

IN THE COURT OF THE MUNSIFF, KARUNAGAPPALLY

Present: Smt. Sajini.B.S, LL.M, Munsiff.

Tuesday the 2nd day of July, 2019/ 11th day of Ashadam, 1941.

OS.NO. 87/2015

Between

Plaintiff

Reghunathan, aged 54 years,
S/o. Kittu,
Mangattu House (Sakthi Bhavan),
Adinadu South,
Kattilkadavu P. O,
Adinadu Village, Karunagappally.

By Adv. Sri. C.S. Anilkumar

And

Defendant:-

Faseela, aged 40 years,
W/o. Abdul Rasak,
Kallathanparambil Veedu,
Valiyora Amsam, Vengara Village,
Thiroorangadi Taluk.

Exparte

This suit filed under Section 26 (1) and (2) and order VII Rule 1 of the Code of Civil Procedure for realization of money.

Suit is restored to file as per order in IA 1665/2018 dated 14/11/2018.

This suit coming on for final hearing before me on 01/07/2019 and having stood over consideration to this the court delivered the following.

JUDGMENT

Suit is for realization of money.

2. The plaint averments in short are as follows: –

Plaintiff and defendant are known to each other. Defendant and her husband had a hotel in the name and style ‘Thanthoor Hut Hotel and Restaurant’ at Karunagappally. As the plaintiff was a frequent visitor of the defendant’s hotel, he has close acquaintance with defendants and her husband. On 20.07.14 defendant and her husband demanded an amount of Rs. 7,00,000/- as a loan from the plaintiff and plaintiff agreed to arrange the same on 30.07.14. On 30.07.14 defendant borrowed an amount of Rs. 7,00,000/- from plaintiff and issued cheque bearing No. 000005 dated 30.10.14 for Rs. 7,00,000/-. When the cheque was presented for encashment it was returned for the reason ‘funds insufficient’. On 16.01.15 plaintiff had sent a registered advocate notice on 24.01.15 demanding the said amount within 15 days from date of receipt of notice. Though defendant received notice on 28.01.18, she didn’t turn up to repay the amount. Hence, the suit.

3. Defendant entered appearance and filed written statement by raising the following contentions:-

The suit lacks bonafide. Plaintiff is a total stranger to defendant. Plaintiff is the stooge and imposter in the hands of one Mr. Sivarama Pillai who is a money lender. The defendant never met the plaintiff earlier. She is a house wife and a ‘Pardha Nashin lady’. She never borrowed an amount of Rs. 7,00,000/- as a loan from plaintiff.

She never executed any cheque in favour of plaintiff. On the other hand, defendant's husband borrowed an amount of Rs. 1,00,000/- from Mr. Sivarama Pillai on 30.08.14 and agreed to repay an amount of Rs. 1,50,000/- to him within 30 days. As per demand of Sivarama Pillai a blank signed cheque leaf of defendant along with his own blank signed cheque and blank signed stamp paper were given as security to him. Though an amount of Rs. 50,000/- has been collected by Sivarama Pillai from defendant's husband, due to the closure of business. On 11.09.14 an amount of Rs. 1,00,000/- is outstanding and still remains as a debt. There is no cause of action against defendant. Hence, the defendant did pray for dismissal of the suit.

4. From the above pleadings the following issues are raised for consideration.

1. Whether defendant had borrowed Rs. 7,00,000/- on 30.07.14 from plaintiff by issuing a cheque bearing No. 000005 dated 30-10-14?
2. Is the plaintiff entitled to realize the plaint amount from defendant?
3. Relief and costs.

5. When the suit was listed for trial plaintiff filed affidavit in lieu of chief examination and Exts. A1 to A6 were marked. Defendant was absent and she was set exparte.

6. Heard.

7. Issue Nos. 1 to 6:-

In view of the affidavit in lieu of chief examination and documentary evidence it can be concluded that plaintiff has succeeded in proving his case. Thus, issues are find in favour of plaintiff. Hence, the suit is decreed with costs.

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

Defendant is ordered to pay an amount of Rs. 7,00,000/- with 6% interest from 30.07.14 till its realization.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 2nd day of July, 2019.

Sd/-
Sajini.B.S,
Munsiff.

Appendix

Exhibits marked for the Petitioner

A1	30/10/2014	Cheque bearing No. 000005 of H D F C Bank, Karunagappally
A2	13/01/2015	Dishonour memo of H D F C, Bank
A3	16/01/2015	Dishonour memo of Kulasekharapuram service Co-operative Bank Ltd No. 995
A4	24/01/2015	Copy of Advocate notice
A5	24/01/2015	Postal receipt

A6 Acknowledgement card

Exhibits for the Defendant Nil

Witness for the both sides Nil

Id/-
Munsiff.

//True Copy//

MUNSIFF.

Typed by : Hareesh. P
Compd.by: