IN THE COURT OF PRINCIPAL DISTRICT JUDGE, CHENGALPATTU.

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.**,
Principal District Judge, Chengalpattu.

Wednesday the 20th day of March 2024

I.A.No.3 /2022
in
Original Suit No.93/2021

K.Sathish . . .Petitioner/1st defendant.

/VS/

Dhanalakshmi . . .Respondent/Plaintiff.

This petition came up before me in this court for final hearing on 19.03.2024, in the presence of Tvl.K.Murthi and G.Sathish, Advocates for the petitioner and Tvl.R.Karunakaran, A.G.Umarani and N.Divya, Advocates for the respondent, upon hearing the written arguments of both side counsels, perusing the entire records and having stood over for consideration till this day, this court delivers the following,

ORDER

This application is filed by the petitioner/1st defendant under Order VII Rule 11(a) r/w Section 151 of CPC, praying to pass appropriate order to reject the plaint, it does not disclose a cause of action with cost.

2. **The case of the petitioner in brief :**

The petitioner states that the respondent/2nd defendant working as a collection agent for the plaintiff since the plaintiff is in the business lending money for individual, to get exorbitant interest. The petitioner not known that there was dispute in the collection process between the plaintiff and respondent /2nd defendant, and the plaintiff herself admitted the fact that the petitioner was not aware of the dispute between the plaintiff and respondent/2nd defendant. The petitioner states that he is not liable for the dispute between the plaintiff and respondent/2nd defendant and in money transaction the plaintiff adapted unlawful tactics to recover the money. The petitioner further states that, thereby the plaintiff on the date of 21.01.2021 entered into the his premises along with unidentified henchmen and by of threat and force obtained his signature and thumb impression in a 100 rupees stamp paper dated 21.02.2021 forcefully and the petitioner called the police, but not taken any action regards to the incident, and thereafter the petitioner sent a complaint through online and registered post on 21.02.2021. The plaintiff approached this Court and by way of suppression of fact the plaintiff filed this suit for recovery of sum of Rs.21,00,000/- only to have unlawful and for which the petitioner is not liable, the said documents filed by the plaintiff obtained by the plaintiff by threat and force and more over the plaintiff filed to substantiate with relevant documents to prove how the amount of Rs.21,00,000/- was given to the respondent/2nd defendant. Hence the petition.

3. **<u>The averments filed by the respondent/plaintiff</u> :**

In suit, the summons to 2nd defendant was not served. 2nd defendant is living with 1st defendant and that she is purposely avoided the same. This respondent states that the petitioner and his wife are permanently residing at the address given in the suit. She is wantonly evaded service of notice and summons with the sole intention to avoid the suit claim. On paper publication, the 2nd defendant was set exparte. Then the said suit was pending from 06.10.2021 for written statement of petitioner/1st defendant. While filing the plaint, this respondent filed the Document No.2, legal notice dated 21.01.2021 issued by the 1st defendant through his counsel not only her but also to other persons with cover. The petitioner/1st defendant has admitted the loan availed by his wife and executed the loan document. After execution of the said loan document on 21.01.2021, the 1st defendant has contacted his counsel and prepared the legal notice with all incorrect allegations against the respondent and also added some more 4 persons in that notice, unnecessarily totally to confuse the issue. During the last hearing, the suit and the I.A. was not called and later she came to know that she was set exparte in

