

IN THE COURT OF THE MUNSIF, KOCHI
Present :-

Sri. Anirudhan.T.K , Additional Munsiff

Monday the 28th day of October, 2024/ 6th Karthika, 1946

O.S. No. 60/2018

Plaintiff:

Alibava M.K, Aged 60 years, S/o. late Bava Kasim, residing at 2/962, Mini Market, Koncherry, Fort Kochi, Pin – 682001.

By Advs. S. Sudheeshkumar, K.B Dayal and Gopika Nair

Defendants:

- 1 Balkees, W/o. Late T.Babu Ibrahim, C.C 3/539, Mattancherry P.O, Pin – 682 002, now residing at Thannathil House, H.No. 1/751, Fort Kochi, Pin 682 001.
- 2 Saleem T, S/o. late Ibrahim, residing at Thannathil House, H.No. 1/751, Fort Kochi, Pin 682 001.

Exparte

This suit coming on for final hearing before me on 22.10.2024 in the presence of above advocates concerned and having stood over for consideration to this day, the Court delivered the following:-

JUDGMENT

The suit is for realization of money.

2. The plaintiff's case, to sum up, is as follows: that the plaintiff

had given a total amount of Rs.5,00,000/-(Rupees Five lakhs only) to his maternal uncle's son Mr. T. Babu Ibrahim. Babu Ibrahim had borrowed an amount of Rs.3 lakhs from petitioner as per an agreement dated 04.03.2017 for giving the amount to the brothers and sister of deceased Usaiba. Babu Ibrahim was having serious health problems and to meet his medical expense, another Rs.2 lakhs also was given to him by the plaintiff. At that time Babu Ibrahim had promised to repay the said amount by pledging his residential building. The 1st defendant is the wife of Babu Ibrahim and 2nd defendant is his brother. After death of Babu Ibrahim on 01.12.2017 the plaintiff had approached the defendants and demanded for the repayment of the amount borrowed by late Babu Ibrahim. Though the defendant had sought for one month's time to repay the debt due to the plaintiff, no amount was paid. The defendants, being the legal heirs of deceased Babu Ibrahim are having pious obligations to pay off the liabilities of the deceased. According to the entitlement of shares of property of late Babu Ibrahim, 1st defendant is liable to pay 1/4th of the debt and the balance 3/4th of the debt will have to be paid by the 2nd defendant. The defendants had inherited the property of the Babu Ibrahim shown as the plaint schedule property. Hence,

the suit is filed for recovery of above mentioned amount from the defendants.

3. Defendants filed the written statement and when the suit was listed for trial the defendants were called absent and there was no representation for the defendant. Hence, the defendants were set ex-parte.

4. Plaintiff was examined as PW1 and Exts.A1 to A7 were marked on the side of the plaintiff. Ext.A1 is the death certificate issued from Corporation of Kochi, Ext. A2 certified copy of deed no.3673/2008, Ext.A3 was the release deed no.705/17 executed in favour of Babu Ibrahim, Ext.A4 was the copy of medical bill dated 22.05.2017 issued by Moulana Hospital, Ext.A5 was the bank passbook of plaintiff which shows the payment of Rs.2 lakhs to Babu Ibrahim and Ext.A6 is the death certificate of Usaiba, the wife of late Babu Ibrahim. Ext.A7 certified copy of agreement executed by Late. Babu Ibrahim dated 04.03.2017.

6. Heard.

7. The evidence adduced by the plaintiff stands unchallenged and there is no reasonable ground to disbelieve the evidence of the plaintiff. Hence the plaintiff is entitled for the reliefs as prayed for. There is no

evidence to grant a compensation as prayed.

In the result, the suit is decreed with costs from the defendants as follows:-

- 1. The plaintiff is entitled to recover an amount of Rs.5,00,000/- (Rupees Five lakhs only) from the defendants with 12% of interest from the date of the suit till date of the decree and thereafter at the rate of 6% till date of realization.**

It is made clear that the recovery of the amount with interest and costs would be in accordance with the proportionate share in the plaint schedule property being shared by the defendants in accordance with Muslim personal law ie.1/4 by the 1st defendant and 3/4th by the 2nd defendant.

- b) The plaint schedule property will have a charge for the amounts as above mentioned.**

(Dictated to the Confdl.Asst, transcribed and typed by her, corrected and pronounced by me in open court on this the 28th day of October, 2024.

**Sd/-
Anirudhan T K
Additional Munsiff**

APPENDIX :**Plaintiff's Exhibits:-**

A1	24.06.2023	Death certificate of T Babu issued by Kochi Municipal Corporation
A2	21.07.2008	Certified copy of the sale deed No.3673/2008 of SRO Kochi
A3	02.03.2017	Release deed No.705/2017 of SRO Kochi
A4	22.05.2017	Copy of discharge bill issued by Moulana Hospital Perinthalmanna
A5	–	Bank pass book issued by UCO Bank
A6	25.04.2016	Death certificate of P A Usaiba issued by Kochi Municipal Corporation
A7	04.03.2017	Certified copy of agreement executed by Late. Babu Ibrahim

Defendant's Exhibits:- Nil**Court's Exhibits:-** Nil**Witness Exhibits** Nil**Plaintiff's Witness:-**

PW1 -- Alibava M K

Defendant's Witness:- Nil**Court's Witness:-** Nil**Id/-
Additional Munsiff****//True Copy//****Additional Munsiff**

JUDGMENT
O.S. No.60/2018
Dated : 28.10.2024