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CRP.PD.No.5247 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.PD.No.5247 of 2024

and

C.M.P.No.29354 of 2024

M/s.Sandana Florals

Rep.by its Prop.J.Rita Jasmine Ranjini,
No.10/1046, Pari Salai, East Mogappair,
Chennai-600 030.

... Petitioner

Vs

M/s.State Bank of India,
Rep.by its Chief Manager,
SME City Credit Center,
No.5, Jawaharlal Nehru Road,
Ekkattuthangal,
Chennai-600 097.

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against order passed in I.A.No.9 of 2024 in O.S.No.621 of 2016 on the file of the IV Assistant City Civil Court, Chennai.



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For Petitioner : Ms.Raj Genevive Veena

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ORDER

This Civil Revision Petition arises against the order passed by the IV Assistant City Civil Court in I.A.No.9 of 2024 in O.S.No.621 of 2016. The suit was preferred by the respondent Bank seeking to recover a sum of Rs.1,05,843/-, together with interest at the rate of 13.05% p.a., and for costs.

2. The case of the plaintiff is that it had sanctioned a loan in the year 2010 to the defendant. An agreement of loan cum hypothication was executed on 06.09.2010 and 08.09.2010. Since the loan amounts were not repaid, the Bank issued a notice of demand. As there was no positive response from the defendant, the Bank presented the suit for recovery of money as an under chapter suit.

3. The defendant filed an application seeking leave to defend. The application was allowed. Thereafter, the defendant filed a detailed



written statement together with counter claim.

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4. According to the defendant, the purpose of the loan was to start a floral Unit. This unit was approved by the District Industries Commission and was supported with subsidy from the Khadi and Village Industries Commission (KVIC). The defendant, *inter-alia*, pleaded that KVIC had also disbursed subsidy in favour of the Bank and that the loan was granted on that basis. She alleged that the suit had been filed without taking into consideration the subsidy on the basis of these pleadings, the parties went for trial.

5. The defendant, during the course of trial, filed an application in I.A.No.2 of 2022. It sought to summon KVIC officials to the Court and to depose on the subsidy that was paid by them on behalf of the defendant unit. This application was allowed. An official appeared before the Court. He deposed that KVIC does not have any documents connected to the subsidy disbursements. He had stated that the documents have been handed over to the plaintiff / SBI.



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6. Therefore, another application was filed in I.A.No.3 of 2023 calling upon the Bank to produce the records. The Bank has also produced the records. Thereafter, the petitioner filed an application in I.A.No.9 of 2024 seeking for issuance of summons to the State Director, KVIC to be summoned and cross-examined on the basis of the documents that have been produced by the plaintiff Bank pursuant to the order in I.A.No.3 of 2023. This application came to be dismissed. Hence, this Civil Revision Petition.

7. I have heard Ms.Raj Genevive Veena, learned counsel for the petitioner.

8. Ms.Veena pleads that the records which had been produced by the SBI are records relating to the KVIC and hence, there is a necessity to cross-examine the authorities connected with the Commission. She further pointed out that while disposing of the application, the learned



Trial Judge has held that the defendant does not have a substantial defence and therefore, it amounts to pre-judging the issue before hearing the suit on its merits.

9. I have carefully considered the submissions of Ms.Veena, learned counsel for the petitioner.

10. The purpose for summoning the officials belonging to KVIC was to produce the subsidy documents. This application was allowed. An official appeared before the Court and deposed that KVIC has no documents with respect to the subsidy that has been given to the defendant's Unit. The Official had stated that the documents had been handed over to the SBI. The SBI, has in obedience to the orders passed by the learned Trial Judge in I.A.No.3 of 2023, also produced the records sought for by the petitioner.

11. When KVIC has taken a stand that it does not have the records, the question of cross examining the State Director of KVIC



does not arise. If the petitioner wants to show that the Bank had received the subsidy from KVIC, then appropriate person to answer the same are officials of the SBI. No purpose will be served to issue summons to the officials of KVIC, especially, the State Director. When the records are before the Court, it is for the defendant to place her submissions relying on the same.

12. With respect to the 2nd submission of Ms.Veena that the learned Judge has prejudged the issue and has given a finding that the defendant does not have any substantial defence, I have to state, this observation has been made by the learned Judge, at the time of disposal of the Interlocutory Application. Such a finding will not be binding on the learned Trial Judge at the time of disposal of the suit.

13. In the light of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

ssn

To

1. The IV Assistant City Civil Court,
Chennai.

2. The Chief Manager,
State Bank of India,
SME City Credit Center,
No.5, Jawaharlal Nehru Road,
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V.LAKSHMINARAYANAN, J.,

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