

IN THE COURT OF THE SUBORDINATE JUDGE OF TIRUR
Present: Smt. Vincy.T.V, Subordinate Judge

Thursday, the 17th day of October, 2024
25th day of Aswina, 1946

ORIGINAL SUIT NO. 18/2018

Between:

Kuruppath Muhammad, 57 years,
 S/o.Kunhammad,
 Neduva Amsom, Desom and Post,
 Parappanangadi- 676 303.

} Plaintiff

And:

Kondadan Hassainar, 43 years, S/o.Moitheen,
 Peruvalloor Amsom Kernalloor Desom,
 Tirurangadi Taluk, Post Parambil Peedika.

} Defendant

This suit coming on this day for hearing before me in the presence of Sri.Kunhalikutty Kadakulath and Sri.Mahir Ali.K, Advocates for the plaintiff and defendant being called absent and set ex parte, the Court delivered the following:

JUDGMENT

The suit is one for realisation of money.

2. **The case of the plaintiff is as follows:-** The defendant imported certain commodities for conducting business in the name and style Borogo exports and imports. He appointed one Mr. Haris, S/o. Abdurahiman as his

manager. Thereafter the defendant and Haris approached the plaintiff seeking financial assistance and offered a share in their business. Defendant also promised that no loss would be suffered by the plaintiff in case the business ends into loss, an amount of Rupees 50 lakhs was demanded on 20-03-2015. Believing their version the plaintiff offered rupees 50 lakhs and demanded to execute different agreement in the name of the plaintiff as well as in the name of his wife. As the defendant had prepared the agreements the plaintiff as well as his wife gave 25 lakhs each on 01-04-2015 to the defendant in the presence of the witness. But after the execution of the agreement and after receiving the amount, the defendant violated the terms of the agreement and profit has also not been paid as agreed. When it was asked the plaintiff was informed that the business had ended up in loss and the defendant continue to run the business directly after removing the manager. As thereafter nothing has been paid, on 16-08-2017 the plaintiff approached the defendant along with Mr. Haris. At that time, the defendant threatened the plaintiff and inorder to evade the payment, he filed a suit OS. 77/2017 against the plaintiff his wife and Mr. Haris. The plaintiff has given the amount on the basis of the promise given by the defendant. The defendant is liable to return the amount thus advance from the part of the plaintiff. Hence the suit.

3. The defendant filed written statement disputing the claims. But when it was listed for trial, he remained absent and set exparte.

4. On the side of the plaintiff, PW1 was examined and Exts.A1 to A3 were marked.

5. Heard.

6. The uncontroverted evidence of plaintiff with original agreement and cheques. Ext. A1 and A3 proves the case of plaintiff as to the liability of defendant towards the plaintiff. The plaintiff claims that Rs.33,50,000/- (Rupees thirty three lakhs fifty thousand only) is due to the plaintiff along with 12% interest Since the defendant remained ex parte the evidence adduced by the plaintiff remained unrebutted and unchallenged. The defendant is liable to pay interest at the rate of 6% per annum from the date of suit the date of till realisation. There shall be a charge over the plaint schedule property for till the realisation of the aforesaid amount.

In the result,

The suit is decreed as follows:

1. The defendant is directed to pay to the plaintiff Rs.33,50,000/- (Rupees Thirty three lakhs fifty thousand only) with interest at the rate of 6% per annum till realisation.
2. There shall be a charge over the share of the defendant over the plaint schedule property for the decree debt.
3. The defendant is also directed to pay the costs of the suit to the plaintiff.

(Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open Court, on this the 17th day of October, 2024).

Sd/-
SUBORDINATE JUDGE

Appendix:

Witness examined on the side of plaintiff:

PW1. - Mohammed

Exhibits marked on the side of Plaintiff:

Ext.A1. - Agreement dated:01.04.2015.

Ext.A2. - Certified copy of Jenm Assignment deed No.4686/2003

Ext.A3. - Cheque bearing No.39867

Sd/-

SUBORDINATE JUDGE

//True copy//

Sheristadar

Typed by Divya.K.B
Compared by Divya.K.B
Anju.P

Copy of Fair Judgment in **OS 18/2018**
Dated: 17.10.2024