

IN THE COURT OF PRINCIPAL SUB JUDGE, NORTH PARAVUR

Present:-Sri.K. Santhosh Kumar, Principal Sub Judge.

Wednesday, the 31th day of January, 2024/11th Magha, 1945

O.S No.180/2023**Plaintiff:-**

Latha K.V., aged 59 years, W/o.V.S.Shadanandan, Vidakkara Veedu, Paravuthara, North Paravoor P.O., Pin - 683 513, Paravoor Village, Paravoor Taluk, Ernakulam District.

By Advs. K.K.Nasser, Safdarshah T.I., K.K.Sudheer and Muhammed Asif Ali.

Defendants :-

1. Preeja N.G., aged 34 years, W/o.T.S.Shybi, Thekkumkattil Veedu, Manjali Kara, Mannam P.O., Karumalloor village, Paravoor Taluk, Pin - 683 520.
2. T.S.Shybi, aged 43 years, S/o.Sali, Thekkumkattil Veedu, Manjali Kara, Mannam P.O., Karumalloor village, Paravoor Taluk, Pin - 683 520.

Exparte.

This suit having been finally heard on 23.01.2024 and the court on 31.01.2024 delivered the the following:-

JUDGMENT

The suit is for the relief of realisation of money.

2. The averments in the plaint, in brief, are as follows :- The plaintiff and defendants are friends. The defendants approached the plaintiff and requested to lend ₹12,00,000/-. The plaintiff transferred ₹1,00,000/- each to the defendants account on 13.08.2022 and ₹4,00,000/- to the account of 1st defendant on 16.08.2022. The plaintiff

also transferred ₹3,70,000/- to the account of 2nd defendant on 16.08.2022. The plaintiff gave the remaining amount of ₹2,30,000/- in cash to the defendants on 16.08.2022. The defendants agreed to repay the amount within six months. The defendants not repaid the amount as agreed. When the plaintiff demanded the amount, the 1st defendant issued a cheque No. 692247 dated 16.09.2023 of the State Bank of India, Mannam Branch to the plaintiff on 16.09.2023 for the amount of ₹12,00,000/-. The plaintiff presented the cheque for encashment through her account with the Federal Bank, Nedumbassery Branch and it was dishonoured and returned with a memo dated 18.09.2023 due to insufficiency of funds in the account of the 1st defendant. Thereafter the plaintiff issued a lawyer notice dated 21.09.2023 to the two addresses of the 1st defendant on 23.09.2023 with a demand to repay the amount of ₹12,00,000/- within 15 days of the receipt of it. The notices were received by the 1st defendant on 26.09.2023 and 27.09.2023. The defendants not repaid the amount even after the receipt of the notice. Hence the plaintiff prayed to pass a decree to realise ₹12,00,000/- with interest at the rate of 12% per annum from the date of the suit till realisation in full from the defendants and their assets. The plaintiff also prayed to realise the costs of the suit.

3. The defendants remained ex-parte. The plaintiff was examined as PW1 and Exts. A1 to A3, A4 series (2 in Nos.) and A5 series (2 in Nos.) were marked.

4. The plaintiff marked the original cheque dated 16.09.2023 of the State Bank of India, Mannam Branch, dishonour memo dated 18.09.2023 of the Federal Bank, Nedumbassery Branch and copy of lawyer notice dated 21.09.2023 as Exts. A1 to A3 respectively. The two postal receipts dated 23.09.2023 were marked as Ext. A4 series. The two postal acknowledgment cards were marked as Ext.A5 series. The evidence of plaintiff / PW1 and Ext. A1 and A2 proved the pleadings of PW1 with respect to the money transaction with the defendants and the execution of cheque dated 16.09.2023 by the 1st defendant for the repayment of the amount. The evidence of PW1 and Exts. A3, A4 series and A5 series proved the pleadings of PW1 with regard to the default on the part of the defendants in the repayment of the amount even after the receipt of notice by the 1st defendant on 27.09.2023. Considering the evidence of PW1 and the Ext. A1 to A5 series documents, it is found that she is entitled to realise the plaint amount of ₹12,00,000/- from the defendants and their assets.

5. There is no evidence on the side of PW1 to substantiate that she is entitled to get future interest of 12% per annum for the realisation of

amount from the defendants. There is no contract between both parties with regard to the rate of interest for the repayment of the amount to PW1. Therefore PW1 is not entitled to get interest at the rate of 12% per annum for the realisation of amount as claimed in the plaint. Hence it is found that the PW1 is entitled to get interest at the rate of 6% per annum as per Section 34(1) of Code of Civil Procedure for the realisation of ₹12,00,000/- from the date of Ext. A1 cheque (ie., 16.09.2023) from defendants and their assets. Hence the suit is decreed as follows :-

- 1) **The plaintiff is allowed to realise ₹12,00,000/- (Rupees Twelve lakhs only) with interest at the rate of 6% per annum from 16.09.2023 till realisation in full from the defendants and their assets.**
- 2) **Considering the nature and circumstance of the suit, the plaintiff is also allowed to realise the costs of the suit from the defendants and their assets.**

Dictated to the Confidential Asst., transcribed and typed by her, corrected and pronounced by me in open court, this the 31st day of January, 2024.

K.Santhosh Kumar,
Principal Sub Judge.

Appendix :-Plaintiff's Exhibits:-

- A1 16.09.2023 Cheque No.692247 of the State Bank of India, Mannam Branch for ₹12,00,000/-.
- A2. 18.09.2023 Dishonour memo issued from the Federal Bank, Nedumbassery Branch.
- A3. 21.09.2023 Office copy of the lawyer notice.
- A4. 23.09.2023 Postal receipt.
- A4(a) 23.09.2023 Postal receipt.
- A5. 26.09.2023 Acknowledgment Card.
- A5(a) 27.09.2023 Acknowledgment Card.

Defendant's Exhibits:- NilPlaintiff's Witness:-

PW1 23.01.2024 Latha K.V.

Defendants Witness:- Nil

Principal Sub Judge.

Typed by:
Com. By: