



A.S.No.73 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.04.2025

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

A.S.No.73 of 2025 and
C.M.P.Nos.6532 & 7615 of 2025

M.Abdul Hassan

... Appellant/Defendant

-VS-

1. Surilinarayanasami Pethi Naidu

S/o. Pethi Naidu,

Having permanent address at:

No.1292, Hidden Lake Drive,

Bloomfield Hills,

Michigan – 48302,

United States

and Having Temporary Address at:

No.51, Butt Road, St.Thomas Mount,

Chennai-600 016.

Rep by his Power Agent

Mr.K.Suresh,

S/o.Mr.Prabhakaran,

Door No.766, 5th Block, 1st Floor,

Mugappair West, Chennai – 600 037

... Respondent/Plaintiff

Prayer: Appeal Suit is filed under Section 96 of CPC to set aside the judgment and decree dated 14.06.2023 in O.S.No.1698 of 2023 passed by the Hon'ble XXIII Additional City Civil Court, Chennai, thereby consequently allow I.A.No.4 of 2023 in O.S.No.1698 of 2023 and allow this appeal.

For Appellant : Mr.C.Seethapathy



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For Respondent : Mr.R.Balaguruswamy

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J U D G M E N T

A challenge has been made to the judgment and decree of the Trial Court, directing the defendant to pay Rs.16,45,583/- together with interest @ 12% p.a. from the date of filing of this suit till the date of decree and 6% interest from the date of decree till realization and also the dismissal of the application filed under Order XXXVII Rule 5 of CPC.

2. Originally, a suit had been filed by the plaintiff for recovery of a sum of Rs.16,45,583/-. It is the case of the plaintiff that the defendant borrowed a sum of Rs.25,00,000/- as loan by way of Demand Draft on 21.05.2014. However, the amount has not been repaid and therefore, he filed a suit for recovery of the amount with interest @ 12% p.a. and the said suit was decreed in favour of the plaintiff.

3. During pendency of the suit, an application has been taken out by the defendant / appellant herein, seeking leave of the Court to defend the main suit. The main contention of the appellant before the Trial Court is



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that the amount has been paid towards purchase of land. As the respondent has not completed the sale transaction, the amount has been repaid on various installments and therefore, the question of payment of interest does not arise at all. The Trial Court has rejected the contention and refused to grant leave. Challenging the said order, the present appeal has been filed.

4. According to the appellant, there was a correspondence between the parties, which clearly shows that there was an agreement for purchase of land and the amount has been paid as per agreement only for purchase of the property.

5. Whereas, learned counsel for the respondent contended that as per email communication, which is sought to be filed under Order XLI Rule 27 of CPC, it is only a loan transaction.

6. It is brought to the notice of this Court that both sides have filed applications before this Court under Order XLI Rule 27 & 28 of CPC for receipt of additional documents.

7. Considering the nature of submissions made on either side,

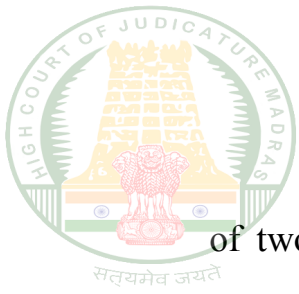


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this Court is of the view that the documents sought to be produced by both the parties are required for the purpose of arriving a conclusive decision in the matter as to whether it is only a loan transaction or the amount has been paid towards purchase of the land. This Court is inclined to allow both C.M.P.Nos.6532 & 7615 of 2025 filed to receive certain vital documents. Accordingly, ***C.M.P.Nos.6532 & 7615 of 2025 are allowed*** in order to render a substantial justice to the parties and the parties are directed to produce those documents before the Trial Court and the Trial Court is directed to accept the documents, subject to production of proof thereof before it.

8. In such view of the matter, ***the instant Appeal Suit is allowed***. The judgment and decree dated 14.06.2023 in O.S.No.1698 of 2023 passed by the XXIII Additional City Civil Court, Chennai is set aside. Consequently, the order passed in I.A.No.4 of 2023 in O.S.No.1698 of 2023, refusing to grant leave is also set aside and the matter is remanded to the Trial Court to decide the application afresh. The Trial Court shall give notice to both sides and thereafter, dispose of the application within a period



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of two months from the date of receipt of a copy of this judgment. It is reiterated that the additional documents sought to be filed shall be filed before the Trial Court and the Trial Court shall receive those documents, subject to verification of proof. It is made clear that in case the Trial Court comes to the conclusion that the defendant is not entitled to any leave, in such case, the summary judgment shall be passed afresh immediately. Whereas, in the event of leave being granted in favour of the defendant, the suit shall be disposed of on merits within three months thereafter. Registry of this Court is directed to return all the original records to the Lower Court forthwith. No costs.

03.04.2025

Index: Yes / No
Internet: Yes / No
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To:

1. The XXIII Additional City Civil Judge,
Chennai.
2. The Section Officer,
V.R.Section,
High Court,
Madras.



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N.SATHISH KUMAR,J.,
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