IN THE VII ASSISTANT CITY CIVIL COURT AT CHENNAI

Present: Tmt.L.Maheswari., M.L.,

VII Assistant Judge

Tuesday, the 26th day of November, 2024

O.S.No.5323 of 2023

(CNR.No.TNCH01 - 035603 - 2023)

R. Padmavathi, (F/A 40 yrs)
D/o. Rajendran,
Residing at Door No.2/19,
Mukkiyamman Koil Street,
Chintadripet, Chennai – 600 002. ….Plaintiff

-Vs-

HDFC Bank Limited (Personal Loan Dept)
Rep. By its Authorized Representative,
No.128, Ground Floor, East West Centre,
Nelson Manickam Road, Aminjikarai,
Chennai – 600 029. ….Defendant

This suit is coming on 13.11.2024 for final hearing before me in the presence of M/s.P.Parthipan and Yamuna Parthipan, learned counsel for the plaintiff, and M/s.Acuity Law Associates, S.Krishnaa, M.Anthonymoses, K.Muthulakshmi and A.Alexander, learned counsel for the defendant, and upon perusal of case records and after hearing the arguments by plaintiff side and this suit having stood over for consideration till this day, this court delivered the following:-

JUDGMENT

This suit filed under Order VII Rule 1 of CPC for permanent injunction restraining the defendant, his men, family members, representatives, agents, servants or any one claiming through him from in any way interfering with plaintiff's peaceful enjoyment from the schedule property more fully described hereunder except otherwise than the due process of law and for cost.

2. Brief averments made in the plaint are as follows:

The plaintiff submits that the she used to avail personal loan from the defendant through online for the past 5 years. Initially the plaintiff had availed only 2,00,000/- for her financial emergency. Thereafter, the defendant had approached the plaintiff to top up the loan in order to clear the existing loan and continue with new loan. Plaintiff being an innocent women, had availed loan after loan to close the previous loan. In the same manner, she finally availed a personal loan vide Loan Agreement No.126820406 dated 03.02.2023 to the tune of Rs.12,68,611/- and received only 2,00,000/- after deduction of previous loan due amount along with exorbitant interest. The plaintiff without knowing the consequences and business trick of the defendant blindly believed their words and availed loan after loan and paying regularly from and out of her hard-earned money. She has been regularly paying monthly installments from the date of availing loan to till June 2023 without fail. While the facts are being so, the plaintiff's mother Mrs.R.Kuppammal has suffered cardiac problem and thereby she had undergone for a procedure of PTCA With Stenting to LAD and LCX-OMI-by CAG. This unexpected emergency leads to spent more than 4 lacs. Therefore, the petitioner has faced huge financial crisis and thereby she could not pay installments from June 2023. The plaintiff further submits that for her utter most shock, on 17.08.2023, four persons came to the plaintiff's house. Since plaintiff was not available at home, they called the plaintiff through phone and demanded to pay the due amount with immediate effect the plaintiff had expressed her inability and financial situation. Despite of that they had shouted the plaintiff's mother who had undergone for stenting procedure and advised by the doctors not get emoting. The defendant without having any humanity using her mother's situation as their tool to recover the due amount. The act of the defendant's employee not only caused serious mental agony but also damaged her reputation among neighbors. Now, the plaintiff is under deed stress and fear of illegal and unfair practice of the defendant to torture the plaintiff and her mother at her house. They have also warned the plaintiff to repay the same within a day or two. When the plaintiff explained to them to her financial crisis, they simply uttered that if installments is not paid for the month of June and July 2023 within two days, they will come to her come repeatedly. Hence, she forced to lodge a complaint before the Inspector of Police, F-1, Chindadripet Police Station on 17.08.2023 by narrating the act of the defendant's employees. However, the said police refused to receive her complaint stating that it is civil case and advised the plaintiff to approach the civil court for proper remedy. While the facts are being so, the defendant's employees were once again come to the plaintiff's house (Schedule premises) on 22.08.2023 and warned the plaintiff to pay the due amount by using unparliamentary words. The plaintiff is suffering from huge mental agony by the rowdy attitude of the defendant's employees. The plaintiff submits that though the defendant is well established finance company, had indulged in third degree method to extort money from its customer. Moreover, the plaintiff is still under fear of threatening and even physical attack by the defendant's collection team. Hence the plaintiff filed this suit.

