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C.R.P. NO.3793 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 05 / 12 / 2025

ORDER PRONOUNCED ON: 24 / 02 / 2026

CORAM :

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P. NO.3793 OF 2022

AND

C.M.P. NO.20066 OF 2022

T.K.Venkateswaran,
No.134A, Yasniant Nagar,
Selaiyur, Madambakkam,
Chennai – 600 126.

... Petitioner /
Petitioner /
2nd Defendant

Versus

1.The Tamilnadu Circle,
Postal Co-operative Bank Ltd.,
Rep. by its Secretary Thiru.K.Rajendran,
18/19, Jahangir Street,
2nd Line Beach, Chennai – 600 001.

... 1st Respondent /
1st Respondent /
Plaintiff

2.The Senior Superintendent of Post Offices
Tambaram Division,
Tambaram,
Chennai – 600 045.

... 2nd Respondent /
2nd Respondent /
1st Defendant



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3. Mr.M.Vijayakumar,
S/o. K.S.Meenakshi Sundaram
No.29, Balaji Nagar,
Thirunindravur – 602 024.

... 3rd Respondent /
3rd Respondent /
3rd Defendant

PRAYER : Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, 1908, praying to set aside the Fair and Decretal Order dated September 16, 2022 passed in I.A. No.5 of 2022 in O.S. No.1295 of 2020 on the file of VIII Assistant Judge, City Civil Court, Chennai and consequently reject the plaint filed in O.S. No.1295 of 2020.

For Petitioner : Mr.S.Arun

For Respondent-1 : Mr.L.Dhamodharan

For Respondent-2 : Mr.K.Subhu Ranga Bharathi
- No appearance

For Respondent-3 : Notice dispensed with vide this
Court's Order dated November 22, 2022

ORDER

This Civil Revision Petition is filed under Section 115 of 'the Code of Civil Procedure, 1908' ['CPC' for short] praying to set aside the Dismissal Order passed in the petition filed under Order VII Rule 11 of



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CPC in I.A. No.5 of 2022 in O.S. No.1295 of 2020 on the file of 'the VIII

Assistant Judge, City Civil Court, Chennai' [hereinafter referred to as 'Trial Court'], by the petitioner therein.

2. For the sake of convenience and clarity, the parties will be hereinafter be referred to as per their array in the Original Suit.

3. Facts necessary for the disposal of the case are that the plaintiff - bank filed a Suit for recovery of money against the defendants in O.S. No.1295 of 2020 on the file of the Trial Court. According to the plaintiff - bank, the 2nd defendant was employed as a Sub-Postmaster, Pammal, Post Office, Tambaram Division, Tambaram.

3.1. During the course of employment, by executing necessary documents, the 2nd defendant availed a loan of Rs.4,00,000/- from the plaintiff - bank and the 3rd defendant stood as a guarantor/surety for the loan. The 2nd defendant had authorised the 1st defendant to deduct the monthly instalment from his salary and to remit the same to the plaintiff.

3.2. The 2nd defendant was superannuated on November 30, 2012. The 2nd defendant encountered disciplinary proceedings resulting in



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issuance of charge memo and issuance of other proceedings and thereby

his terminal benefits were withheld by the 1st defendant. As per the documents executed by the 2nd defendant to the plaintiff, if the 2nd defendant has attained superannuation or retired from service voluntarily, the dues to the plaintiff - bank must be settled first and only the remaining amount has to be disbursed to the 2nd defendant.

3.3. As on February 3, 2020, the 2nd defendant is due and liable to pay a sum of Rs.5,31,486/-. After completion of the disciplinary proceedings on March 5, 2018, the 2nd defendant attempted to obtain the terminal benefits without clearing the dues of the plaintiff - bank with a view to defeat and defraud the plaintiff - bank's lawful claim. The 3rd defendant as a guarantor is also jointly and severally liable to pay the debt. Therefore, the plaintiff filed the Suit for recovery of money.

3.4. After receiving summons, the 2nd defendant entered appearance and filed written statement along with an application under Order VII Rule 11 of CPC, seeking to reject the plaint stating that the Suit is barred by limitation.



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3.5. The Trial Court after hearing both sides' concluded that the question of limitation is a mixed question of law and facts which can be gone through only after completion of the trial and accordingly, dismissed the Interlocutory Application.

