ravichandran had endorsed the demand promissory note on 10.01.2023. Thereby, the plaintiff became the holder by indorsement of the promissory note dated 10.01.2023 and the deed of undertaking dated 09.12.2022 executed by the defendant in favour of plaintiff's husband was also assigned in favour of the plaintiff. Despite, the legal notice, the defendant failed to the pay the amount. Hence,



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the suit.

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3. Defendant remained *ex parte*, despite service of summons. On the side of the plaintiff, the plaintiff examined herself as P.W.1 and Ex.P.1 to Ex.P.13 were marked.

P.W.1 – Mrs.R.Kavitha

S.No.	Date	Description of documents	Exhibit
1.	15.01.2021	Original Deed of Loan	P-1
2.	30.03.2021	Original Deed of Loan	P-2
3.	09.12.2022	Original deed of undertaking given by the defendant in favour of plaintiff	P-3
4.	09.12.2022	Original deed of undertaking given by the defendant in favour of plaintiff's husband Ravichandran	P-4
5.	10.01.2023	Original Promissory Note	P-5
6.	15.05.2023	Endorsement made by the plaintiff husband on the backside of Ex.P5	P-6
7.	15.05.2023	Endorsement made by the plaintiff husband on the backside of Ex.P4	P-7
8.	27.07.2023	Office copy of the legal notice sent by the plaintiff	Ex-P8



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<i>S.No.</i>	<i>Date</i>	<i>Description of documents</i>	<i>Exhibit</i>
		to the defendant	
9.	-	Original postal acknowledgment card	Ex-P9
10.	13.05.1991	Certified Copy of the Sale Deed	Ex-P10
11.	15.10.1991	Certified Copy of Rectification Deed	Ex-P11
12.	23.06.2024	Certified Copy of the Sale Deed	Ex-P12
13.	07.08.2023	Certified copy of the encumbrance certificate for the property found in Doc.No.2370/1991	Ex-13

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

5. P.W.1, in her evidence, has clearly spoken about the execution of the documents and receipt of the consideration by the defendant. The suit is based on the promissory note and the deed of undertaking. Once the execution is spoken by the plaintiff, the legal presumption gets retracted 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.1,26,44,500/- with subsequent interest at the rate of 7.5% on the principal amount of Rs.1,21,00,000/- from the date of the suit till the date of realisation.

12.02.2024

dhk

Internet : Yes

Index : Yes / No

Speaking order / Non Speaking order



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N.SATHISH KUMAR, J.

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