



WEB COPY

A No. 4133 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A No. 4133 of 2025

in

C.S(COMM DIV).No.21 of 2025

A. Senthilkumar

..Applicant(s)

Vs

1. Mr.Balaji Panchapagesan

2. Mr.M.Natarajan

..Respondent(s)

To grant leave to defend the suit to the Applicant/2nd Defendant in
C.S.(Comm.Div) No.21 of 2025.

For Applicant(s): Mr.A.Chidambaram

For Respondent(s): Mr.R.Muthukumar (For R1)

ORDER

This application has been filed to grant leave to defend the suit to the
Applicant/2nd Defendant in C.S.(Comm.Div) No.21 of 2025.

2. Heard Mr.A.Chidambaram, learned counsel for the applicant and
Mr.R.Muthukumar, learned counsel for the first respondent.



3. The learned counsel appearing for the applicant would submit that the first respondent herein had initiated the suit against him and the 2nd respondent for recovery of money on an alleged agreement. He would submit that even a perusal of the cause of action would indicate that there has been no cause of action as against the applicant and that all the cause of action that had been indicated therein only relates to the transaction between the first and the 2nd respondent alone. He would submit that the applicant had been unnecessarily added as a party defendant to the suit.

4. He would further submit that it is an admitted case that the transaction had taken place as early as in the year 2013 and that an agreement had been entered into between the first and the 2nd respondent in the year 2015. Therefore, the present suit that had been instituted is hopelessly barred by limitation. Hence, he would submit that it would become necessary for him to defend the suit, which had been initiated invoking the provisions of Order XXXVII CPC. Hence, he seeks indulgence of this Court to grant leave to defend the suit.

5. Countering his arguments, the learned counsel appearing for the first respondent would submit that an undertaking affidavit had been executed on 01.06.2022 by the applicant along with the second respondent and therefore, the suit is not barred under the Limitation Act. He would further submit that having jointly executed undertaking affidavits for repayment of the loan amount, the



applicant cannot claim that he is not liable for repayment of the amount that had been advanced by the first respondent to the second respondent. Hence, he prays this Court to dismiss the application and for decreeing the suit as prayed for.

6. I have considered the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

7. Even though the first respondent claims that the applicant had executed an undertaking and the undertaking is said to have been executed in the year 2022, it did not form part of the cause of action that had been pleaded in the plaint. That apart, there is also no other averments in the plaint regarding the said undertaking nor such undertaking do not form part of the list of documents that is required to be filed under the Code.

8. For the aforesaid reasons, this Court is of the view that an unconditional leave could be granted to the applicant to defend the suit, as he had made out a *prima facie* case.

9. In fine, the application stands allowed. No costs.

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K.KUMARESH BABU, J.

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