



S.A.No.1344 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A.No.1344 of 2010 and
M.P.No.1 of 2010

1. S.P.Sivakumar
2. S.P.Sivasankaran
3. Gnanakumari

... Appellants

VS.

M/s.Karpaga Vinayagar Finance,
Rep. By its Manager S.Murali
1677/65, II Block, 14th Street,
Anna Nagar West, Chennai..

..Respondent

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the decree and Judgment dated 26.02.2010 in A.S.No.677 of 2007 on the file of the Additional District Court, Fast Track Court V, Chennai confirming the decree and Judgment dated 05.04.2007 in O.S.No.4902 of 2000 on the file of the XV Assistant City Civil Court, Chennai.

For Appellants : Mr.R.Vivekanandan for
Mr.R.Subramanian

For Respondent : No appearance



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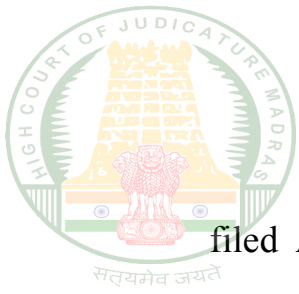
JUDGMENT

The defendants in O.S.No.4902 of 2000 on the file of the XV

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Assistant City Civil Court, Chennai are the appellants herein. The respondent/plaintiff filed the said suit for recovery of a sum of Rs.40,000/- borrowed by the appellants herein from the respondent on 30.06.1997. On the date of borrowal, the appellants / defendants had executed a promissory note. The suit had been filed based on the promissory note claiming that principal and interest had not been repaid. By Judgment dated 05.04.2007, the learned XV Assistant Judge, City Civil Court, Chennai had decreed the suit by granting 24% interest from the date of the suit till the date of realisation of the amount. Cost has also been imposed.

2. It is contended by the learned counsel for the appellants that since the defendants had not filed their written statement in the suit, application seeking permission to grant leave to defend the suit had been filed. That was dismissed. Thereafter, in CRP No.106 of 2003, a direction has been issued by this Court and the appellants/defendants had deposited the entire principal amount of Rs.40,000/- to the credit of the Original Suit on 19.04.2004. Thereafter the appellants herein had also



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filed A.S.No.677 of 2007 questioning the Judgment and decree of the Trial Court. The Appeal Suit came up for consideration before the Additional District Court / Fast Track Court V, Chennai on 26.06.2010. The Appeal Suit was dismissed confirming the decree of the Trial Court.

3. The Second Appeal has not yet been admitted. Notice has been directed to the respondent and though initially the counsel had entered appearance, subsequently, it was represented that there were no instructions.

4. The learned counsel for the appellants contended that to the knowledge of the appellants, the respondent firm is no longer in existence and till this date, Execution Petition has also not been filed. Even though the Second Appeal is not admitted, the Court in Second Appeal can still examine the facts of the case. The appellants to show their bonafide, have deposited the entire principal amount of Rs.40,000/- to the credit of the Original Suit on 19.04.2004. Naturally the date of realization of the amount under the promissory note should be reckoned as that date and interest should be calculated only from the date of the suit till the date of realization. The suit had been filed on 29.06.2000. Let me give a little



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leverage to the appellants herein with respect to the interest portion alone and interfere with the findings of the Courts below with respect to the grant of 24% of interest and modify the decree to grant of interest at 6% per annum from the date of the suit / 29.06.2000 till the date of deposit of principal amount to the credit of the Original Suit / 19.04.2004. A limited relief is granted to that effect though the Second Appeal had not been admitted.

5. With the above modification, the Second Appeal stands partly allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

10.07.2025

vum

Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No

To

1. The Additional District Court, Fast Track Court V, Chennai
2. The XV Assistant Judge, City Civil Court, Chennai
3. The Section Officer, VR Section, High Court, Madras.

C.V.KARTHIKEYAN, J.



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