

IN THE CITY CIVIL COURT AT CHENNAI

Present : Thiru.C.Suresh Kumar, M.Sc., M.A., M.L.,

XI Assistant Judge

Friday, the 25th day of August, 2023

O.S. No. 4550/2022

CNR. No.TNCH01 – 014280 - 2022

K.N.Srinivasan,

S/o.Narasayya

... Plaintiff

.. Vs ..

P.Udhayakumar,

S/o.S.Balaiah Nadar

... Defendant

This suit came before this Court for final hearing on 16.08.2023 in the presence of M/s.Christopher Vijayachandran and M.Mohamed Riazudeen learned Counsel for the Plaintiff and the Defendant remained ex-parte and upon perusal of case records and after hearing the Plaintiff side arguments and this suit having stood over for consideration till this date, this Court delivers the following:

JUDGMENT

I. Suit is filed under order VII Rule 1 and 2 of CPC for directing the Defendant to pay a sum of Rs.5,53,999.82 (Rupees five lakhs fifty three thousand nine hundred ninety nine and paise eighty two only) together with interest @ 12% per annum on Rs.4,00,000/- from the date of plaint till date of realization and for costs.

II. Brief averments made in the Plaint are as follows:

The Plaintiff stated that the defendant is carrying on business under the name and style of “Udhayam Enterprises” at No 6, Vijayeswari Street, Ayyavoo Colony,

Aminjikarai, Chennai - 600 029 The premises where the defendant is carrying on business is in close proximity to the residence of the plaintiff. The plaintiff and the defendant became acquainted with each other and became close friends as they interacted with each other on a daily basis. The plaintiff states that considering the cordial relationship that had developed between the plaintiff and the defendant, the defendant approached the plaintiff with a request to lend him a loan of Rs.4,00,000/- for purposes of the business of the defendant. On 02.03.2020 the defendant borrowed a sum of Rs. 4,00,000/- as hand loan for business expenses. The plaintiff states that on the same day, namely, 02.03.2020 the defendant executed an On Demand Promissory Note in favor of the plaintiff agreeing to repay the same with interest at the rate of 30% per annum. The plaintiff states that the entire transaction took place at the residence of the plaintiff at No.18, Siraj Street, Ayyavoo Colony, Aminjikarai, Chennai - 600 029. The defendant has so far paid a sum of only Rs 1,04,000/- towards interest only. The defendant has made an endorsement at the back of the Promissory Note about this fact. The defendant failed and neglected to pay the interest thereafter till date. The plaintiff has been making repeated demands and requests to the defendant to make the payment of interest as well as the principal but to no avail. The defendant has been evading the plaintiff and also evading to make the payment in respect of the aforesaid borrowal. It is quite obvious that the intention of the defendant is to cheat and defraud the plaintiff by not paying the sums due to the plaintiff. The defendant has become a chronic defaulter in payment of interest and the defendant has also not paid any sum towards the principal. After numerous failed attempts to get the money back from the defendant, the plaintiff had no other option but to send a notice through his Counsel on 11.06.2021 sent to the residential address of the defendant as well as to his shop address. The legal notice sent to the residential address has been received by the defendant under postal acknowledgment and the legal notice sent to the shop address of the defendant has been returned with the postal endorsement "unclaimed" The defendant has neither complied with the demand made in the legal notice dated 11.06.2021 nor sent any reply to the same. The

defendant is now due and payable to the plaintiff a sum of Rs.5,53,999.82/-. Hence this suit.

III. Whether the Plaintiff is entitled for the relief of recovery of money?

1. This Court ordered substituted service to the Defendant when summons returned unserved/door locked affixed. The paper publication was effected, but the Defendant not appeared before this court to contest the case and therefore the Defendant called absent and set exparte.

2. The Plaintiff in order to prove the case had marked documents Ex.A1 to A4. Ex.A1 is the Demand Promissory Note dated 02.03.2020 (Original), Ex.A2 is the Legal Notice dated 11.06.2021 (Office copy), Ex.A3 is the Acknowledgement card dated 16.06.2021 (Original), Ex.A4 is the Returned postal cover dated 17.06.2021 (Original).

3. The evidence of PW1 seems to be acceptable and sustains the case of Plaintiff. There was no contra evidence as the Defendant remained exparte. The Plaintiff has proved the case by adducing documentary evidence and this court is of view that the documents executed for valid consideration and the Defendant had committed default in payment of debt. Hence, the Defendant is liable to pay the suit claim amount. Accordingly, the relief prayed by the Plaintiff is hereby allowed.

In the result, the suit is decreed with costs, and the Defendant is directed to pay a sum of Rs.5,54,000/- (Rupees Five Lakhs Fifty Four Thousand Only) to the Plaintiff together with interest at the rate of 9% per annum from the date of the Plaint till the date of decree and thereafter 6% per annum till the date of realization on principal amount.

Dictated to Steno-Typist, directly and computerized by her, and pronounced by me in open court, this the 25th day of August 2023.

XI Assistant Judge

Plaintiff's side Witness:-

PW1: K.N.Srinivasan

Plaintiffs Side Documents :-

Ex.A1	02.03.2020	Demand Promissory Note (Original)
Ex.A2	11.06.2021	Legal Notice (Office copy)
Ex.A3	16.06.2021	Acknowledgement card (Original)
Ex.A4	17.06.2021	Returned postal cover (Original)

Defendant's Side Exhibits & Witness : Nil**XI Assistant Judge**