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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2026

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVELeds

CRP NO. 4473 OF 2023

CNR:{HCMA012089992023}

AND

CMP NO. 26938 OF 2023

M. Venkatachalam
S/o Muthugounder, Thattumottaiyankadu,
Reddipatti, Kalparapatti Post-637 504
Salem South, Salem District.

...Petitioner/
Respondent/
Defendant

Vs

M. Karthikumar
S/o Manickam, Plot No.47, New D.No.9/338,
Sairam Colony, Neikarapatti Village,
Salem District.

...Respondent/
Petitioner/
Plaintiff

PRAYER:-

Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the fair and decreetal order dated September 25, 2023 made in I.A. No. 03 of 2021 in O.S. No. 04 of 2021 on the file of the 1 Additional District Judge, Salem.

For Petitioner: Mr.R.Marudhachalamurthy

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For Respondent: M/s.C.D.Sugumar

O R D E R

This Civil Revision Petition has been filed under Article 227 of the Constitution of India, 1950challenging the Order dated September 25, 2023 passed in I.A. No.3 of 2021 filed under Order VI Rule 17 of the Code of Civil Procedure, 1908, in O.S.No.4 of 2021 on the file of 'the I Additional District Court, Salem' ['Trial Court' for short].

2. The revision petitioner herein is the defendant in the Original Suit and the respondent herein is the plaintiff therein. For the sake of convenience, hereinafter, the parties will be referred to as per their array in the Original Suit.

3. The plaintiff filed the Original Suit seeking recovery of money based on Promissory Note. In the pre-suit notice as well as the plaint, it has been averred by the plaintiff that the defendant borrowed a sum of Rs.10,00,000/- on January 6, 2018 by executing the Suit Promissory Note which is dated January 1, 2018.

4. The defendant entered appearance and filed written statement denying the execution of the Suit Promissory Note. The defendant *inter-alia* raised a specific plea that, the Suit Promissory Note is dated January 1,

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2018 while the Original Suit has been filed on January 4, 2021, in other words, the Suit has been filed beyond the limitation period of three years from the date of Suit Promissory Note. The defendant went on to file an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 in I.A. No.2 of 2021 in the Original Suit seeking rejection of plaint as barred by limitation.

5. In these circumstances, the plaintiff filed the aforesaid I.A. No.3 of 2021 praying to amend the plaint and the pre-suit notice changing the date of borrowal stated therein from January 6, 2018 to January 1, 2018 in line with the date of Suit Promissory Note by proposing 7 amendments.

6. The defendant countered the same by contending that the Suit Promissory Note is a fabricated one; that the amendment sought for is against the Tamil date mentioned in the Suit Promissory Note *viz., Margazhi 22, Hevilambi*; and that the amendment petition filed after the defendant's application to reject the plaint is only with a view to circumvent the same and hence, the amendment petition is not maintainable. Accordingly, the defendant sought to dismiss the said I.A. No.3 of 2021.

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7. The Trial Court upon hearing either side, held that the Suit Promissory Note is dated January 1, 2018 and that the amendment sought for is a pre-trial amendment seeking to rectify the clerical error in the pre-suit notice as well as the plaint. Accordingly, the Trial Court allowed the said I.A. No.3 of 2021.

8. Feeling aggrieved, the defendant who is the respondent therein has come up with this Civil Revision Petition.

9. Learned Counsel for the revision petitioner / defendant submits that the amendment is not in consonance with the Tamil date mentioned in the Suit Promissory Note *viz., Margazhi 22, Hevilambi* corresponding to January 6, 2018. Further, under Order VI Rule 17 of the Code of Civil Procedure, 1908, plaint pleadings alone can be amended and not pre-suit notice. Further, though the amendment sought for is a pre-trial amendment, it has to be noted that only after the defendant filed written statement and Order VII Rule 11 Application stating that the Suit is barred by limitation, the plaintiff came up with the amendment petition, which as such shows that, the amendment petition is solely intended to circumvent the Application for rejection of plaint. Accordingly, he prays to allow the Civil Revision Petition, set aside the Order passed by the Trial Court in I.A. No.3 of 2021 and dismiss the Interlocutory Application.

