

ORDERS ON I.A.NO.III

1. I.A.No.III is filed by the plaintiff under Order 13-A Rule 4 of CPC seeking an order to pass summary judgment.
2. This application is opposed by the defendant by filing a memo stating that the written statement filed by the defendant is to be treated as objection to the I.A.No.III.
3. Heard both sides.
4. Perused the records.
5. The following point do arise for my consideration;
“Whether the plaintiff has made out grounds to allow this application?”
6. My find on the above said point is in the negative, for the following;

REASONS.

7. In the application the plaintiff-bank stated that the defendant had secured the loan of ₹4,90,000/- for her business purpose and executed necessary documents on 20.12.2017. Despite of repeated requests and demands the defendant failed to pay the loan amount as per the terms and conditions agreed by her and plaintiff-bank constrained to file the suit seeking recovery of ₹4,04,232/- with current and future interest.
8. In response to the summons issued, she appeared through her counsel and filed written statement. Thereafter issues have been framed. The matter was referred to the Lok-Aadalath for conciliation, but the matter did not settle and the file returned to the court. When the case is posted for plaintiff's evidence, the

plaintiff has filed the present application seeking passing of summary judgment. At this stage, the defendant appeared and filed a memo stating that the written statement is to be treated as objection to the I.A.No.III.

9. In the written statement the defendant contended that she has admitted the para No.4 of the plaint with regard to loan obtained by her, execution of documents and hypothecation of stocks in favour of the plaintiff bank and denied all other averments made in the plaint. Further she contended that the suit filed by the plaintiff is not maintainable, it is barred by law of limitation, the plaintiff bank has taken her signatures on many blank papers, due to COVID-19 she suffered huge loss in business and she closed her shop and not doing any work, as per her note she is having balance of ₹1,41,489/- and she is ready to pay the same to the bank within one year and the calculation made by the plaintiff bank is false and the plaintiff-bank suppressing all these facts in order to make wrongful gain from the defendant filed the present suit and also filed the present application seeking summary judgment.

10. As the defendant contended that she had stated the facts in detail in her written statement, and burden of proving of Issue No.1 & 2 is lies on the defendant and she may be given an opportunity to cross-examine the plaintiff to prove her case, in the interest of justice and equity, this court is of the opinion that the application deserves to be rejected. Accordingly, I answer the above said point is in the negative, and I proceed to pass the following;

O R D E R

I.A.No.III is rejected.

(Typed to my dictation by the Stenographer Grade-I, after his typing, corrected, signed and then pronounced by me in the Open Court dated this the 9th day of February, 2024).

(RAJESHWARI N. HEGDE)
Principal District & Sessions Judge,
Davanagere.