

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC  
OF SRI LANKA.**

Lanka Orix Leasing Company PLC (Formerly known and named as Lanka Orix Leasing Company Limited)  
Presently of No. 100/1,  
Sri Jayawardenapura Mawatha,  
Rajagiriya

SC CHC Appeal no: (New number of Comapany – PQ70)  
SC/CHC/52/2019

**Plaintiff**

High Court case no: **Vs.**  
HC(CIVIL)/275/2014/MR

Ravindra Lanka Auto Service (PVT) Limited  
No. 134, Hill Street,  
Dehiwela.  
(New number of company – PV 5712)

**Defendant**

**AND**

Lanka Orix Leasing Company PLC (Formerly known and named as Lanka Orix Leasing Company Limited)  
Presently of No. 100/1,  
Sri Jayawardenapura Mawatha,  
Rajagiriya  
(New number of Comapany – PQ70)

**Plaintiff – Appellant**

Vs.

Ravindra Lanka Auto Service (PVT) Limited  
No. 134, Hill Street,  
Dehiwela.  
(New number of company – PV 5712)

**Defendant-Respondent**

Before : Janak De Silva, J.  
Menaka Wijesundera J.  
Sampath B. Abayakoon, J.

Counsel : Shanaka De Livera with Ruwani Chandrasiri instructed by  
Anusha De Silva for the Plaintiff-Appellant  
Charith Galhena with Madhushika Jayasinghe and  
Piyahasie Dias instructed by Malmi Dissanayake for the  
Defendant-Respondent.

Written

Submissions : Written submissions on behalf of the Plaintiff - Appellant  
on 10<sup>th</sup> of September, 2024.  
Written submissions on behalf of the Defendant -  
Respondent on 3<sup>rd</sup> of October, 2024.

Argued on : 19.05.2025

Decided on : 04.09.2025

## **MENAKA WIJESUNDERA J.**

The instant appeal has been filed to set aside the judgment of the Commercial High Court dated 21.06.2019.

The appellant has filed action against the respondent in the trial court to recover a loan facility of Rs. 48 million and the said loan to the respondents had been signed by both parties on 30.11.2009. At the request of the respondents, the said amount was rescheduled to a date one year later.

The said sum, although duly documented and mutually agreed upon by both parties, had not been transferred to the appellant in hand; rather, it had remained in fixed deposits in the appellant's company.

The respondents, being eager to commence business operations, had requested for a rescheduling of the above mentioned loan facility on the grounds that the monies were not being released to the respondent as agreed in the terms of the agreement. Consequently, the facility was rescheduled, and the deposit was reduced by Rs. 10 million, which was held as a lien. The remaining amount was regranted to the respondents on documents; however, the funds were not actually released.

The appellants have alleged that the respondents had been taken to Court for the entire amount of Rs. 48 million. But the position of the respondent company is that they are liable for Rs. 13 million only and not for the total amount claimed in the plaint.

The learned trial judge upon considering the evidence presented, had dismissed action of the appellant. Being aggrieved by the said judgment, the appellant had filed the instant action.

According to the evidence led at the trial, an executive from the company of the appellant has been led and according to him, the respondent had been awarded a loan of Rs. 48 million, but the said monies had been deposited in the fixed deposits of the appellant-company and as the monies were not forthcoming, the respondents had requested the appellant to reschedule the said loan.

Despite the rescheduling, the respondents had defaulted on the repayment and the appellants had sent a letter of demand, which, according to the appellants, had been ignored by the respondents.

As such, the appellant has said that the entirety of the monies to be paid had been calculated as Rs. 38 million, plus the interest.

In giving evidence, the respondent stated that the initial agreement marked P3 had been for a sum of Rs. 48 million, which had not been received by them. Accordingly, they had made a request for a rescheduling of the loan based on document P7, afterwards only Rs. 13 million had been ultimately released to the respondent.

The appellant, on the other hand, has claimed that on documents P2 and P3, the respondents had agreed on the loan terms involving Rs. 48 million but it has to be observed that the witness of the appellant company had stated that the said sum of Rs. 48 million was deposited in their company fixed deposits and that there was a lien existing, which prevented the monies from being released to the respondent.

Subsequently, as reflected in P6, the loan had been rescheduled and brought down to Rs. 38 million, with Rs. 10 million had been held back by the appellant.

The consistent position of the respondents right through out, is that, although the initial agreement was for Rs. 48 million, the monies were not released to the respondent and it was the reason why they requested for a rescheduling. Even after such rescheduling, the respondents contend that only Rs. 13 million was released and not the Rs. 38 million as claimed.

Hence, the onus is on the appellant to show that the entirety of the monies, as alleged, was released to the respondents.

It is further observed that although the agreements marked as P1 and P2 enables the appellant to charge the respondent the bank rates of 22% plus the interest rate of 6.5% as stated in the agreement, the appellant has also charged an interest rate for default payment, which the respondent contends is illegal. It has to be noted that the alleged loan agreement has been signed by both parties and it has said that the appellant can charge an additional interest rate of 3% in the event of dishonoring the agreement.

Nevertheless, upon perusing the evidence led at the trial and the documents marked and produced, it has to be noted that the appellant has failed to produce any evidence or documentation to establish that the loan amount or the rescheduled was ever transferred to the respondents.

However, there are documents confirming that the loan agreement took place and that both parties signed and that there was rescheduling and some securities offered but there is nothing to say that the monies have transferred.

Specifically, the said documents marked P1 to P9 only indicate the outstanding installments payable by the respondent, and **documents P4 and P9** although

heavily relied upon by the appellant, indicates the “**monies receivable**” by the respondent and not the “**monies received**” by the respondent.

The appellant has further averred that the respondents had unconditionally agreed that the said sum of Rs. 48 million, referenced in the initial transaction, had been received by the respondent.

However, if one goes through the said agreements, particularly Clause 7(ii), it very clearly states that the monies lent had been held in fixed deposits accounts and a lien had been held over the said deposits, which prevents monies being transferred to the respondents.

The same has been said with regard to the restructured monies and the agreement pertaining to the same.

Thus, it has to be concluded that the learned trial judge had been correct in his conclusion that the appellant has not established that the monies specified in the agreements signed had been ever transferred to the respondents, and for the dismissal of the plaint.

Even before this Court, the appellant made extensive submissions relying on the statement of accounts marked as P4 and P9, asserting that the monies had passed on to the respondent in totality but I am unable to agree with the same because what both P4 and P9 states is of the sum of monies “receivable” and not monies “received”.

Hence, it is reasonable to conclude that the appellant has failed to prove the matters stated in the plaint before the trial Court.

Moreover, the agreements marked as P2 and P3 also reiterate in clause 7(ii) that the loaned monies were held in deposits by the appellant’s institution.

Hence, I see no merit in the submissions of the Counsel for the appellant and I am compelled to dismiss the instant appeal and affirm the judgment of the Commercial High Court dated 21.06.2019.

**JUDGE OF THE SUPREME COURT**

**Janak De Silva, J.**

I agree.

**JUDGE OF THE SUPREME COURT**

**Sampath B. Abayakoon.**

I agree.

**JUDGE OF THE SUPREME COURT**