

## Sh. Madan Chawla vs Sh. Naveen Ranjan on 27 January, 2023

IN THE COURT OF SH. VIMAL KUMAR YADAV  
PRINCIPAL DISTT. & SESSIONS JUDGE (NORTH)  
DISTT. COURT ROHINI, DELHI.

CS DJ No. 207/2017

CNR No. DLNT01-002819-2017

Sh. Madan Chawla  
s/o Sh. J.L. Chawla  
r/o 91, 2nd Floor  
SBI Colony, G.T. Karnal Road  
Delhi.

.....Plaintiff

Vs.

1. Sh. Naveen Ranjan
2. Sh. Shakti Ranjan
3. Sh. Prabhat Ranjan
4. Sh. Praveen Ranjan
5. Sh. Sant Kishore Khatri

All sons of : Sh. Avadh Bihari Khatri  
All r/o : House No. 306, Munshi Ram Colony  
Near Dr. Mukherjee Nagar  
Delhi - 110009.

6. Sh. Kusagr Arora  
s/o Sh. K.K. Arora  
r/o KP-120, Maurya Enclave  
Pitam Pura, New Delhi.

.....Defendants

Date of institution :- 04.03.2017  
Date of hearing arguments :- 10.01.2023  
Date of Judgment :- 27.01.2023

### JUDGMENT

1. The present suit filed by the plaintiff Sh. Madan Chawla against the defendants seeking recovery of Rs. 4,00,000/- along with pendente lite and future interest, is hereby disposed off through this judgment.

2. The indispensable facts, concisely, as set up by the plaintiff are that the plaintiff had advanced a loan of Rs. 4,00,000/-, vide cheques no. 3215243 (Rs. 3,00,000/-) and 3215244 (Rs. 1,00,000/-), to defendants no. 1 to 5 for which defendant no. 6 Sh. Kusagr Arora had stood a guarantor. A loan agreement dated 05.03.2014 was also executed between the plaintiff and defendants no. 1 to 5 in this regard wherein defendant no. 6 had signed the same as a 'guarantor' thereby assuring that in case defendants no. 1 to 5 make default in repayment of the loan amount, then he (defendant no. 6)

shall pay the entire money along with interest.

3. The said loan was agreed to be repaid after six months from the date of execution of the loan agreement dated 05.03.2014. However, the defendants neither paid any interest nor returned the loan amount to the plaintiff within the stipulated period despite various requests made by the plaintiff from time to time. Thereafter in the last week of November 2016, defendants no. 1 to 5 flatly refused to return the loan amount to the plaintiff, hence, the plaintiff got served a legal notice dated 12.01.2017 upon the defendants calling upon them to pay the loan amount along with interest. Despite receipt of the said legal notice, the defendants neither replied the same nor complied with the terms of the same".

4. Since the legal notice sent to the defendants also could not move them or persuade them to pay back the loan amount given to defendants no. 1 to 5 through the loan agreement dated 05.03.2014 whereby defendant no. 6 was stood as a guarantor, the instant suit was filed by the plaintiff Sh. Madan Chawla seeking the amount loaned by him together with interest thereupon, from the defendants.

5. Defendants no. 1 to 5 chose not to appear before the Court despite service of summons, therefore, they all were proceeded ex parte on 20.05.2019.

6. Defendant no. 6, on the other hand, appeared before the Court and contested the claim of the plaintiff by moving an application under Order VII Rule 11 CPC asserting therein that there is no cause of action, suit is barred by Punjab Registration of Money Lender's Act, 1938, etc. The said application was declined vide Order dated 07.09.2020 by the learned Predecessor of this Court.

