



A.S.No.557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.03.2025

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THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

A.S.No.557 of 2024 and
C.M.P.Nos.15632 & 17198 of 2024

S.Valarmathi

... Appellant/Defendant

-VS-

Mrs.Poongodi @ Easwari

... Respondent/Plaintiff

Prayer: Appeal Suit is filed under Section 96 and Order XLI Rule 1 of the CPC to set aside the impugned judgment and decree passed by the Hon'ble XIX Additional City Civil Court, Chennai in O.S.No.4241 of 2019 dated 19.07.2023.

For Appellant : Mrs.Karthikaa Ashok

For Respondent : Ms.R.Mahalakshmi

J U D G M E N T

Challenging the decree and judgment, decreeing the suit for recovery of a sum of Rs.15,03,500/- with interest @ 9% p.a., the present appeal came to be filed by the unsuccessful defendant.

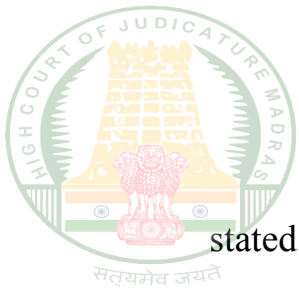
2. The case of the plaintiff is that the plaintiff and the defendant are known to each other for more than eight years and the defendant offered to sell a property and received Rs.2,70,000/- on 14.07.2011 from the plaintiff. However, the plaintiff found that the property



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was sold to some other person and when it was questioned, the defendant agreed to repay the amount of Rs.2,70,000/- to the plaintiff. That apart, the defendant also executed a lease agreement for Rs.4,00,000/- in favour of the plaintiff and agreed to hand over the same. It is further case of the plaintiff that the defendant has received the amount from her on several occasions and further, on 23.03.2017, the defendant again requested for a hand loan of Rs.3,50,000/- to meet out the medical expenses of her husband and agreed to pay interest @ 3%. Even thereafter, a sum of Rs.2,00,000/- was received with due acknowledgment. Since the loan amount was not repaid by the defendant, the plaintiff has filed the suit for recovery of Rs.15,03,500/-.

3. It is the contention of the defendant that she is the absolute owner of the property and the husband of the plaintiff expressed his willingness to purchase the property for a sale consideration of Rs.12,00,000/- and an agreement was entered into only for Rs.2,70,000/- at the instance of the plaintiff in order to evade tax. However, the sale transaction was not fructified for the reason that husband of the plaintiff deserted his first wife and developed relationship with the plaintiff. It is



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stated that subsequently, the plaintiff and her husband were inducted as tenant in the 2nd floor of the portion and a lease agreement has also been entered into between the parties for a sum of Rs.4,00,000/-, which was paid as an advance. According to the defendant, the lease period expired as early as on 16.02.2017 and thereafter, the plaintiff has to pay the monthly rent for that period. It is stated that no amount has been received from the plaintiff, much less the amount of Rs.15,03,500/-.

4. The Trial Court, on the basis of the aforesaid pleadings, framed the following issues:

1) Whether the plaintiff is entitled for the relief of recovery of money from the defendant with interest as prayed in the plaint?

2) To what other reliefs the plaintiff is entitled to?

5. On the side of the plaintiff, the plaintiff examined herself as

P.W.1 and one Vijaya was examined as P.W.2 and Ex.A1 to Ex.A8 were marked. On the side of the defendant, defendant was examined as D.W.1 and D.W.2 and D.W.3 deposed and Ex.B1 and Ex.B2 were marked.

6. The Trial Court, after analyzing the entire evidence, has decreed the suit for a sum of Rs.15,03,500/- with interest @ 9% p.a.



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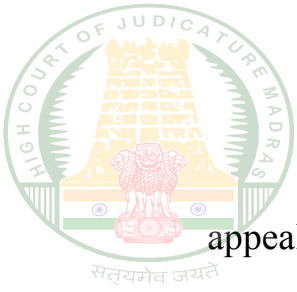
Challenging the said judgment and decree, the instant appeal has been filed.

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7. Learned counsel for the appellant/defendant would mainly submit that as per Ex.A4, the total amount payable is only Rs.12,20,000/- and though the defendant has received only Rs.5,85,000/- from the plaintiff, the suit has been decreed for Rs.15,03,500/- without any basis. She would further submit that the lease period has already expired and the premises are still with the plaintiff and therefore, the defendant is entitled to recover the lease amount from the year 2017 and that amount has to be set off.

8. Learned counsel for the plaintiff/respondent would contend that the defendant has acknowledged the receipt of loan amount on various dates and Ex.A3 to Ex.A6 were marked to substantiate the same. Since the parties are known to each other, there were several transactions, which were acknowledged by the defendant in writing under Ex.A3 and Ex.A4. Thus, it was clearly established that there were money transaction between them, which was rightly held by the Trial Court.

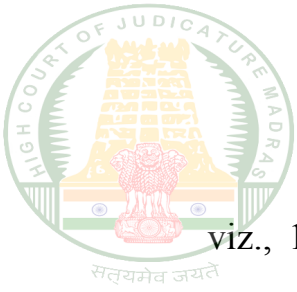
9. In the light of the above, the point for consideration in this



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appeal is as to whether the Trial Court is right in decreeing the suit for Rs.15,03,500/-, particularly when Ex.A4 states only Rs.12,20,000/-.

10. From the evidence adduced on both sides, it is clear that the parties are known to each other and there was no dispute with regard to the transaction held. Several transactions have been entered into between the parties. The initial one was by way of sale agreement said to have been executed by the defendant for sale of property, for which the defendant received Rs.2,70,000/- as advance. As the sale could not fructify, that amount has been agreed to be taken back. Apart from that there were several monetary transactions, which culminated into Ex.A3 and Ex.A4 / loan agreement. Ex.A4 dated 12.07.2017 makes it very clear that in fact the defendant has given in writing about the payments received by her to the tune of Rs.12,20,000/-. D.W.1 in her evidence categorically admitted the execution of Ex.A4 and when the party to the proceedings is not disputed the borrowal and also the acknowledgment in writing made by her, evidencing the said borrowal, this Court is of the view that the defendant is liable to pay that amount with interest @ 6% p.a. from the date of Ex.A4,

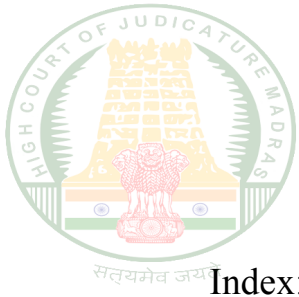


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viz., 12.07.2017. Though amounts have been borrowed on various dates, acknowledgment has been given only on 12.07.2017 finally and therefore, this Court ordered interest only from that date. Accordingly, the Trial Court's judgment, directing to pay a sum of Rs.15,03,500/- with interest @ 9% p.a. is modified to that effect.

11. In the result, ***the Appeal Suit is allowed in part*** and the suit is decreed for Rs.12,20,000/- with interest @ 6% p.a. from 12.07.2017 as per Ex.A4 till the date of realization with costs. Consequently, connected Miscellaneous Petitions are closed.

12. At this juncture, much emphasis is made with regard to the set off to the so-called arrears amount. It is to be noted that though it is stated in the written statement that the amount of arrears of rent has not been paid, it is relevant to point out that no set off is claimed previously and no separate court fee whatsoever is paid and therefore, that cannot be adjudicated in the appeal now.



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Index: Yes / No

Internet: Yes / No

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To:

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

N.SATHISH KUMAR,J.,

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