3. Brief averments of the Written statement filed by the Defendant is as follows:

At the outset the defendant denies all the allegations made in the plaint except those that are specifically admitted herein to be true, and puts the plaintiff to strict proof of the rest. For a better appraisal of the facts of the case, the defendant narrates the facts of the case before addressing the contentions in the plaint. Based on the loan application form submitted by the plaintiff, the defendant bank had sanctioned him a personal loan bearing A/c.No.12682040. While applying for the said personal loan, the plaintiff conclusively accepted to be bound by the terms and conditions of the loan agreement, pursuant to which he was sanctioned the personal loan. The defendant was sanctioned a sum of Rs.12,68,611/-. The plaintiff had paid the EMIs only for a very short time, and thereafter he started to default towards the payment. While the plaintiff was repeatedly called upon to repay his dues, he fraudulently failed to make the payment. It is submitted that the outstanding balance payable by the plaintiff to the defendant in his loan account stands at Rs.10,62,669.39/- as on 27.01.2024 and despite, repeated reminders, the plaintiff has willfully failed to make any payments till date. Now reverting to the plaint, the defendant traverses the allegations made in the plaint and deny them paragraph-wise. The claim of the plaintiff that “without knowing the consequences and business trick of the defendant blindly believed their words and availed loan” is outright denied as false. The plaintiff entered into a loan agreement with defendant wherein she agreed to abide terms and conditions of the said agreement. Upon execution of loan agreement and loan documents, the loan amount was disbursed by the defendant bank, even assuming that the stated personal problem of the plaintiff are to be true, being a public limited banking company, the defendant has a responsibility to go after erring customer. The defendant deducted the amount with exorbitant interest from the loan amount is denied as false. The allegation that on 17.08.2023 that the defendant deployed some agents as the name of collection agents and entered the plaintiff premise and they had threatened and shouted on plaintiff’s mother that they caused serious mental agony and damaged her reputation among neighbours is totally false and vehemently denied. The plaintiff’s imputation that when she was not around in her house, she was contacted through telephone and demanded her to pay due amount with immediate effect by the agents of the defendant is denied as false. The allegation that on 22.08.2023 the collection agents of defendant had visited the plaintiff’s premises and that they warned the plaintiff with unparliamentarily words to repay the amounts due is denied as false. The defendant’s collection team had indulged “third degree method to extort money from its customer’ and made a physical attack is vehemently denied as false. There is no evidence for this allegation and the same is created by the plaintiff. Contrary to the allegation of the plaintiff, the collection agents of the defendant bank are professional trained personnel who shall have scrupulously follow the rules and regulations laid down by the RBI in the collection and recovery process. They had not acted in breach of any law. The allegation that the defendants were sending “rowdy elements and anti-social elements” to the plaintiff’s premises and that they disturbed the plaintiff’s peaceful life and enjoyment of the suit property are totally denied by defendant. The defendant is trying to enter into the plaintiff’s residence illegally through external force and trying to get the claim amount without due process of law is denied as false. The present suit is an abuse of process of law and liable to be dismissed. The plaintiff has merely made bald and baseless allegations without any material particulars. The present suit is filed by the plaintiff is a vain attempt to evade his legal liability due to the defendant. The plaintiff, though being aware of his outstanding dues towards the defendant, has willfully and deliberately failed to make payment till date. This being so, the plaintiff has maliciously filed the present suit making adverse and outrageous allegations against the defendant with an ulterior motive to evade the payments due by him. Hence balance of convenience is in favour of the defendant. The suit is an abuse of process of law, and is false, vexatious and smacks of malafides. Therefore prayed to dismiss the suit as against the defendant with exemplary cost.

4. Based on the pleadings set out in the plaint, written statement, this court framed the following issues:

1 Whether the plaintiff is entitled for the relief of permanent injunction as prayed for?

2. To what other reliefs?

5. On the side of the plaintiff, the plaintiff examined herself as PW1 and EX.A1 to Ex.A3 were marked, On the side of the defendant, the defendant bank legal manager was examined himself as DW1 and Ex.B1 was marked.