7. Thereafter written Statement on behalf of defendant no. 6 came on record in which the grounds taken in the application under Order VII Rule 11 CPC were reiterated and apart from that, it is stated that defendant no. 6 was not the beneficiary of the alleged loan as it was given to defendants no. 1 to 5 by the plaintiff whereas defendant no. 6 was roped in as a guarantor only despite the fact that he did not even know defendants no. 1 to 5. It is further asserted that it was mentioned in the alleged loan agreement that the original papers of property of defendants no. 1 to 5 were kept by the plaintiff as security. It was, however, seemingly in order to assure defendant no. 6 that nothing would befall upon him and it was a mere formality that a guarantor was required. It is asserted that at that relevant time, defendant no. 6 was working under the plaintiff in Muthoot Finance i.e. the company which provides loans to the needy people and, therefore, he could not say no to the commands of the plaintiff. This fact has been suppressed by the plaintiff deliberately. As such defendant no. 6 has denied the claim of the plaintiff against him.

8. In the replication filed on behalf of the plaintiff, the case set up in the plaint has been reiterated, re-asserted and re-affirmed.

9. Based upon the pleadings of the parties, following issues were framed on 19.02.2021 :

(i) Whether the plaintiff is entitled for a decree in the sum of Rs. 4,00,000/-, as prayed? OPP.

(ii) Whether the plaintiff is also entitled to recover pendente lite and future interest @ 24% p.a. or at what other rate?

OPP.

(iii) Whether there is no cause of action in favour of the plaintiff to file the present suit against defendant no. 6, as alleged? OPD-6.

(iv) Whether the suit is time barred as per Article 19 and/or 20 of the Limitation Act, as alleged? OPD-6.

(v) Whether the suit is barred u/s 3 of Punjab Registration of Money Lender's Act, 1938, as alleged? OPD-6.

(vi) Relief.

10. In order to establish his case, the plaintiff has examined himself as PW1 and tendered his affidavit as Ex. PW1/A in evidence. Besides his affidavit, PW1 relied upon the following documents :

(i) copy of loan agreement is Mark A;

(ii) copy of transaction proof is Mark B;

(iii) computerized copy of bank statement duly stamped Ex. PW1/4;

(iv) Copy of legal notice with postal receipt is Ex. PW1/5 (colly);

11. Thereafter, the plaintiff closed his evidence vide separate statement dated 17.10.2022.

12. Defendant no. 6, on the other hand, did not bring any evidence and closed his evidence through statement of his Counsel dated 17.10.2022.

13. Arguments have been raised by the contesting sides. I have considered the submissions made by the learned Counsels for the plaintiff and defendant no. 6 and have perused the records as well.

14. Considering the pleadings, the issues framed, evidence led and arguments addressed, the issue-wise findings are as under :-

ISSUES Nos. (i) & (ii) :

(i) Whether the plaintiff is entitled for a decree in the sum of Rs. 4,00,000/-, as prayed? OPP.

(ii) Whether the plaintiff is also entitled to recover pendente lite and future interest @ 24% p.a. or at what other rate?

OPP.

15. Both these issues are being taken up together for disposal inasmuch as they both are inextricably inter-woven and interdependent with each other inextricably.

16. The onus to prove both these issues is upon the plaintiff.

17. The plaintiff is duty bound to show that the amount claimed by him is legally recoverable from the defendants. The case of the plaintiff stands on a loan agreement which could not see the light of the day. A mere copy of the loan agreement has been placed on record without there being any explanation as to why the original has not been produced and for that matter, no effort seems to have been made to prove the loan agreement through secondary evidence.

18. The plaintiff has relied upon the statement of his bank account Ex. PW1/4 maintained at Union Bank of India, Subzi Mandi Branch, New Delhi, to show that sums of Rs. 1,00,000/- and Rs. 3,00,000/- through cheques no. 32152244 and 32152243 respectively on 7th and 8th November 2013 to show loan was given by him to defendants no. 1 to 5. However, he has not produced the original passbook and has not been cared to examine anyone from Union Bank of India to prove the statement of account as required under the Indian Evidence Act. Two pages statement of account is a computer generated record without there being any authentication except for a stamp of Union Bank of India without any initial or signatures of anyone.

19. The loan agreement and the statement of account are the two most vital evidence brought on behalf of the plaintiff to establish his claim of recovery of a sum of Rs. 4,00,000/- from the defendants together with interest there upon.

20. Defendants no. 1 to 5 did not come forward to contest the present suit as they seemingly have sold away the property where they were living and was kept as security and have left away to some unknown place, as can be seen from the report on the ordinary process sent to them. All five of them happen to be the real brothers and borrowers whereas defendant no. 6 happens to be the guarantor. Thus, it was only defendant no. 6 i.e. the guarantor who came forward to contest the case of the plaintiff. The plaintiff has proceeded with the case on the premise that the guarantor is jointly and severally liable to repay the loan and if defendants no. 1 to 5 are not traceable or have not come forward, still defendant no. 6 is there to repay the amount.

21. However, the testimony coming on record from the mouth of the plaintiff as he is only witness examined in the entire case, is full of evasive, false and presumptive answers when he was cross examined on behalf of defendant no. 6. The plaintiff was given an opportunity to bring documents,

which he expressed he can bring, but despite that he did not bring any of those documents i.e. terms of his employment with Muthoot Finance or the original loan agreement. The plaintiff is evasive as to the period of his employment with Muthoot Finance and has completely suppressed the existence of legal notices, three in number, except the one which he proved on record as Ex. PW1/5.

22. So far as the loan agreement is concerned which still remains a document which could not be proved on record, copy of which is Mark A. The copy reflects that it was executed on 05.03.2014. Incidentally, the cheques in question have been given and seem to have been encashed in November 2013. In these circumstances, why the vital details i.e. loan has already been given to defendants no. 1 to 5 through cheques no. 32152244 and 32152243 are missing from the loan agreement. There is no answer with the plaintiff on this count either. The plaintiff has also suppressed the fact about the factual date when the loan was given, if at all it was given, to defendants no. 1 to 5. The plaint is not very clear on this count as well, as it indicates that the loan was given in the first week of November 2013. The agreement was executed on 05.03.2014 whereas according to the understanding of the parties, as claimed by the plaintiff, the amount of loan was to be returned in a month or so. So in all probability, the loan should have been returned in the first week of December or latest by the end of December. What made the plaintiff to wait for January and February to go for execution of a loan agreement is shrouded in mystery. Interestingly, the e-stamp paper used for executing the loan agreement was purchased on 06.11.2013 for the purpose of general agreement where Sh. Naveen Ranjan i.e. one of the defendants happens to be the purchaser and the first party, whereas Sh. Madan Lal Chawla happens to be the second party. This indicates that the parties had an intention to execute the agreement in the month of November 2013 itself. But why the agreement was not executed in the year 2013 and why the parties, rather the plaintiff, waited till March 2014. These are some of the loose ends of the story of the plaintiff, therefore, the case put forth on behalf of the plaintiff and by not producing the original agreement becomes questionable. The totality of the circumstances has further put a question mark on the existence of the agreement.

23. In his cross examination, PW1/plaintiff has categorically admitted that he understands English language very well; that he had signed the plaint and his affidavit Ex. PW1/A after reading and understanding the contents of the same. After having secured this statement, learned Counsel for defendant no. 6 asked PW1 to clarify and reconcile para 3 of the affidavit Ex. PW1/A and plaint which both contain an averment that the loan was given by the plaintiff to the defendants no. 1 to 5 in the first week of November 2013 whereas the agreement contains the date of 05.03.2014 and PW1 categorically stated that he had given the loan on the date mentioned in the loan agreement Mark A i.e. on 05.03.2014. PW1 again replied that both the dates i.e. 05.03.2014 and November 2013 are correct when learned Counsel for defendant no. 6 asked as to which of the two dates about advancing the loan is correct. No further clarification was given. How come these facts can be reconciles is anybody's guess.