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10. In response, learned Counsel appearing for the respondent / plaintiff would submit that the amendment sought for is a pre-trial seeking to rectify merely clerical error and nothing more. It does not alter the nature or character of the Suit. Further, the Suit was filed on January 4, 2021 which falls within the Covid-19 Pandemic period. As the Covid-19 Pandemic period is to be excluded while computing limitation, the Suit is well within time. The amendment petition is a *bona-fide* one. There is no irregularity or illegality on the part of the Trial Court in allowing the amendment petition. Accordingly, the learned Counsel prays to dismiss the Civil Revision Petition as devoid of merits.

11. Heard on either side. Perused the materials available on record.

12. The scope for amendment under Order VI Rule 17 of the Code of Civil Procedure, 1908 is limited to pleadings and cannot be extended to plaint documents or pre-suit notice. Order VI is captioned "pleadings generally". Order VI Rule 1 specifies that pleadings mean plaint or written statement. Order VI Rule 17 bears the heading "amendment of pleadings". Thus, it is pellucid that only Order VI Rule 17 can be invoked only to amend pleadings and pleadings do not include pre-suit notice but only plaint and written statement. If at all any clerical or typographical error occurred in the pre-suit notice, before Suit, it can be rectified by way of a

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rejoinder and after filing of the Suit, it may be rectified by assigning explanation in the plaint pleadings which may be inserted by way of an amendment. In Serial No.5 of the amendment petition, the plaintiff has sought to amend the pre-suit notice and in view of the above, the same is not permissible.

13. As regards the other amendments, *viz.,* the amendments in Serial Nos.1 to 4, 6 and 7, they are all to change the date of borrowal from January 6, 2018 to January 1, 2018 in line with the English date mentioned in the Suit Promissory Note and other consequential / incidental amendments. In so far as the contention that the amendment proposed is not in consonance with the Tamil date mentioned in the Suit Promissory Note, while it is true, this Court is of the considered view that it is a matter for trial. Whether the Suit Promissory Note is true, valid and binding on the defendant or fabricated as contended by the defendant, and whether the date of its execution is January 1, 2018 or is the Tamil date which corresponds to January 6, 2018, shall all be seen in trial. In so far as the contention *qua* limitation is concerned, admittedly, the Suit is filed on January 4, 2021. As rightly contended by the learned Counsel for the respondent / plaintiff, the Suit was filed during the Covid-19 Pandemic period. As per the decision of the Hon'ble Supreme Court in ***In Re:***

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Cognisance for extension of limitation in ***Miscellaneous Application No.21 of 2022*** in ***Miscellaneous Application No.665 of 2021*** in ***Suo Moto Writ Petition (Civil) No.3 of 2020*** dated ***January 10, 2022***, has held that owing to the pandemic period, the period between March 15, 2020 and till February 28, 2022 shall stand excluded for the purpose of computation of limitation. Relevant extract reads thus:

> *"5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge ofthe virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A.No. 21 of 2022 with the following directions:*
>
> *I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi- judicial proceedings.*
>
> *II. Consequently, the balance period of limitation remaining as on 03.10.2021, ifany, shall become available with effect from 01.03.2022.*
>
> *III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period*

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of limitation remaining, all persons shall have a limitation period of90 days from 01.03.2022. In the event the actual balance period oflimitation remaining, with effectfrom 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and ConciliationAct, 1996, Section 12Aofthe Commercial Courts Act, 2015 and provisos (b) and (c)of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

13.1. Hence, it cannot be said that the amendment petition is aimed at obviating / circumventing the proceedings for rejection of plaint initiated by the defendant.

14. In these circumstances, this Court finds no irregularity or illegality on the part of the Trial Court in allowing the amendment petition *qua* the amendments in Serial Nos.1 to 4, 6 and 7. *Qua* the amendment in Serial No.5 which relates to amendment of pre-suit notice, as stated *supra*,

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pre-suit notice cannot be amended by invoking Order VI Rule 17 of the Code of Civil Procedure, 1908. The Trial Court failed to consider the said aspect and erred in allowing I.A. No.3 of 2021 in full. This Court is inclined to partly allow the Civil Revision Petition and confirm the Order of the Trial Court dated September 25, 2023 passed in I.A. No.3 of 2021 *qua* the amendments in Serial Nos.1 to 4, 6 and 7.

15. Resultantly, the Civil Revision Petition stands **partly allowed** in the above terms. In view of the facts and circumstances of this case, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
jrs

To

The 1 Additional District Judge, Salem.

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R.SAKTHIVEL J.

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