



WEB COPY

C.R.P(MD)No.1417 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1417 of 2024

and

C.M.P(MD)No.8409 of 2024

Rajeswari

... Petitioner/Petitioner/
Defendant

Vs.

1.Shanmugapriya
2.Kamal
3.Parthasarathi
4.Vikneshwaran

...Respondents/Respondents/
Plaintiffs

Civil Revision Petition is filed under article 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.01.2024 passed in I.A.No.1 of 2023 in O.S.No.67 of 2023 on the file of the Principal District Judge, Ramanathapuram.

For Petitioner

:Mr.S.Vashik Ali

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order of the learned Principal District Judge, Ramanathapuram, dated 02.01.2024 in I.A.No.1 of 2023 in O.S.No.67 of 2023.



2.The said Interlocutory Application is filed by the petitioner, who is the defendant in the suit. The prayer in the application is to reject the plaint.

The suit is for recovery of money.

3.The case of the petitioner in the rejection of plaint application is that the suit is hopelessly barred by limitation. On perusal of the plaint, it could be seen that the respondents/plaintiffs have averred as if the petitioner/defendant has been paying interest upto the year 2020. Even if the said averment is false, the same cannot be taken up for consideration in an application for rejection of plaint. To reject the plaint only, the averments made in the plaint alone has to be considered.

4.The learned counsel appearing for the petitioner would submit that even though the averments made in the plaint alone should be considered, for the sake of saving limitation some illusory cause of action is disclosed. He would further submit that the complaint and one FIR relied upon was not given by the defendant himself but by his son. The said statement will not bind the defendant. Further, the amount mentioned in the loan agreement differs from what is claimed in the plaint.



5.From the argument of the learned counsel for the petitioner, it could be seen that the Court has to take into consideration the defence of the defendant and therefore, this is not a case to reject the plaint at the threshold. It is another matter when it comes to trial. If the suit is hopelessly barred by limitation and if the plaintiffs' case is false, the petitioner/defendant has all the opportunity to raise the same by way of written statement and the same shall be considered at the time of trial.

6.Giving such liberty to the petitioner/defendant, this Civil Revision Petition is dismissed. No costs.

03.07.2024

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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To
1.The Principal District Judge,
Ramanathapuram.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

Ns

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