24. Another jolt to the plaintiff's case came in the shape of the original legal notices Exs. PW1/D1 to PW1/D3 issued on behalf of the plaintiff through his Counsel. Ex. PW1/D1 contains the date of loan as 05.11.2013, where in para 3, it is written that through loan agreement dated 05.11.2013, a sum of Rs. 4,00,000/- was given. In Ex. PW1/D2, the loan agreement has a date of 15.12.2013 and in Ex. PW1/D3, the loan amount transforms from Rs. 4,00,000/- to Rs. 4,50,000/-. The plaintiff has

claimed himself to be the Branch Manager of Muthoot Finance at some point of time when loan was advanced. It is pertinent here to mention that the plaintiff has categorically stated in the cross examination dated 17.10.2022 that he has not sent any other legal notice to defendant no. 6 except Ex. PW1/5. It is revealed from the cross examination of PW1 that these notices Exs. PW1/D1 to PW1/D3 were only sent to defendant no. 6 and not to defendants no. 1 to 5 who are the actual borrowers. PW1 has categorically admitted that he had not sent any legal notice to defendants prior to notice Ex. PW1/5. The legal notice Ex. PW1/5 bears the date of 11.01.2017 whereas other three notices Exs. PW1/D1 to PW1/D3 are of dated 05.02.2016, 02.12.2016 and 01.06.2015 respectively. Apparently, the plaintiff is not truthful especially when he says "yes these notices were sent by his Counsel on his instructions". There is no reference of any loan agreement except in the notice dated 02.12.2016, but it contains the date of the agreement as 15.12.2013 and in the notice dated 05.02.2016 Ex. PW1/D1, the loan agreement has a date of 05.11.2013. Incidentally, except notice Ex. PW1/D2, other two notices were sent only to defendant no. 6. Yet again the plaintiff has been caught on the wrong foot having no explanation about variations in the dates of the loan agreement. And why the notice was not sent to all the defendants and why there is no reference of the security, which according to the loan agreement Mark A, was obtained by the plaintiff in the shape of the original documents of the property bearing no. 306, Munshi Ram Colony, near Dr. Mukherjee Nagar, Delhi, from the defendants no. 1 to 5. The plaintiff/PW1, in his cross examination dated 16.03.2021, has, ironically, admitted that he came into the contact "for the first time" with defendants no. 1 to 5 in August 2014 and also came to know defendant no. 6 in August 2014. He has categorically stated that he did not know any of the defendants prior to that. If in August 2014, the plaintiff came to know the defendants for the first time, then how come there could be a loan in the month of November 2013 or an agreement on 05.03.2014. Again the plaintiff has no answer and explanation about this.

25. Then, there is a conflict of interest between the plaintiff and his erstwhile employer i.e. Muthoot Finance when the plaintiff admits that while working as Branch Manager in Muthoot Finance, he had advanced loans to some customers on various dates as friendly loans keeping the securities of their properties qua those loans. Muthoot Finance Ltd. is a company which is involved in finance business, advancing loans etc. and if the Branch Manager of the said company himself starts extending loans that too to the 'customers' then what more blatant example of conflict of interest could be there. And that seems to be the reason as to why he did not bring his appointment letter or agreement of his employment on record as that would have certainly had a clause which expressly bars the plaintiff/employees from indulging in to any kind of such business of "friendly loans". It would have exposed him further and would've put a question mark on his credentials.

