BEFORE THE ADDITIONAL MASTER I,
HIGH COURT, MADRAS

C.S.822 of 2017

Date : 14.02.2023
Time : 03.10 P.M.

Name : Mr.Chirag N Maher (PW 1)

Age : 50 Years

Father's Name : Mr.Narendra Maher

Office Address : Makanji House 2nd Floor, 49 (Old No.25),
Barnaby Road, Kilpauk, Chennai – 600 010.

PW1 examined in chief by Mr.Jayesh B.Dolia, Learned Counsel for the Plaintiff.

Solemnly affirmed:

I am the Managing Director of the Plaintiff Company herein. I am filing my proof affidavit stating the facts of this case and the same may be treated as part and parcel of my examination-in-chief. The following documents may be marked as exhibits.

Ex.P1 is the true copy of the letter dated 01.02.2012.

Ex.P2 is the true copy of the letter dated 20.03.2012.

Ex.P3 is the original promissory note dated 01.04.2013.

Ex.P4 is the original letter dated 31.03.2014.

Ex.P5 is the original letter dated 31.03.2015.

Ex.P6 is the original cheque bearing no.023589 with return dated 19.01.2016.

Ex.P7 is the served copy of the letter dated 17.02.2016 with acknowledgement cards (3nos).

Ex.P8 is the served copy of reply notice dated 29.02.2016.

Ex.P9 is the office copy of the legal notice dated 04.07.2017.

Ex.P10 is the certified true copy of the board resolution dated 29.05.2017.

Ex.P11 is the printout of statement of accounts(affidavit under Sec.65 B of IEA is filed).

Therefore, it is prayed, that, this Hon'ble Court may be pleased to pass a judgment and decree as prayed for in the plaint with cost and further relief may be granted as this Hon'ble Court may deem fit in the facts and circumstances of the present case and thus render justice.

Time: 03.24 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER I,
HIGH COURT, MADRAS

C.S.822 of 2017

Date : 04.09.2023
Time : 12.50 P.M.

Name : Mr.Chirag N Maher (PW 1)

Age : 51 Years

Father's Name : Mr.Narendra Maher

Office Address : Makanji House 2nd Floor, 49 (Old No.25), Barnaby Road, Kilpauk, Chennai – 600 010.

PW1 examined in chief by Mr.Sai Syaam, Learned Counsel for the Plaintiff.

Solemnly affirmed:

I am the Managing Director of the Plaintiff Company herein. I am filing my proof affidavit stating the facts of this case and the same may be treated as part and parcel of my examination-in-chief. The following documents may be marked as exhibits.

Ex.P12 is the certified copy of the petition filed under Section 7 of IBC before NCLT dated 23.03.2018 (subject to proof and relevancy).

Ex.P13 is the certified copy of the agreement of settle financial debt dated 16.09.2019 (The learned counsel for the defendant objects to mark this document on the ground that the document is insufficiently stamped under the Indian Stamp Act, cannot be construed as admission of liability and subject to proof and relevancy)(The learned counsel for the plaintiff objects that it cannot be taken on record as 'denial of admission of liability').

Ex.P14 is the certified copy of the NCLT Order recording the same compromise dated 16.09.2019 (subject to proof and relevancy).

Time:12.57 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

<u>BEFORE THE ADDITIONAL MASTER I,</u>
<u>HIGH COURT, MADRAS</u>

C.S.822 of 2017

Date : 07.01.2025
Time : 03.10 P.M.

Name : Mr.Chirag N Maher (PW 1)

PW1 cross examination by Mr.Vaibhav R Venkatesh, Learned Counsel for the Defendants.

<u>Solemnly affirmed:</u>

Q1: What line of business is the plaintiff company into?

A: Plaintiff is Narendra Properties Ltd. We are into development of properties.

Q2: Is the Plaintiff Company a Banking Company registered under the RBI?

A: It is not a Banking Company.

Q3: Is it a non-banking financial company (NBFC) registered under the RBI?

A: No.

Q4: Refer to the list of exhibits marked by the plaintiff. Has the plaintiff produced any loan agreement allegedly executed between the plaintiff and the defendant?

A: I do not remember. (Counsel for the defendant refreshed the memory of the witness by showing the list of document and the copies). (After seeing the documents, the witness answers)

No. There is no loan agreement executed between the plaintiff and the defendant.

Q5: Refer to the list of exhibits marked by the plaintiff. Is there any memorandum of deposit of title deeds or Mortgage Deed or any form of mortgage deed, with regard to the alleged loan, allegedly executed between the plaintiff and the defendant?

A: No.

Q6: Refer to the list of exhibits marked by the plaintiff. Is there any security interest created over any property, coupled with the alleged loan transaction, allegedly executed between the plaintiff and the defendant?