3.6. Feeling aggrieved by the Dismissal Order, the Petitioner therein has preferred this Civil Revision Petition.

4. Mr.S.Arun, learned Counsel appearing for the revision petitioner / 2nd defendant argued that the relief sought for by the plaintiff is barred by limitation. He elaborated on the said argument by submitting that the Suit loan was obtained in the year 2010 and the Petitioner was superannuated on November 30, 2012. The Suit was filed in the year 2020 much beyond the period of limitation. He further submitted that the Trial Court without appreciating the plaint and plaint documents properly, erred in dismissing the Interlocutory Application. Therefore, he prayed to allow the Civil Revision Petition, set aside the Trial Court's Order and to allow the Interlocutory Application in I.A. No.5 of 2022 and thereby reject the plaint. He relied upon the following Judgments in support of his contentions: (i) *Raghwendra Sharan Singh -vs- Ram Prasanna Singh (Dead) by LRs* reported in *CDJ 2019 SC 314*; (ii) *Dahiben -vs- Arvindbhai Kalyanji*



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Bhanusali (Gajra) Dead through LRs reported in CDJ 2020 SC 606; (iii)

C.S.Ramaswamy -vs- V.K.Senthil reported in CDJ 2022 SC 1069; (iv)

Ramisetty Venkatanna -vs- Nasyam Jamal Saheb reported in 2023 SCC OnLine SC 521.

5. *Per contra*, Mr.L.Dhamodharan, learned Counsel appearing for the 1st Respondent / plaintiff - bank submitted that as per the document executed by the 2nd defendant, as and when the 1st defendant disburses the terminal benefits, he ought to have deducted the loan amount and should have remitted the same to the plaintiff - bank and only the remaining amount has to be disbursed to the 2nd defendant. Further, reiterating the plaint averments, he submitted that since the disciplinary proceedings were initiated against the 2nd defendant, his terminal benefits were withheld by the 1st defendant. In any case, the 1st defendant ought to deduct the loan amount and disburse only the remaining amount to the 2nd defendant. While the disciplinary proceedings ended on March 5, 2018, the Suit was filed in the year 2020, well within limitation. In this case, the question of limitation being a mixed question of law and facts, can be gone through only at the time of trial. Hence, the Trial Court after appreciating the entire facts and circumstances of the case, rightly dismissed the Interlocutory



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Application and there is no warrant to interfere with it. Accordingly, he

prayed to dismiss this Civil Revision Petition and sustain the Order passed by the Trial Court. He relied upon the following Judgments in support of his contentions: (i) *Karam Singh -vs- Amarjit Singh* reported in 2025 *LiveLaw (SC) 1011*; (ii) *Salim D.Agboatwala -vs- Shamalji Oddhavji Thakkar* reported in *AIR Online 2021 SC 731*.

6. This Court has considered both sides' submissions and perused the materials available on record.

7. The point that arises for consideration in this Civil Revision Petition is *whether the revision petitioner has made out a case under Order VII Rule 11 of CPC*.

8. It is settled principle of law that while deciding an application under Order VII Rule 11 of CPC, the Court shall not look beyond the plaint and plaint documents.

9. What could be seen from a bare reading of the plaint is that the 2nd defendant borrowed certain sum from the plaintiff - bank; that as per the agreed terms and executed documents, after 2nd defendant's



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superannuation, the 1st defendant shall settle the loan dues from the 2nd

defendant's terminal benefits and then pay the remaining thereof to the 2nd

defendant; that the 2nd defendant's terminal benefits were withheld as he

faced some departmental proceedings; that the said proceedings came to an

end only on March 5, 2018. That being the plaint averments, the plaintiff

contends that when the terminal benefits of the 2nd defendant were

withheld due to departmental proceedings which came to an end only on

March 5, 2018, the Suit has been filed in the year 2020 and hence, it is well

within time. It can be seen that in this case, the question of limitation is a

mixed question of law and facts. Question of limitation as a pure matter of

law can be decided at the threshold stage itself. But when limitation needs

to be decided considering the facts as well, evidence is required to

ascertain the true facts, which can be obtained during trial. In other words,

when limitation is a mixed question of law and facts, it can be gone

through only during or after trial. Hence, trial is absolutely necessary in

this case to unearth truth. In these circumstances, this Court is of the view

that the revision petitioner has not made out a case under Order VII Rule

11 of CPC and that the Trial Court rightly dismissed the Interlocutory

Application. There is no merit in this Civil Revision Petition. This Court



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does not find any irregularity or illegality in the Order passed by the Trial

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10. No serious dispute with the case laws relied on either side.

11. In the result, this Civil Revision Petition is dismissed.

Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

24 / 02 / 2026

Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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To

1.The VIII Assistant Judge,
City Civil Court, Chennai.

2.The Secretary,
The Tamilnadu Circle,
Postal Co-operative Bank Ltd.,
18/19, Jahangir Street, 2nd Line Beach, Chennai – 600 001.

3.The Senior Superintendent of Post Offices,
Tambaram Division,
Tambaram, Chennai – 600 045.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN
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