26. PW1 has further admitted that as a Branch Manager of Muthoot Finance, he was a Supervisor of defendant no. 6 Sh. Kusagr Arora who used to work under his instructions. Against the backdrop of the discussions made herein above and the fact that defendant no. 6 has come up with a plea that he is not a privy to any loan agreement, it is categorically stated by the defendant no. 1 that he had not signed any loan agreement. Additionally, it is contended on behalf defendant no. 6 that when the plaintiff had already secured his loan by keeping original papers of the property of defendants no. 1 to 5, then why would plaintiff need guarantee. It is further pointed out by the learned Counsel for defendant no. 6 that in terms of Section 141 of Indian Evidence Act, defendant no. 6 cannot be held even otherwise responsible to pay anything to the plaintiff as the plaintiff has categorically admitted

that the relevant papers of property no. 306, Munshi Ram Colony, near Dr. Mukherjee Nagar, Delhi, are still lying with him, although it seems contradictory inasmuch as defendant no. 1 to 5 have, reportedly, moved out of the property in the year 2017 or even prior to that as was reported on the court summons/process sent to them. Thus, the plaintiff could have taken possession of the property or for that matter he might have since he says that the property papers are still with him sold it and adjusted his claim. In any case, this fact results in favour of defendant no. 6 as defendant no. 6 goes off the hook in terms of Section 141 of the Indian Contract Act. No counter argument has been put forth on behalf of the plaintiff to this plea where defendant no. 6 has taken shield of Section 141 of the Contract Act.

The admission on the part of the plaintiff that the security documents that is the property papers of defendant No. 1 to 5 are still with him but a question mark on his intentions. When this fact of retention of documents is juxtaposed with the fact that the defendant No. 1 to 5 are no longer residing in the said property, papers of which are admittedly still with the plaintiff, then the contention of the defendant No. 6 in the light of Section 141 Contract Act gains ground. It is pertinent to mention that the defendant No. 1 to 5 being not at the property, papers of which are with the plaintiff, has been reported on the process sent for them at the initial stage of the proceedings in this suit. It is a riddle which should have been clarified, but in any case the admission of plaintiff qua property papers makes it more suspicious especially when only defendant No. 6 was served with legal notices leaving the borrowers defendant No. 1 to 5. A surety is entitled to the benefit of every security which the creditor has against the Principal debtor at the time when the contract of suretyship is entered into, if the creditor loses, or without the consent of the surety, parts with such security. The surety is discharged to the extent of the value of the security. Reference in this context can be made to the judgment in case State of Madhya Pradesh Vs. Kaluram 1967 SCR (1) 266.

The surety is discharged if the creditor does any act which is inconsistent with the rights of the surety or omits to do any act which he is to do towards surety or surety requires him to do. Reference in this context can be made to the judgment in case Radhakani Pal Vs. United Bank of India Ltd. AIR 1955 CAL 217 To attract Section 141 Contract Act, it must show that creditor took more than one surety from Principal debtor at the time when the contract of guarantee was entered into irrespective of the fact whether surety had knowledge about other security. Surety would be discharged to the extent of value of security. Reference in this context can be made to the judgment in case State Bank of Saurashtra Vs. Chitranjan Rangnath Raja 1980 SCR (3) 915.

27. On the face of it, even if it is presumed that the loan agreement was executed properly and that defendant no. 6 was also a party, still defendant no. 6 cannot be held responsible to pay anything to the plaintiff in view of these facts and circumstances.

28. The case of the plaintiff is primarily based upon the loan agreement and the statement of account, as discussed earlier. Both these documents fall into the scope and ambit of documentary evidence. Since the plaintiff has based his case on these documents, thus, in terms of Section 101 of Indian Evidence Act, burden to prove is upon him to establish the documents and thereby prove his case. The burden of proof can be discharged by the plaintiff through oral or documentary evidence

except for those facts which are admitted as they are not required to be proved. Best evidence should be brought on record and in case the contents of the documents are required to be proved then the same can be proved either by primary or by secondary evidence, as provided by the Indian Evidence Act. Section 62 of the Indian Evidence Act provides that primary evidence means a document itself produced for the inspection of the Court or counter part of a document executed and document made by one uniform process. Primary evidence is the evidence which the law requires to be given first and secondary evidence is the evidence which may be given in the absence of primary evidence as has been enumerated in Section 63 of the Indian Evidence Act.