I.A.No.3/2022 on 22.08.2022 and that I.A. is posted for orders by 12.09.2022. This respondent was already dragged till 21.01.2021, by 2nd defendant after availing, loan tot he tune of Rs.21 lakhs part by part, though the petitioner and his wife have admitted their liability, the petitioner/1st defendant after admission and also on executing the proper loan document, traced this way with all sorts of incorrect and invented allegations to cheat this respondent and filed this petition dated 09.02.2022 to dismiss the suit. If his claim under this petition is genuine, why he was absent in previous hearings and also why he has not given any notice about I.A.No.3/2022 at the time of filing of the same or after numbering of the same. He has taken nearly three or four hearings to serve the notice to the respondent's counsel in I.A.No.3/2022. This respondent is having good case on merits. The respondent states that will clearly prove that the petitioner is fully aware that he is not entitled to file the petition and inspite of that to delay the suit proceedings, he filed this petition. Having availed the loan from the respondent, the petitioner and his wife are fully interested to drag the suit and to cheat the respondent in total, for which he has been adopting these unnecessary reliefs. When he is having fair chance of success in suit, he would have filed his written statement. On dragging this I.A. tracing further unnecessary grounds for written statement. On perusal of the application

I.A.No.3/2022, the petitioner well established that he is living with 2nd defendant and that he purposely erased her name in the affidavit and petition. The petitioner has admitted the connection between this respondent and the 2nd defendant in para 2 of the affidavit. Because of the same, she availed loan with the respondent / plaintiff part by part and that the same has been accumulated to Rs.21,00,000/- and hence, for security purpose the loan document was obtained from the petitioner/1st defendant. The petitioner admitted and executed the document. There is no force or threat in obtaining the loan document from him. In para 4 he has mentioned about the police complaint and that he was attacked and went for treatment. If they are true he has to file copy of complaint, and treatment records from Government Hospital, Chengalpattu. He admitted and executed the loan document. In the legal notice dated 21.02.2021 the petitioner not mentioned about the treatment and also demanding of source to grant such loan. In the loan document and also in the plaint, it is clearly mentioned that the said loan is granted to her/2nd defendant part by part. On accumulation of the loan amount, the loan document was obtained. The loan details were clearly mentioned to the petitioner/1st defendant, he admitted, executed and signed the document on 21.01.2021. Because of some ill advice he started to cause legal notice and then upto this petition level. The subject issue of cause of action is clearly established in the plaint. This petition is not maintainable in any way and that it is liable for dismissal. There are no merits. The legal notice and this petition is filed only to cheat the respondent.

4. The only point that arises for consideration is whether the application is liable to be allowed.

5. **Point :**

This application is filed under Order 7 Rule 11 for rejection of plaint. The suit is recovery of money. Petition is filed by the petitioner/1st defendant.

6. Both the defendants are residing in the same house. The petitioner/1st defendant contended that, she was compelled to sign the loan documents by force filed by the plaintiff in the suit. Therefore, he contends that there is no loan borrowed by the petitioner/1st defendant.

7. The contention of the petitioner/1st defendant denied by the respondent/plaintiff. The respondent/plaintiff contends that, the defendants being husband and wife, now cheating the plaintiff from repaying the loan amount. The respondent/plaintiff alleged, both residing in the same house, but petitioner/1st defendant evaded to receive summons.

8. If the contention of the petitioner/1st defendant is true, it is not explained why written statement not filed so far. The suit is of the year 2021.

If the contention of the petitioner/1st defendant is true, he can very well contest the suit.

9. No documentary proof for the alleged averments in the petition. The contention of the petitioner is unbelievable , hence no merits in this application. Hence, petition liable to be dismissed.

10. **As the result, petition is dismissed. No cost.**

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 20th day of March 2024.

J MAVIS DEEPIKA SUNDARAVADHANA

Principal District Judge
Digitally signed by J MAVIS DEEPIKA SUNDARAVADHANA
Location: Kancheepuram @ Chengalpattu
Date: 2024.03.20 11:21:31 +0530

Principal District Judge,
Chengalpattu.

<u>Both side witness and exhibits</u> :
Nil.

J MAVIS DEEPIKA SUNDARAVADHANA

Principal District Judge
Digitally signed by J MAVIS DEEPIKA SUNDARAVADHANA
Location: Kancheepuram @ Chengalpattu
Date: 2024.03.20 11:21:41 +0530

Principal District Judge,
Chengalpattu.