

IN THE COURT OF THE MUNSIFF, KOCHI
Present :-

Sri. Anirudhan.T.K , Additional Munsiff

Tuesday the 3rd day of December, 2024/ 12th Agrahayana, 1946

O.S. No. 82/2024

Plaintiff:

Anil Raj P, aged 47 years, S/o.Padmanabhan N, 8/527 B, Muth Vihar, Vayalar Club Road, South Chittoor, Ernakulam-682027

By Advs. Jimmy George

Defendant:

Franklin Varghese, S/o.Varghese, aged 45 years, Randu Thakkal House, Perumpadappu, Palluruthy PO, Kochi-682006, Palluruthy Village, Kochi Taluk.

No Vakkalath

This suit coming on for final hearing before me on 27.11.2024 in the presence of above advocates concerned and having stood over for consideration to this day, the Court delivered the following:-

JUDGMENT

Suit is one for realization of money.

2. **Plaint summary is as follows:-** The plaintiff is doing sea food

business and upon the request of the defendant the plaintiff had provided 1041.4 Kgs. Seabass fish on 03.11.2023, for a mutually fixed amount of Rs.5,10,286/- (Rupees Five lakhs ten thousand two hundred and eighty six only). Towards the balance payment of the amount of Rs.1,80,000/- (Rupees One lakh eighty thousand only) was due from the defendant. After repeated request by the plaintiff, the defendant issued two cheques dated 31.12.2023 for an amount of Rs.1,00,000/- (Rupees One lakh only) and dated 31.01.2024 for an amount of Rs.80,000/- (Rupees Eighty thousand only), both drawn from SBI, Palluruthy branch. The said cheques were issued by the defendant with a promise that the cheque would be honoured on presentation. But when the cheque was presented for encashment the same were returned for the reason as funds in sufficient and also drawer's signature differs on 19.03.2024. Thereafter the plaintiff issued a lawyer notice on 22.03.2024 demanding Rs.1,80,000/- (One lakhs eighty thousand only). Though notice was received by the defendant no amount has paid and no reply has sent.

3. Later the plaintiff understood that the defendant is making hasty steps to sell away the property in his name. To the knowledge of the

plaintiff the defendant has no other property of his own free from encumbrance and therefore there would be no other source for realisation of the debt amount from the defendant. Hence the plaintiff filed the suit.

4. The defendant appeared but even after several chances were given, no written statement was filed. Therefore he was proceeded against under Order VIII Rule 10 of CPC.

5. The plaintiff was examined as PW1 and Exts.A1 to A5 documents were marked. Ext.A1 was cheque bearing No.097929 drawn on State Bank of India, Palluruthy branch dated 31.12.2023. Ext.A2 was cheque bearing No.097931 drawn on State Bank of India, Palluruthy branch dated 31.01.2024. Ext.A3 was cheque return memo dated 19.03.2024. Ext.A4 was the copy of registered lawyer notice issued by the plaintiff to the defendant dated 22.03.2024. Ext.A5 was postal receipt for the issuance of lawyer notice to the defendant.

6. Heard the learned counsel for the plaintiff.

7. The evidence adduced by the plaintiff stands unchallenged and there is no reasonable ground to disbelieve the plaintiff's evidence.

Therefore, the plaintiff is entitled for the reliefs as prayed for.

In the result,

The suit is decreed as follows:-

- a) **The plaintiff is entitled to recover an amount of Rs. 1,80,000/- (Rupees One Lakh Eighty Thousand only) with interest @12% per annum from the defendant and his assets from the date of the suit till date of the decree and thereafter at 6% of interest till realisation.**
- b) **The defendant is directed to pay the costs of the suit to the plaintiff.**

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 3rd day of December 2024.

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

APPENDIX :

Plaintiff's Exhibits:-

| | | |
|----|------------|-----------------------|
| A1 | -- | SBI Cheque No.097929 |
| A2 | -- | SBI Cheque No.097931 |
| A3 | 19.03.2024 | Cheque return memo |
| A4 | 22.03.2024 | Copy of lawyer notice |
| A5 | 22.03.2024 | Postal receipt |

Defendant's Exhibits:- Nil

Court's Exhibits:- Nil

Witness Exhibits Nil

Plaintiff's Witness:-

PW1 27.11.2024 Anilraj P

Defendant's Witness:- Nil

Court's Witness:- Nil

//True Copy//

**Id/-
Additional Munsiff**

Additional Munsiff

SS
compd by

JUDGMENT
O.S. No.82/2024
Dated : 03.12.2024