29. In the instant case, contrary to the requirement of law u/s 64 of the Act, primary evidence has not been brought on record either in respect of loan agreement or the cheques or statement of accounts. To establish a fact through secondary evidence, certain per-conditions are there as contained in Section 65 of the Act, but none of those conditions have been fulfilled and for that matter, no permission was obtained or effort was made to bring secondary evidence. Therefore, the plaintiff fails to establish and prove those documents on the strength of which he has sought the case against the defendants. And when this is juxtaposed to the kind of testimony coming on record, which is full of contradictions, suppressions and evasive answers then the entire case of the plaintiff becomes doubtful.

30. *Falsus in uno, falsus in omnibus*, this Latin maxim seems to be fully attracted and applicable in the facts and circumstances of this case. The deposition of the plaintiff is full of such facts which apparently, are incorrect. If he is false/incorrect in one thing rather some of the facts in his deposition then he becomes susceptible and vulnerable about the whole deposition. A big question mark is there on the testimony of the plaintiff, which render the entire case vulnerable to doubts and suspicion. The credibility of PW1 itself has come under a big cloud for several reasons as detailed hereinabove in the preceding paragraphs. The maxim is not strictly applied here in the cases but then the testimony of PW1 is such which makes it nearly impossible to separate the truth from false hood. In such circumstances, the testimony is liable to be rejected as the witness is no longer credible and trustworthy enough to be relied upon to base a verdict in his favour.

31. Thus, when the plaintiff has suppressed the factum of legal notices, different dates have come with regard to the loan agreement and advancement of so called loan and that there was a conflict of interest between the plaintiff and his erstwhile employer when the so called loans were advanced coupled with the fact that the security was taken by the plaintiff in the shape of original papers of property no. 306, Munshi Ram Colony, near Dr. Mukherjee Nagar, Delhi, therefore, in these circumstances, when the claim of the plaintiff itself is also not clear as to whether a sum of Rs. 4,00,000/- was advanced or Rs. 4,50,000/- was advanced, as discussed herein above then the case of the plaintiff comes in the realm of doubt and suspicion. Apparently, the case of the plaintiff has failed to emerge on record in the shape or manner in which he wanted and could've satisfied the requirements of law.

32. When the claim of the plaintiff itself qua the money is not sustainable and maintainable, then there is no question of interest upon the said loan amount. Issues no. 1 & 2 are, accordingly, decided against the plaintiff and in favour of defendants.



ISSUE No. (iii) "Whether there is no cause of action in favour of the plaintiff to file the present suit against defendant no. 6, as alleged? OPD-6".

33. The onus of this issue was casted upon defendant no. 6 who incidentally has not brought any evidence on record, therefore, on the face of it, this issue, in the absence of discharge of onus, is to be decided against defendant no. 6. However, it can still be ascertained as to whether any cause of action was there with the plaintiff or not.

34. The case of the plaintiff is based upon the loan agreement in which defendant no. 6 has purportedly signed as a guarantor. The factum of loan agreement has not been denied by defendant no. 6 as can be seen from para 1 of preliminary objections raised in the written statement, although defendant no. 6 has used a word "alleged agreement", but how come defendant no. 6 came to know that the plaintiff has kept the original documents of the property as security against the loan. The legal notice was also served upon the defendants including defendant no. 6 and the said notice has neither been even replied nor it is the case of defendant no. 6 that no such notice was received by him. It seems that defendants were made aware and if there was something wrong, defendants including defendant no. 6 could have replied the said legal notice. Apart from that, the amount of loan was transferred through two cheques amounting to Rs. 3,00,000/- and Rs. 1,00,000/-. However, defendant no. 6 has clearly and categorically stated that he is not a part of the loan agreement and that his signatures have been forged and when the entire gamut of facts and circumstances are examined in view of the averments made on behalf of defendant no. 6, as discussed herein before, then it appears that the plaintiff had no cause of action especially in view of the fact that he has not come to the Court with clean hands and has suppressed material facts. This issue is accordingly decided in favour of defendant no. 6 and against the plaintiff.

