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C.R.P.No.1191 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No. 1191 of 2025

&

C.M.P.Nos. 7207 of 2025

M.Sakthi

...Petitioner

Vs.

M/s.Sri Vari Finance,
Represented by its Manager cum power Attorney Holder
Mr.K.Jagadeesan
D.No.27/30, S.P.Complex, D – Mante Street,
Tirupur District.

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 29.04.2024 passed in IA.No.2 of 2023 in OS.No.70 of 2023 pending on the file of the Additional Subordinate Judge, Tiruppur.



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For Petitioner : Mr. C.Anand Ramani
For P.V.S. Giridhar Associates

ORDER

The civil revision petition is filed against the order dated 29.04.2024 passed in IA.No.2 of 2023 in OS.No.70 of 2023 pending on the file of the Additional Subordinate Judge, Tiruppur.

2. The defendant whose application for rejecting the plaint in OS.No.70 of 2023 pending on the file of the Additional Subordinate Judge, Tiruppur was dismissed, is the petitioner before this Court.

3. The suit OS.No.70 of 2023 was filed by the respondent finance company against the petitioner herein for a recovery of a sum of Rs.6,90,000/- and principal amount of Rs.5,00,000/- together with interest at 12% from the date of the plaint till payment.



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4. The plaintiff's case is that the defendant who is the friend of one of the partners of the plaintiff's firm had borrowed a sum of Rs.5,00,000/- on 12.09.2020 promising to repay the same with interest at the rate of Rs.2/- per Rs.100/- per month. A promissory note to this effect was also executed by the defendant. After availing the loan the defendant has paid interest for 3 months and thereafter stopped that payment as well. Despite request and demands the defendant has not come forward to make payment. Hence the suit.

5. The defendant on entering appearance filed an application for rejecting the plaint and the reasons for rejection are herein below given:

(a)The plaintiff is conducting a finance business without been approved and registered under the Tamil Nadu Mondy Lenders Act, 1957.

(b)The plaintiff is neither approved nor registered money lender under the Tamil Nadu Mondy Lenders Act, 1957 and the firm is not legally registered firm to do



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money lending business.

(c)The interest claimed is against the provisions of Section 3 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act.

(d)No cause of action has been made out.

(e)Promissory note is a forged and fabricated document and is not executed by the defendant.

6. The plaintiff had filed a counter inter alia denying all the allegations made by the defendant. The allegation that the plaintiff is charging exorbitant interest is absolutely false since the interest that has been claiming is 24% which is commercial rate of interest. The allegation that the plaintiff has not made out any cause of action is itself totally false since the defense that has now been put forward by the petitioner / defendant is that the signature in the promissory note is a fabricated one which is an issue which has to be considered by looking in evidence that would be let in by both parties. Therefore, the same cannot be rejected at the threshold.



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7. It is also the contention of the respondent that no ground as contemplated under Order VII Rule 11 of the Code of Civil Procedure for rejecting the plaint has been set out.

8. The learned Trial Judge after considering the arguments and documents dismissed the application.

9. Challenging the same, the defendant / petitioner is before this Court.

10. Heard the learned counsel for the petitioner asking for admission.

11. The provisions of Order VII Rule 11 CPC is extracted herein below:

“11. Rejection of plaint— The plaint shall be rejected in the following cases:—



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- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law :*

[144] [Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-



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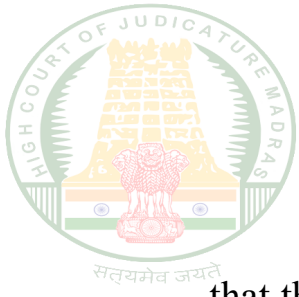


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paper , as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.]

12. Therefore as per the above provisions when the plaint is considered as a whole along with documents it is clear that the plaintiff has made out a cause of action for filing the suit.

13. The petitioner would seek rejection of the plaint on the ground that the interest which has been levied is exorbitant. As rightly stated by the respondent the interest that has been claimed is only 24% which is commercially accepted interest rate. Therefore, the issue as to *whether the promissory note is forged or otherwise* has to be decided only by the Trial Court. Further, the plaint cannot be rejected on the ground that interest claimed is exorbitant. Once again this is an issue that has to be considered after a full trial of the suit.



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14. On a perusal of the plaint and the documents filed it is clear that the plaintiff has made out a case for continuing the suit. The order passed by the learned Trial Judge is very much in order. The civil revision petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

25.03.2025

Index : Yes/No
Internet : Yes/No

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To

The Additional Subordinate Judge,
Tiruppur.

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P.T. ASHA, J,



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