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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 17.06.2025**

**CORAM**

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN**

**AND**

**THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

**A.S.(MD)No.102 of 2024**

**AND**

**C.M.P.(MD)No.5728 of 2024**

K.Vasanth

... Appellant / Defendant

Vs.

S.Kalyani

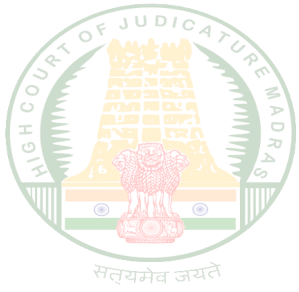
... Respondent / Plaintiff

**Prayer:** Appeal suit filed under Section 96 CPC r/w. Order 41 Rule 1 CPC, to set aside the judgment and decree dated 21.12.2023 made in O.S.No.75 of 2019 on the file of the learned Principal District Judge, Dindigul and allow the appeal suit.

For Appellant : Mr.S.Srinivasa Raghavan

For Respondent : Mr.V.R.Shanmuganathan

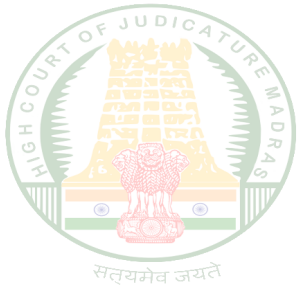
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**ORDER**

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**(Order of the Court was delivered by G.R.SWAMINATHAN, J.)**

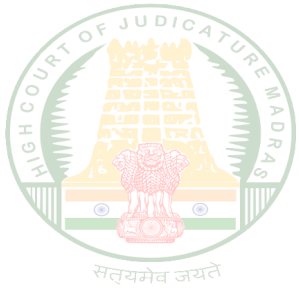
A.S(MD)No.102 of 2024 was filed by the defendant in O.S No.75 of 2019 on the file of the Principal District Judge, Dindigul. The only question that was projected for consideration was the rate of interest chargeable. We held that since the suit transaction fell within the scope of the term “loan” occurring in Section 2(6) of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, the provisions of the said Act would apply. In the process, we held that the decision rendered in **(2010) 2 L.W 75 (Indiabulls Financial Services Ltd v Jubilee Plots and Housing Pvt Ltd.)** was not good law. **Indiabulls** had held that the provisions of the 2003 Act will not apply if the loan had been advanced on the strength of a negotiable instrument (such as pro-note) for a sum exceeding Rs.10,000/-. Though we do not find any reason to doubt the correctness of our decision, it has now been brought to our notice that a Division Bench of this Court in the decision reported in **(2012) 4 MLJ 187 (Sri Kalpatharu Financiers v. Natarajan)** had endorsed the **Indiabulls** decision. Counsel on either side failed to bring this to our notice.



2."Lordships are aware", "as your Lordships already know"

etc., are words of courtesy and politeness. They may be at times right but definitely not always. It is the duty of the bar to enlighten and educate the bench on the correct legal position. It is not as if the case was disposed of at one go. When the learned counsel for the appellant relied on **2022 (3) MWN (Civil) 201 (A.M.Gopalan vs M.Sivaram)**, the counsel for the respondent ought to have submitted that **A.M.Gopalan** is a single bench decision and that it runs contrary to the Division Bench decision in **Sri Kalpatharu Financiers**. In fact, the counsel for the appellant ought to have checked if A.M.Gopalan was really good law.

3.Now that **Sri Kalpatharu Financiers** decision has been brought to our notice, we deem it fit and appropriate to suo motu suspend the operation of our judgment and decree dated 29.04.2025. We direct the Registry to place the papers before the Hon'ble Chief Justice to consider constituting a Larger Bench to decide if **Sri Kalpatharu Financiers** was correctly decided.



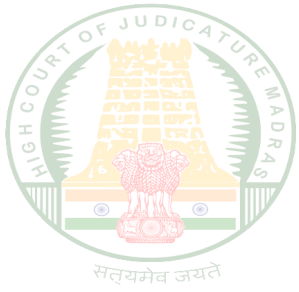
4.We expect greater assistance from the bar. They have to ensure that we do not err.

**(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)**  
**17.06.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
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**To:**

The Principal District Judge, Dindigul.



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A.S.(MD)NO.102 of 2024

**G.R.SWAMINATHAN, J.**

**AND**

**M.JOTHIRAMAN, J.**

SKM

**A.S.(MD)No.102 of 2024**

**17.06.2025**