ISSUE No. (iv) :

"Whether the suit is time barred as per Article 19 and/or 20 of the Limitation Act, as alleged? OPD-6".

35. The onus to prove this issue was upon defendant no. 6 to establish that the suit of the plaintiff is time barred, but no evidence has been led by defendant no. 6 on this count. However, this, being a legal issue, can be looked into.

36. According to the plaintiff, the loan was given to defendants no. 1 to 5 in the first week of November 2013 and it was given for a period of one month, thus, the cause of action arose in the month of December 2013 itself when it was not returned. Presuming that by the loan agreement Mark A, the period stands extended, still the alleged loan was to be repaid by the defendants after six months from 05.03.2014 which comes to September 2014, so the plaintiff could have filed the suit for recovery within three years thereafter which reflects that the suit should have been filed somewhere in the month of September and October 2017. Thus, on the face of it, the suit is within time but for the fact that the case set up by the plaintiff is on a very weak footing as his loan agreement is under the cloud and could not be proved by him even through secondary evidence. In the absence of any clear and categorical averment on behalf of the plaintiff as to when the alleged

loan was advanced and when it was due, the computation of period for the purpose of limitation can start from December 2013 as per the own averments of the plaintiff which would have been the first date from when the period of limitation would run and the other could be the alleged loan agreement and by both the dates, the suit seems to be within the period of limitation. As such, this issue is decided against defendant no. 6 and in favour of the plaintiff.

ISSUE No. (v) :

"Whether the suit is barred u/s 3 of Punjab Registration of Money Lender's Act, 1938, as alleged? OPD-6".

37. Onus to prove this issue was also upon defendant no. 6.

38. The plaintiff who was working in a finance company was advancing loans to the people by keeping security, as has been admitted by him in his cross examination and there were not one or two friendly loans rather his answer indicates that it was a kind of business for him since he has stated that he had given loans to some other 'customers' as well. Customers means those persons who were coming to the Muthoot Finance for borrowing money and instead of providing the money to those needy people from Muthoot Finance, the plaintiff indulged into his own private business. Although he says that these were friendly loans but then how can he extend a friendly loan to defendants no. 1 to 5 on the so called guarantee of defendant no. 6 whom he met for the first time in the month of August 2014 and advanced the loan in the month of November 2013 as per his own case. This indicates that the plaintiff is not disclosing the true and correct facts and the possibility indicates that he was into a kind of un-official business of financing which was easy for him because of his working in the capacity of Branch Manager of Muthoot Finance. Invariably, the customers coming to Muthoot Finance were those who were looking for loan. As such, the plaintiff tends to fall into the definition of money lender in terms of Section 2(9) of Punjab Registration of Money Lender's Act, 1938, and thus, hit by Section 3 of the said Act since he has admitted that he had no license or permission for money lending, which according to him, he was doing by advancing friendly loans to the customers of Muthoot Finance coming to him while he was working as Branch Manager at Muthoot Finance against the interest and after obtaining security of loans advanced. What more a money lender does? Thus, when these facts and evidence on record are weighed on the preponderance of probabilities and possibilities, then it appears that the plaint is hit by Section 3 of the said Act and the plaintiff could not have filed the suit. This issue is accordingly decided in favour of defendant no. 6 and against the plaintiff.

RELIEF :

39. In view of findings made herein above, no relief can be granted to the plaintiff. Suit accordingly stands dismissed with cost. File be consigned to the Record Room.

Announced in the open Court

VIMAL  
KUMAR

by VIMAL

KUMAR YADAV

on 27.01.2013

YADAV

Date: 2023.02.07  
15:14:56 +0530

(Vimal Kumar Yadav)  
Principal Distt. & Sessions Judge  
North District, Rohini Courts, Delhi