6. DISCUSSION AND FINDINGS

Issues 1:

7. The case of the plaintiff is that she used to avail personal loan from the defendant through online for the past 5 years. Initially the plaintiff had availed only 2,00,000/- for her financial emergency. In the same manner, she finally availed a personal loan vide Loan agreement No.126820406 dated 03.02.2023 to the tune of Rs.12,68,611/- and received only 2,00,000/- after deduction of previous loan due amount along with exorbitant interest. She had been regularly paying monthly installments from the date of availing loan to till June 2023 without fail. The plaintiff has faced huge financial crisis and thereby she could not pay installments from June 2023. The plaintiff and her mother are suffering from huge mental agony by the rowdy attitude of the defendant's employees. Moreover, the plaintiff is still under fear of threatening and even physical attack by the defendant's collection team. The copy of repayment schedule for loan agreement and discharge summary of plaintiff's mother were marked as Ex.A1 and Ex.A2. The copy of Aadhar card of the plaintiff is marked as Ex.A3. Since the plaintiff had apprehended that the collection agents of defendant bank may interfere with the peaceful possession and residence of the suit property by the plaintiff, the plaintiff is obliged to file the suit.

8. Per contra, the case of the defendant bank is that the plaintiff had obtained personal loan dept of the defendant bank and agreed to terms and conditions of the

bank. The plaintiff had paid the EMIs only for a very short time, and thereafter he started to default towards the payment. While the plaintiff was repeatedly called upon to repay this dues, she fraudulently failed to make the payment. The outstanding balance payable by the plaintiff to the defendant in his Loan account stands at Rs.10,62,669.39/- as on 27.01.2024 and despite, repeated reminders, the plaintiff has willfully failed to make any payments till date. The copy of power of attorney given to DW1 to conduct the case is marked as Ex.B1. The defendant bank had contended that they have followed rules and regulations of RBI with regard to collection of dues from the plaintiff and they had not threatened or implemented any unlawful means as against the plaintiff as alleged in the plaint. Hence the defendant bank request to dismiss the suit.

9. The learned counsel for the plaintiff argued that the bank had deployed some collection agents and they have entered the door step of plaintiff thereby threatened the plaintiff to repay the amount due which is exorbitant rate of interest and as against the rules and regulations of the RBI and the act of defendant bank is high handed and illegal and try to interfere with the peaceful possession and enjoyment of the suit property by the plaintiff under the guise of collecting money. Hence the learned counsel for the plaintiff request to decree the suit.

10. On the other hand the learned counsel for the defendant has not come forward to argue the case to despite liberty to given to them. However as per the written statement and cross examination of PW1, it is the case of the defendant that that the plaintiff had obtained the personal loan dept of the defendant bank by

agreeing to the terms and conditions of the bank. The plaintiff had utilise the service of defendant bank and hence she is obliged to repay the amount due to the bank. Hence the plaintiff is obliged to repay the due amount with interest as agreed by her. In order to evade the repayment the plaintiff had approached this court with unclean hands. The plaintiff has to repay the amount due to the bank and if this suit was decreed the bank could not collect the amount due from the plaintiff. Hence seeks to dismiss the suit.

11. In the above said back drop of the case, this court has to decide whether the plaintiff is entitled for permanent injunction as claimed.

12. It is admitted fact by both side, that the plaintiff availed personal loan from the defendant bank for a sum of Rs.12,68,611/-.

13. It is alleged by the plaintiff that she finally availed a personal loan vide Loan agreement dated 03.02.2023 to the tune of Rs.12,68,611/- and received only 2,00,000/- after deduction of previous loan due amount along with exorbitant interest. Upon perusing the statement of repayment schedule for loan agreement which was marked as Ex.A1, it is evident that there is an amount due to be paid by the plaintiff to the defendant bank. Further, it is admitted fact that by obtaining the personal loan the plaintiff is executed loan agreement and agreed to terms and conditions and interest charged upon the due amount pending with the bank. Further, it is evident that, the plaintiff had knowledge of the dues to be paid by her to the bank. The plaintiff who had deposed evidence before this court had categorically admitted the fact that,

" பிரதிவாதி வங்கியில் எப்போது கடன் பெற்றேன் என்றால் 2016 இறுதியில் பெற்றேன் என்று நினைக்கிறேன். 2017 ல் Topup ரூ.4 லட்சத்திற்கு பெற்றேன் என்ற நினைக்கிறேன். நான் ரூ.4 லட்சம் Topup பெறவில்லை என்றும் ரூ.12,68,611 லட்சம் பெற்றேன் என்றும் ஒரே தவணையாக அவ்வாறு பெறவில்லை என்றும், பல தவணையாக பெற்றேன். நான் பிரதிவாதி வங்கியின் கடன் பெற்றதற்கு மாத தவணையாக எவ்வளவு செலுத்த வேண்டுமென்று Email வரும் என்றால் சரிதான்.........ஜூலை 2023 க்கு பின்னிட்டு பிதிவாதி வங்கிக்கு கடன் நிலுவை தொகை செலுத்த வேண்டியதென்றால் சரிதான்."