A: No.

Q7: Is there any form of any written loan contract allegedly executed between the parties prior to the alleged transactions?

A: No.

Q8: Has the plaintiff annexed/ filed any special Board Resolution authorizing the alleged act of disbursement of loan by the plaintiff company?

A: I do not remember.

Q9: (Witness is shown the list of documents) Please answer the previous question?

A: I do not remember. Witness Adds: There is a Board Resolution marked as Ex.P10.

Q10: Ex.P10 is shown to the witness. What is the date of this document i.e., Board Resolution?

A: 29th May 2017.

Q11: In Q.No.8 you were specifically asked if the plaintiff annexed/ filed any special Board Resolution authorizing the alleged act of disbursement of loan by the plaintiff company. But this alleged Board Resolution (Ex.P10) is dated 29.05.2017 i.e., five years after the alleged transactions. Can you reaffirm if this is the Board Resolution authorizing the disbursement of loan by the plaintiff company prior to the transactions?

A: No. This is not the Board Resolution authorizing disbursement of loan by the plaintiff company prior to the transactions.

Time: 03.20 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER I,
HIGH COURT, MADRAS

C.S.822 of 2017

Date : 12.02.2025
Time : 04.10 P.M.

Name : Mr.Chirag N Maher (PW 1)

PW1 cross examination by Mr.Akash Srinanda V, Learned Counsel for the Defendants.

Solemnly affirmed:

Q12: Can you tell this Hon'ble Court as to whether there was any Board Resolution that was passed by the Plaintiff Company authorising it to enter into the alleged loan transaction with the defendant company?

A: I do not remember.

Q13: I put it to you that there was no Board Resolution which was passed by the plaintiff company authorising it to enter into the alleged loan transaction with the defendant company. What do you say?

A: I do not remember.

Q14: When and through whom was the Defendant company introduced to the plaintiff?

A: Mr.Rakesh Sheth representing Karisma Foundation got in touch with the plaintiff requesting for loan. Since they started the Defendant Company he was looking out for some funds for running his business.

Q15: Attention of the witness is drawn to Para 3 of the Plaint. In this para, you have specifically averred that the plaintiff was introduced to the defendant through one Mr.Nandkishore Sonthalia whereas in your answer to Q.No.14, you have answered that the defendant was introduced to the plaintiff company directly through its Managing Director. Which version do you stand by?

A: Mr.Nandkishore Sonthalia probably would have introduced us. But I do not remember. Ultimately Rakesh Sheth representing Karisma Foundation we did the financial transactions.

Q16: I put it to you that you are wantonly feigning ignorance in order to cover up your answers which are contradictory to your pleading before this Hon'ble Court?

A: I deny.

Q17: Apart from the alleged suit transaction, was there any other transaction that was entered into by the plaintiff company with the defendant company?

A: I do not remember.

Q18: You have averred in your Plaint that “the plaintiff and defendant had regular business transactions”. What were these so called “regular business transactions”?

A: I do not remember.

Q19: Having averred specifically and assertively in your Plaint about the above mentioned alleged fact, I call upon you to substantiate the same.

A: By regular business transactions referred to in para 4,5 & 6 of my Plaint I meant the suit transaction of Rs.1,25,00,000/-.

Q20: Have you filed any documentary evidence in the form of loan agreement or sanction letter to substantiate the alleged fact of the defendant having purportedly borrowed a sum of Rs.50,00,000/- as alleged by you in para 4 of your Plaint?

A: I do not remember.

Q21: Attention of the witness is drawn to the list of exhibits marked by the plaintiff in the present suit. Can you answer to question No.20 now?

A: I do not remember. Case is regarding to Rs.1,25,00,000/-.

Q22: I put it to you that there was no such loan transaction of Rs.50,00,000/- as alleged by you in para 4 of your Plaint and further the plaintiff and the defendant never had regular business transactions as alleged by you in the very same para.

A: I deny. Witness Adds: In NCLT there is a settlement where Karisma Foundations has paid Rs.50,00,000/- and the balance Rs.75,00,000/- as post dated cheque. This proves the fact that they accepted the loan taken and paid part of it.

Q23: I put it to you that your answer to Q.No.22 has no co-relation to the fact alleged by you in para 4 of your Plaint qua "regular business transactions". What do you say?

A: I deny.

Time: 04.55 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I

BEFORE THE ADDITIONAL MASTER I,
HIGH COURT, MADRAS

C.S.822 of 2017

Date : 17.02.2025
Time : 02.50 P.M.

Name : Mr.Chirag N Maher (PW 1)

PW1 cross examination by Mr.Akash Srinanda V, Learned Counsel for the Defendants.

Solemnly affirmed:

Q24: Is it your case that the alleged suit loan was disbursed by the plaintiff to the defendant on the basis of an oral agreement?

