

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.PD.No.3666 of 2024

and

C.M.P.No.19898 of 2024

1. Central Bank of India
Represented by its General Manager,
No.48/49, Montieth Road,
Egmore, Madras-600 008.

2. The Assistant General Manager,
Central Bank of India,
Asset Recovery Cell,
Regional Office,
No.48/49, Montieth Road,
Egmore, Madras-600 008.

... Petitioners

Vs

L.Jayakumar

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 08.02.2024 in I.A.No.1 of 2023 in O.S.No.7435 of 2022 on the file of the XVIII Additional City

Civil Court, Chennai.

For Petitioners : Mr.Anil Relwani

For Respondent : Mr.Arvind Subramaniam, Senior Counsel
for Ms.Lavanyavathi

ORDER

This Civil Revision Petition challenges the order passed by the XVIII Additional City Civil Court, Chennai. O.S.No.7435 of 2022 is a suit for recovery of money filed by the respondent herein.

2. According to the plaintiff, pursuant to the agreement that had been entered into between himself and the defendant/Bank, the latter had agreed to pay not only a particular fee, but also incentives to the plaintiff. He pleaded without disclosing the entire settlement that had been arrived at between the defendant and the debtor, one, S&S Power Switch Gear Ltd., to him the matter was settled. When he sought for the fees, as per the agreement, the defendants pleaded that he is not entitled to the same, as the settlement amount is less than the 25% of the due,

which had been the subject matter of the contract and the condition precedent for payment of incentive.

3. Being left with no other option, the petitioner filed a writ petition before this Court seeking payment of incentives. The writ petition in W.P.No.17177 of 2011 came to be dismissed on 30.10.2014. Aggrieved by the same, an appeal was preferred to the Division Bench in W.A.No.536 of 2015. The appeal too came to be dismissed. This Court had left it open to the writ petitioner/plaintiff to present a suit for recovery of the same. Hence, the suit in O.S.No.7435 of 2022.

4. Summons were served on the defendant/bank and it filed an application for rejection of plaint in I.A.No.1 of 2023. The application sought to reject the plaint as the suit is hopelessly barred by limitation. It was also urged that the filing of the writ petition and writ appeal will not extend the period of limitation. Therefore, defendant wanted the suit to be rejected.

5. The plaintiff filed a counter to the rejection of plaint application. His plea was two fold: One being that limitation is a mixed question of law and fact it cannot be a ground for rejection of plaint. Secondly, the plaintiff is entitled to the benefit of Section 14 of the Limitation Act.

6. The learned Trial Judge agreed with the plaintiff and dismissed the application. Hence, the revision.

7. I heard Mr.Anil Relwani for the petitioners and Mr.Arvind Subramaniam for the respondent/plaintiff. Both the counsels reiterated the contentions that were placed before the Trial Court.

8. Taking note of the fact that the plaintiff is an Advocate and the Civil Revision Petitioner is a financial institution, I indicated to the counsels that it is better that the parties purchase peace rather than

litigate. Hence, I adjourned the matter to 10.01.2025 to enable them to report regarding settlement.

9. Mr.Aushwin Shivveal reported that Mr.Anil Relwani did not get back regarding the settlement. As I have heard the parties in detail, I am pronouncing the judgment in the revision.

10. It is not in dispute that the cause of action for filing the suit arose on 13.07.2009. Then the suit should have been filed on or before 12.07.2012. Eight months earlier to the said date, the plaintiff had presented W.P.No.17177 of 2011. That was dismissed and it was carried in appeal and the appeal was disposed of on 21.06.2022. The suit was filed within three months on 23.09.2022.

11. The Supreme Court in *P.Sarathy v. State Bank of India*, (2000) 5 SCC 355, has held that a Writ Court would also be within the scope of Section 14 of the Limitation Act. As seen from the dates given

above, the plaintiff had approached the Writ Court well within the period of limitation and therefore he would be entitled to the benefit of Section 14 of the Limitation Act.

12. Apart from this, for the purpose of rejection of plaint, the averments made in the plaint alone matter. In the plaint, it has been specifically averred in paragraph No.27 that the plaintiff is entitled to the benefits of Section 14 of the Limitation Act. Whether at all, he is entitled to the benefit or not, has to be decided by the learned Judge only at the time of final disposal. Rejection of plaint being one in demurrer, the averments have to be true. I cannot look into the defence that has been raised by the defendant at the time of deciding the application for rejection of the plaint. In addition, limitation being a mixed question of law and fact, and rejection of plaint being a plea in demurrer, I am not in a position to go into detail in an application for rejection of plaint.

13. The learned Trial Judge has applied the correct position of law to the facts of the case. I have no reason to take a different view than the view taken by the learned Trial Judge.

14. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.01.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

ssn

To

The XVIII Additional City Civil Court,
Chennai.

V.LAKSHMINARAYANAN, J.,

ssn

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