14. So, the plaintiff had got complete knowledge about the due amount to be paid by her to the bank. Further, even after instituting this suit, the plaintiff had not made any payment to the bank. No documentary evidence was also filed by the plaintiff side to prove that further payment has been made. So, it is evident that after filing of the suit, the plaintiff had not made any payment to the bank. The plaintiff could not evade the repayment of due amount to the bank on the guise of filing this suit before this court. Upon perusing the record, the plaintiff had utilise the services provided by the defendant bank and hence she is obliged to repay the amount due on personal loan as per terms and conditions of the bank.

15. It is the specific allegations of the plaintiff that the collection agents of the defendant bank had entered the door step of plaintiff's residence and threatened the plaintiff to repay the due amount. But to substantiate the case of the plaintiff had not adduced neither oral nor documentary evidence to prove the interference of agents of defendant bank. If really there was some interference by the agents of the bank the plaintiff would have definitely lodged a police complaint as against the agents. But there was no such complaint preferred by the plaintiff and no documents was marked to support his case.

16. Further upon perusing the evidence of the plaintiff in which she had categorically stated that,

> *"நான் காவல் நிலையத்தில் கொடுத்த புகாருக்கு முதல் தகவலறிக்கை பதிவு செய்தார்களா என்றால் நான் காவல் நிலையத்தில் புகார் கொடுக்கவில்லை."*

17. So, eventhough the plaintiff alleged that she had approached the police station for lodging the complaint and it was not entertained by the police authorities citing that the dispute is civil in nature, the plaintiff ought to have send the complaint through the registered post. But, no complaint was lodged by the plaintiff. But, no evidence was placed in support of said contention.

18. So, the plaintiff had every knowledge with regard to the personal loan provided by the bank and also the rules and regulations of the bank with regard to the repayment. The plaintiff had every knowledge of the rules and regulations of the

bank and she had agreed to the said rules and regulations of the bank and utilise the personal loan. As per the agreement the balance amount shall be repaid which is charged with interest and penal interest. Hence the plaintiff could not now claim that the bank had charged exorbitant interest on the outstanding due amount.

19. So the plaintiff while applying for personal loan of the bank had agreed to terms and conditions of the bank and utilise the personal loan and defaulted repayment of personal loan amount could not now come up with a case that bank had charged exorbitant interest and the bank officials threatened the plaintiff and her mother. The above said version of the plaintiff has clearly established that she had not approached this court with clean hands. The plaintiff had not made out a prima facie case and balance of convenience is also not in her favour. Hence the plaintiff is not entitled to any relief. Hence, issue No. 1 decided against the plaintiff.

20) Issue No.2:

The plaintiff is not entitled to get any other relief.

In the result, the suit is hereby dismissed. No cost.

Dictated by me to stenographer directly, computerized by her, corrected and pronounced by me in the open court, this 26th day of November, 2024.

L MAHESWARI
Digitally signed by L MAHESWARI
Date: 2024.11.26 19:42:24 +0530

VII Assistant Judge
City Civil Court, Chennai.

Plaintiff's side witness:

PW1: R.Padmavathi

Plaintiff's side Exhibits:

Ex.A1	---	Repayment Schedule for Loan Agreement No.126820406 (Online Copy)
Ex.A2	22.11.2022	Discharge Summary of Plaintiff's Mother (Compared with original)
Ex.A3	---	Aadhar Card of the Plaintiff (Compared with original)

Defendant's side Witness:-

DW1: Tr.V.Gokulnandhan

Defendant's side Exhibits:-

Ex.B1	04.03.2024	Power of Attorney (True Copy)

L MAHESWARI

Digitally signed by L MAHESWARI
Date: 2024.11.26 19:42:30 +0530

VII Assistant Judge
City Civil Court, Chennai.

Draft/Fair Judgment
in
O.S. No.5323 of 2023
Dated:26.11.2024
VII Assistant City Civil
Court, Chennai.