

IN THE COURT OF THE SUBORDINATE JUDGE, IRINJALAKUDA

Present:- Santhosh K Venu, Principal Sub Judge

Friday the 19th day of January, 2024/29th Pousham, 1945 S.E.

OS 159/2021

Plaintiff

Nidheesh, aged 37, S/o Chozhimukkil Appukuttan, Ramanattukara
PO, Pin-673833, Kozhikkod Village and Taluk

By Adv. K S Sujithlal

Defendant

Sidhique, aged 44, S/o Muhammed, Puthiyaveetil Munnas
villa, Koprakkalam, Near HIRA English School,
Kaipamangalam Village, desom, PO, Kodungallur Taluk

Exparte

This suit having come up before me for final hearing on this day the
court delivered the following:

JUDGMENT

Suit for money based on a cheque.

2. **Plaint averments in brief are as follows:-** The plaintiff and the
defendant are known to each other. On 06.03.2018 the plaintiff and
defendant entered into an agreement with respect to some landed properties
owned by the defendant. The plaintiff agreed to purchase certain properties
of the defendant for a total sale consideration of ₹ 20,00,000/-. Even
though the plaintiff has always been ready and willing to perform his part

of the agreement, the defendant failed to keep his promise. Thereafter in the presence of mediators the defendant agreed to return the advance amount of ₹ 20,00,000/- to the plaintiff. The defendant also agreed to pay an additional amount of ₹ 20,00,000/- to the plaintiff due to the loss suffered by him. Towards the discharge of the said liability, the defendant issued a cheque bearing No.11957 for an amount of ₹ 16,00,000/- dated 09.09.2019 drawn on IDBI Bank Ltd., Kattoor Road, Irinjalakuda branch to the plaintiff. When the plaintiff presented the cheque for encashment, the same was dishonoured and returned for the reason "Funds insufficient" in the account maintained by the defendant with a memo dated 12.09.2019. Upon the dishonour of the said cheque, the plaintiff issued a registered lawyer's notice dated 05.10.2019 to the defendant demanding to pay the cheque amount. Even though he received the notice, he did not send any reply. Thereafter S.T.92/2020 is filed before the Hon'ble Additional Chief Judicial Magistrate Court, against the defendant alleging the commission of the offence punishable under Section 138 of the Negotiable Instruments Act and the same is still pending. The defendant is liable to pay the cheque amount of ₹ 16,00,000/- with interest to the plaintiff. Hence, the suit.

3. The defendant was called absent and set exparte.

4. Since, there is no dispute, no issue arose for consideration.

5. PW1 was examined and Exts.A1 to A5 were marked on the side of the plaintiff.

6. Heard.

7. Ext.A1 is the certified copy of cheque bearing No.11957 of IDBI Bank Ltd., Kattoor Road, Irinjalakuda branch dated 09.09.2019. Ext.A2 is the certified copy of the return memo dated 12.09.2019. Ext.A3 is the certified copy of the lawyer notice dated 05.10.2019. Ext.A4 is the certified copy of the postal receipt. Ext.A5 is the acknowledgment card. The affidavit filed in lieu of chief examination by PW1 is a verbatim replica of the plaint averments and the same stands unchallenged. The affirmations in the affidavit and the documents definitely go to prove the case of the plaintiff. In the above circumstances, I find it necessary to pass a decree as prayed for.

In the result, the suit is decreed. The defendant is directed to pay a sum of ₹ 17,93,000/- (Rupees Seventeen lakh and ninety three

thousand only) to the plaintiff with 9% interest from the date of the filing of the suit till the date of decree and with 6% interest from the date of decree till realization. The plaintiff is entitled to recover the entire costs of the proceedings from the defendant.

Dictated to the confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this the 19th day of January, 2024.

Sd/-
Santhosh K Venu
Principal Sub Judge.

APPENDIX:

Plaintiff's Exhibits

| | | | |
|----|---|----------|---|
| A1 | - | 9/9/2019 | -Certified copy of cheque bearing No.11957 of IDBI Bank Ltd., Kattoor Road, Irinjalakuda branch |
| A2 | - | 12/9/19 | -Certified copy of the return memo |
| A3 | - | 5/10/19 | -Certified copy of the lawyer notice |
| A4 | - | | -Certified copy of the postal receipt |
| A5 | - | | -Acknowledgment card |

Plaintiff's Witness

PW1 - 12/1/24 -Nidheesh P C

Id/-
Principal Sub Judge

True copy

Sheristadar

tkS/2
com.by