THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

A.S.No.150 of 2025

The Branch Manager,
Tamilnadu Mercantile Bank, Thirumakottai Road,
Asesham, Mannargudi Taluk and District Munsifi,
Thiruvarur District. ... Appellant

Versus

Ravichandran ... Respondent

PRAYER : This Appeal Suit has been filed under Order 41 Rule 1 and section 96 of Code of Civil Procedure to set aside the judgment and decree passed by the learned Principal District Judge, Thiruvarur in O.S.No.10 of 2019 dated 12.12.2023 in respect of the clumn 6 namely that the appellant/defendant to pay a sum of Rs.90,914/- being the cost of the suit to the plaintiff and allow the appeal.

For Appellant : Mr.P.Tamilavel

For Respondent : Mr.Akhil Akbar Ali

JUDGMENT

Challenging the decree and judgment, particularly against the costs awarded by the trial Court, the present appeal suit has been filed.

2. The parties are arrayed as per their own ranking before the trial Court.

3. The case of the plaintiff is that he had savings account with the defendant bank in account No.278100050300251 and had a sum of Rs.23,54,775.47 in his savings account as on 02.01.2018. However, the bank has taken a sum of Rs.11,62,895/- towards 8 installtments on 04.01.2018 without any permission from the plaintiff. The said deduction has been made towards the jewel loan obtained by the plaintiff. According to the plaintiff, since the amount has been deducted, the jewels have to be returned. However,

the remaining amount has also not been paid by the bank on the ground that the accounts have been frozen by them. Hence, the suit has been filed for declaration that the plaintiff is entitled for the refund of the amount of 23,54,775.47 being the amount deducted from the account of the plaintiff and for the relief of mandatory injunction. However, the trial Court granted declaration holding that the plaintiff is entitled to balance amount of Rs.11,91,880.47. However, declined the relief of mandatory injunction.

4. The case of the defendant is that plaintiff had savings account in their bank. On scrutiny of the jewel loans availed by about 73 persons from the defendant bank on 15.12.2017, by checking the genuineness of the gold jewels pledged by those persons, it turned out that the jewels pledged by them were spurious. The plaintiff is one among those 73 persons. Therefore, a complaint has been lodged in Crime No.17 of 2017 dated 16.12.2017 for the offences under sections 406, 408, 465, 468, 471, 420, 381 and 120B of IPC. Therefore, it is their contention that at the instruction of the Investigating Officer, the savings accounts of plaintiff along with the other accused persons have been frozen. It is their further contention that they have also deducted the loan

amount from the savings account of the petitioner in exercise of banker lien as per Section 171 of the Contract Act.

5. On the basis of the above pleadings, the following issues have been filed by the trial Court for consideration in the suit :

1. Whether the suit is maintainable in law or not?
2. Whether the plaintiff is entitled for the relief of mandatory injunction as prayed for?
3. Whether the plaintiff is entitled for the relief of return of jewels as prayed for in the plaint?
4. To what other reliefs the plaintiff is entitled?

6. The trial Court after appreciating entire evidence, both oral and documentary, granted declaration that the plaintiff is entitled for the balance amount in his savings account after deducting the jewel loan due amount. However, rejected the claim of mandatory injunction for return of jewels. The suit has been decreed with costs. As against the dismissal of the suit, in respect of the prayer for mandatory injunction, no appeal, whatsoever, has

been filed by the plaintiff. Similarly, the plaintiff has also not filed any appeal for not returning the entire amount in his savings account. The bank has also confined their appeal only against costs alone.

7. The learned counsel appearing for the appellant mainly would submit that the account has been frozen only at the instruction of the police, since the First Information Report was already pending as per Ex.B.1 series. Therefore, the bank cannot be fastened with the liability to pay costs.

8. Whereas, the learned counsel appearing for the respondent would submit that remaining amount ought to have been paid by the bank. As the amount has not been paid, he was forced to come to the Court. Therefore, he is entitled for costs.

9. In the light of the above submissions, now the point that arises for consideration is :

Whether the freezing of the account of the plaintiff is properly done by the bank?

10. Point :

I have perused entire materials. The fact that the plaintiff had savings account in the appellant bank is not disputed. It is also not disputed that as on 03.08.2012 he had a sum of Rs.23,54,775/- in his account. It is also not disputed that the plaintiff has also availed jewel loan from the appellant bank. Further, the fact that a criminal case is pending against the plaintiff and others is also not disputed. It has been clearly established on record that 73 persons have availed jewel loan by pledging spurious jewels which had triggered in filing of the complaint under Ex.B.1. The plaintiff is also arrayed as one of the accused, which has been established on record. The fact remains that the jewel loan availed by the plaintiff has been adjusted from his savings account on 04.01.2018 itself. But the bank has not released the remaining amount to the plaintiff.

11. The only contention of the appellant is that after adjusting the gold loan, the remaining amount has not been paid since the police has informed

them to freeze the account of the plaintiff and other accused persons. The fact remains that no written authorization or any Order from the Court has been passed with regard to freezing the account. Therefore, the contention of the bank is that only on oral instructions or information from the police, they have not paid the remaining amount cannot be countenanced. The bank ought to have obtained written Orders from the police authorities to freeze the account. The plaintiff has come to the Court in the year 2023 for the remaining amount. Having adjusted entire amount of gold loan from the plaintiff, the bank has no authority, whatsoever, to retain the remaining amount. Even if the alleged offence is proved against the plaintiff, it will be only with reference to his loan amount alone, and it cannot be extended beyond that. In such view of the matter, having denied the benefit to the customer for more than five years and forcing him to go to the Court to get the declaratory relief by paying Court fees, now it cannot be said that the direction to the bank to pay the costs is unreasonable. The point is answered accordingly.

12. In the result, this Appeal Suit is dismissed and the decree and judgment of the trial Court in O.S.No.10 of 2019 dated 12.12.2023 is

confirmed. No costs.

21.03.2025

Index : Yes / No
Internet: Yes
Speaking/non speaking order

vrc

To,

1. The Principal District Judge,
   Thiruvarur.

2. V.R. Section, High Court, Madras.

N. SATHISH KUMAR, J.

vrc

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