

COMMERCIAL COURT, THRISSUR.

Present: Rejula P.V., Judge, Commercial Court -I

Monday the 29th day of January, 2024/9th Magha, 1945 SE.

C.S.297/2021

Plaintiff:

Bhagyam Kuries (P) Ltd., Irinjalakuda, Irijalakuda Village
Mukundapuram Taluk rep. By director Thimos, aged 61 years,
S/o Parekkadan Jose, Manavalassery Village, Irinjalakuda
Desom, Mukundapuram Taluk
By Adv.M.J.Baby & Adv.C.S.A.Illah

Defendants:

1. Poullose, aged 74 years, S/o Pallipuram Markose, Ollukkara Village Mannuthy Desom, Thrissur Taluk
2. Sheeba Jose, aged 46 years, D/o Pallipuram Poullose, Ollukkara Village Mannuthy Desom, Thrissur Taluk and W/o Kokkatt Jose, Irinjalakuda Village, Desom,
3. Anto Poullose, aged 40 years, S/o Pallipuram Poullose, Ollukkara Village Mannuthy Desom, Thrissur Taluk
4. Biju Poullose, aged 35 years, S/o Pallipuram Poullose, Ollukkara Village Mannuthy Desom, Thrissur Taluk
Exparte

This Suit is coming on this day for hearing before me the court delivered the following:-

J U D G M E N T

Suit for realisation of money.

2. Plaintiff's case, in brief, is as follows: - Defendants subscribed eleven chitties bearing statement Nos. 352, 617, 616, 459, 383, 222, 154, 126, 125, 440 and 9 of plaintiff started on 05.09.2007 from its

Jammudhavi branch and bid the kuries. On 21.01.2008, defendants executed kuri agreements in favour of the plaintiff undertaking to repay the amount. 2nd defendant deposited his title deed bearing registration Nos. 6349/1118 of SRO Ollukkara, 2673/1122 of SRO Thrissur and 4936/1996 of SRO Ollukkara as security. Defendants defaulted repayment of kuri installments. An amount of ₹7,35,000/- is due towards 11 chitties. ₹6,54,052/- is due towards interest and ₹500/- is due towards notice expense. Thus, this suit to realize ₹13,89,552/- (Rupees Thirteen lakh eighty nine thousand five hundred and fifty two only).

3. Defendants did not file written statement and they were set exparte. Thereafter, PW1 was examined and Exts. A1 to A7 were marked from the side of plaintiff.

4. Heard plaintiff.

5. Unchallenged evidence of PW1 coupled with Exts. A1 to A7 prove plaintiff's case and it is entitled to realise ₹13,89,552/- (Rupees Thirteen lakh eighty nine thousand five hundred and fifty two only) from the defendants. Considering the facts and circumstances of the case, I am of view that awarding interest @ 6% per annum on principal amount of ₹7,35,000/- (Rupees Seven lakh and thirty five thousand only) from the date of suit (05.10.2021) till date of realisation will serve the ends of justice. Plaintiff schedule property was mortgaged as security for the

repayment of chitty amount. Hence, on failure of defendants to pay the amount due to the plaintiff within six months from the date of decree, plaintiff is entitled to realise the amount by sale of plaint schedule property. Thus, a preliminary decree is liable to be passed.

In the result, this suit is decreed in part with costs of plaintiff and as per Order XXXIV Rule 3 CPC, a preliminary decree is passed as follows: -

1. Defendants shall pay an amount of ₹13,89,552/- (Rupees Thirteen lakh eighty nine thousand five hundred and fifty two only) to the plaintiff with interest @ 6% per annum on principal amount of ₹7,35,000/- (Rupees Seven lakh and thirty five thousand only) from the date of suit (05.10.2021) till date of realization within 6 (Six) months from the date of decree, and

2. On failure of payment of the decree amount within 6 (Six) from the date of decree, plaintiff is entitled to realise the amount by sale of plaint schedule property in final decree proceedings.

Suit is adjourned sine die.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this 29th day of January , 2024)

REJULA P.V.
JUDGE, COMMERCIAL COURT -I

Appendix:Plaintiff's Exhibits

A1	22.01.08	Kuri Karar executed by defendants to Plaintiff Company (Series 9 Nos.))
A2	23.01.08	Document list executed by defendants to Plaintiff Company (Series 9 Nos.)
A3	23.01.08	Hypothecation deed No.355 /2008 SRO Ollukkara
A4	17.02.09	Hypothecation deed No.470/2009 SRO Ollukkara
A5	06.11.96	Ozhimuri No.4936/1996 SRO Ollukkara
A6	series	Memorandum
A7		Computer Account statement of kuries (series 11 nos.)

Plaintiff Witness

PW1 22.01.24 Thimos P.J.

JUDGE, COMMERCIAL COURT -I