A: I do not remember having any oral agreement.

Q25: Then on what basis do you allege/claim that the plaintiff had purportedly disbursed the alleged suit loan to the defendant?

A: I do not remember now. I have already filed the documents.

Q26: (Witness is shown the list of documents exhibited by the plaintiff). Can you identify the documents referred to in your answer to Q.No.25?

A: On the basis all the documents mentioned in the Plaint such as 1.E-Proof of RTGS dated 01.02.2012, 2.E-proof of RTGS dated 20.03.2012, 3. Promissory Note dated 01/04/2013, 4. Letter acknowledging debt dated 31.03.2014, 5. Letter acknowledging debt dated 31.03.2015, 6. Cheque bearing No.023589 with return memo dated 18.01.2016, 7. Board Resolution dated 29.05.2017.

Q27: According to you, what was the date on which the alleged suit loan was disbursed by the plaintiff to the defendant?

A: I do not remember.

Q28: (Attention of the witness is drawn to the Plaint). I call upon you to answer Q.No.27 now?

A: RS.1,25,00,000/- in two installments in February 2012 and March 2012.

Q29: If it is your case that the alleged suit loan was disbursed by you in two installments in February 2012 and March 2012, then on what basis do you say that the alleged promissory note dated 01.04.2013, the alleged letter acknowledging debt dated 31.03.2014, the alleged letter acknowledging debt dated 31.03.2015, the alleged cheque dated 18.01.2016 which are all documents that were allegedly executed subsequent to March 2012, formed the basis for the disbursement of the alleged suit loan in February 2012 and March 2012?

A: We have filed the E-proof of RTGS copy dated 01.02.2012 & E-proof of RTGS copy dated 20.03.2012. This is the basis on which I claim the alleged suit loan was disbursed by the plaintiff to the defendant.

Q30: Was there any time frame which was fixed for repayment of this alleged loan?

A: I do not remember.

Q31: I put it to you that you do not remember because for the simple reason that there was no such alleged suit loan that was disbursed by the plaintiff to the defendant?

A: I deny.

Q32: Was there any kind of communication such as letters/ E-mails/ Text messages/ Whatsapp messages/ Telephone /Phone Calls that were exchanged between the plaintiff and the defendant with respect to the alleged suit loan or its purported terms and conditions as alleged by you in your plaint, proof affidavit and additional proof affidavit?

A: I do not remember. We had met Rakesh Sheth in person requesting him to pay back the loan given to him.

Q33: I put it to you that you do not remember because for the simple reason that there was no such alleged suit loan that was disbursed by the plaintiff to the defendant?

A: I deny.

Q34: I put it to you that no prudent person would disburse a loan for a substantial sum of Rs.1,25,00,000/- sans any written agreement and in the absence of there being a single communication of any form whatsoever evidencing the sanction of such loan and its alleged terms and conditions?

A: I deny.

Q35: I put it to you that the plaintiff has come up with a far fetched theory of having lent the alleged suit loan of RS.1,25,00,000/- without any written / oral agreement and hence the suit is liable to be dismissed. What do you say?

A: I deny. Witness Adds: I have filed the necessary documents.

Q36: Attention of the witness is drawn to Ex.P1. Have you filed the original of this document before the Hon'ble Court?

A: No. We have filed only the copy.

Q37: By describing Ex.P1 and Ex.P2 as “E-Proof” in your answers to Q.No.26 and Q.No.29, what exactly do you mean?

A: Amount sent through RTGS and the copy of the RTGS filed as E-Proof.

Q38: So according to you, are exhibits Ex.P1 and Ex.P2 copy of electronic records?

A: Yes.

Q39: Have you filed a certificate /affidavit as required under section 65B of Indian Evidence Act, 1872 with respect to Ex.P1?

A: I am not aware of such provision.

Q40: If it is really true that you are not aware of such provision / procedural requirement, then on what basis did you file an affidavit under section 65B of Indian Evidence Act, 1872 in respect of Ex.P11?

A: I am not aware.

Q41: I put it to you that Ex.P1 is inadmissible in evidence and has no evidentiary value. What do you say?

A: I deny.

Q42: Have you filed a certificate /affidavit as required under section 65B of Indian Evidence Act, 1872 with respect to Ex.P2?

A: I am not aware of the provision.

Q43: I put it to you that Ex.P2 is inadmissible in evidence and has no evidentiary value. What do you say?

A: I deny.

Q44: When was Ex.P3 which is the alleged promissory note executed by the defendant in favour of the plaintiff?

A: 01.04.2013.

Time: 04.55 P.M

Taken down in open Court, read over and the same is admitted by the witness to be correct and signed before me.

ADDITIONAL MASTER – I