IN THE COURT OF DISTRICT JUDGE-03
EAST DISTRICT, KARKARDOOMA COURTS: DELHI.

Presided by :Ms. Pooja Jain

CS. No. 637/24

VISHWANATH OJHA …................PLAINTIFF

Vs.

M/S RUPEEK CAPITAL PVT. LTD
& RUPEEK FINTECH PVT. LTD & ORS. …………..DEFENDANT

24.04.2025

O R D E R

By this order, I shall dispose off the application under Order 39 Rule 1 & 2 alongwith section 151 CPC filed on behalf of plaintiff.

ORDER ON IA U/O 39 rule 1 & 2 r/w section 151 CPC

It is submitted that plaintiff has filed the present suit for permanent injunction alongwith recovery of gold weighing around 507.04 grams or the amount of the value of the gold. It is further submitted that plaintiff is aged about 74 years and need money and he has information about taking gold loan at low interest from Muthood Gold Loan, IIFL Gold Loan and Manipuram Gold Loan etc but the defendants have given assurance to provide the lowest interest rate of 0.5 % per month, if the plaintiff would give around 500 grams gold then the interest would be 0.50 % per month and plaintiff was tempted to pay less interest. On 13.01.2021 the plaintiff had taken gold loan from the defendants for which plaintiff had mortgaged his gold jewellery weighing 507.04 grams and defendants had given a sum of Rs.2,44,644/- as a loan for which the defendants had quoted an interest rate of 0.50 % and it was assured that the plaintiff has to pay the interest amount every month only at the above mentioned interest rate, as per the instructions of the defendants. It is further submitted that plaintiff had gone in November 2022 to take back his mortgaged gold jewelry of weighing around 507.04 grams and in lieu of that, the plaintiff had returned the above mentioned amount of Rs.2,44,644/- in cash and interest as a loan. The Officials of defendants requested for time of 25-30 days to return the jewelry as it was told to the plaintiff that gold is deposited in our main branch and if you would hand over all the slips then after depositing the slips the gold would be released from our main branch. It is further submitted that plaintiff had approached the defendant to return his gold but the officials of defendants made false excuse with the plaintiff. It is further submitted that on 19.12.2023, plaintiff reached at office and met the staff and managed and said staff told the plaintiff that main branch has auctioned the gold. A complaint against the defendants was lodged by the plaintiff. It is further submitted that plaintiff has very good prima facie case in his favour. The balance of convenience also lies in favour of plaintiff and against the defendant. Applicant shall suffer irreparable loss, if the ad-interim order will not be passed in his favour. Therefore, plaintiff requested that defendants, their agents, assigns, successors etc be restrained to create any third party interest in the Gold Weighting Around 507.04 Grams without due process of the law till the final disposal of the present case. Hence, the present application is filed.

Reply to the application has not been filed by defendant. However, ld. Counsel for defendant has straightaway argued on the present application. Ld. Counsel has submitted that the Gold loan taken by plaintiff on 15.01.2021 was booked with Federal Bank having loan ID:2109802 for an amount of Rs.16,17,956/- for the secured loan and RCPL Loan ID No.3087496 for the loan amount of Rs.2,44,644/- unsecured loan. The gold deposited by plaintiff is weighing Net Weight 496.72/ grams and the borrowed loan amount against the gold pledged is Rs.18,62,600/-. It is further submitted that the plaintiff had taken gold loan on 15.01.2021 and the loan tenure expired on 14.07.2021 and he has not repaid any interest or principal towards the loan. The loan borrowed was overdue and the loan account was under default for non-payment of interest and principal. Following the due process for recovery, several attempts were made to reach out to the plaintiff for repayment of loan amount without any realization. Federal Bank being the secured lender sent an Auction cum demand notice to plaintiff on 16.09.2021 and subsequently paper publication was made for auctioning the gold and auction was done by Federal Bank in December 2021. The gold pledged by plaintiff was auctioned for Rs.19,47,999/- by Federal Bank on 21.12.2021. The Federal Bank outstanding at the time of auction was Rs.19,48,000/- and presently the loan amount outstanding of plaintiff payable to Rupeek Capital Pvt. Ltd. in loan ID No.3087496 towards unsecured loan availed is amounting to Rs.3,62,861/- which is due and payable by the plaintiff. The original gold auction documents/ details related to post auction details as requested are not available with defendant no.1 company. The gold auction process was entirely done by Federal Bank, Nirman Vihar Branch and the requested documents would be available in their repository. Plaintiff has not impleaded the necessary party i.e. Federal Bank in the present suit. It is further submitted that plaintiff has not come with clean hands and suppressed the actual loan amount borrowed against the collateral from the secured lender Federal Bank. It is further submitted that all the allegations alleged against the defendants are false and frivolous and requested that present application be dismissed.

Heard. Record perused and considered.

Before adverting to the merits of matter, it is necessary to notice the settled law relating to grant of interim injunction, as reiterated by Hon'ble Apex Court in **Makers Development Centre Services Pvt. Ltd. vs.**

M.Visvesvaraya Industrial Research and Development Centre [2012(1) SCC 735], wherein it has been observed as under :

> *"...It is settled law that while passing an interim order of injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908, the court is required to consider three basis principles, namely, (a) prima facie case, (b) balance of convenience and inconvenience, and (c) irreparable loss and injury. In addition to abovementioned three basic principles, a court while granting injunction must also take into consideration the conduct of the parties.....*

In the present case, plaintiff has filed the present suit for permanent injunction and recovery of alleged loan against the defendant. Plaintiff has taken loan from defendant no.1 i.e. Rupeek Capital Pvt. Ltd., Rupeek Fintech Pvt. Ltd. branch at Nirman Vihar, Delhi and mortgaged his gold jewelry and defendant had given Rs.2,44,644/- as a loan. Plaintiff further contended that plaintiff returned above said loan amount and requested to return back his jewellery from the defendant no.1. But defendant did not return the said gold to the plaintiff. Defendant is claiming that plaintiff has not repaid any interest or principal towards the loan and is in default for non-payment of interest and principal. Defendant is further claiming that several attempts were made to reach out to the plaintiff for repayment of loan amount and Federal Bank had auctioned the said gold on 21.12.2021. It is pertinent to mention here that defendant has submitted that original gold auction document related to post auction details are not available with the defendant no.1 company. It is relevant to note here that defendant has not filed any loan application and documents related to auction of gold on the record in support his defence. Plaintiff had taken gold loan on 13.01.2021 and Federal Bank had auctioned the said gold loan on 21.12.2021. Defendant had sent a legal demand notice on 26.10.2021 to the plaintiff for payment of outstanding dues and filed receipt of registered post on record. Plaintiff has filed the present suit on 28.10.2024 much after about 3 years from the date of auction of gold. Plaintiff has not filed any documents regarding existence of gold to show that said gold was with him. Plaintiff has also not placed on record a single documents showing the repayment of loan. In view of above, this court is of the considered opinion that the plaintiff has not been able to show prima facie case in his favour. So, the balance of convenience goes in favour of defendant. Therefore, the present application filed by plaintiff u/o 39 rule 1 & CPC is hereby dismissed. Accordingly, the present application is disposed off.

POOJA JAIN

Digitally signed by POOJA JAIN
Date: 2025.04.24 16:55:52 +0530

Typed to the dictation directly,
corrected and pronounced in
open court on 24.04.2025

(Pooja Jain)
District Judge-03,
EAST/KKD Courts, Delhi.