



WEB COPY

SA No. 227 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2026

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

SA No. 227 of 2007

Chinnusamy

..Appellant(s)

Vs

1. Irulappan(died)

2. E.Raja

3. E.Latha

4. E.Bharathi

5. Karuppayammal

[R2 to R5 brought on record as LR's of the deceased sole respondent vide order dated 27.04.2019 in MP.Nos.1 and 2 of 2008 in S.A.No.227 of 2007]

..Respondent(s)

Prayer

To set aside the Judgment and Decree dated 20.03.2006 made in A.S.No.195 of 2005 on the file of the Court of Principal Sub-ordinate Judge, Slaem, confirming the Judgment and Decree dated 24.08.2005 made in O.S.No.2433 of 2004 on the file of the Court of District Munsif, Salem.

For Appellant(s): M/s.V.Ambika for Mr.N.S.Sivakumar

For Respondent(s): M/s.Zeeanth Begum For R2 To R5



JUDGMENT

This second appeal is at the instance of the appellant/ defendant against the concurrent judgments of the trial court and the lower appellate court. Originally, the suit in O.S.No.2433 of 2004 was laid by the Respondent No.1 herein for recovery of an amount of Rs.90,000/- together with interest against the appellant herein, based on a pronote. During pendency of this second appeal, the Respondent No.1 died. Hence, the Respondents 3 to 5 were brought on record being the legal representatives of the deceased Respondent No.1.

2. The parties are referred to as per their status in the original suit for the sake of convenience.

3. The suit is originally laid by the plaintiff basing upon the pronote dated 30.07.2002 said to have been executed by the defendant acknowledging a debt of Rs.90,000/- and agreeing to repay the same in six installments on or before 30.07.2004. As the defendant failed to repay the said amount as promised, the plaintiffs caused a notice dated 22.07.2004 calling upon the defendant to repay the amounts due under the pronote dated 30.07.2002. The same was received and acknowledged by the defendant on 26.07.2004, but he failed to comply nor replied to the said notice. Consequently, the plaintiff instituted the suit in question for recovery of an amount of Rs.98,400/- with subsequent interest and



costs. The defendant filed a written statement, denying the execution of the suit pronote and also denied the receipt of consideration while questioning the capacity of the plaintiff to lend the amount covered by the pronote. During the course of trial, the plaintiff got examined himself as P.W-1 and his wife was examined as P.W-2 and Exhibits A1 to A3 were marked. On behalf of the defendant, he himself got examined as D.W-1 and no Exhibits were marked. The trial court, in all, framed four issues, which reads as under:-

- 1) Whether the suit pronote agreement, dated 29.06.2002 is true and genuine?
- 2) Whether the suit pronote is supported by consideration?
- 3) Whether the plaintiff is entitled the suit claim?
- 4) To what relief?

4. The trial court, after having examined the oral and documentary evidence placed before it, came to the conclusion that the signature of the defendant on the pronote/ Ex.A1 and the signature of the defendant on the vakalat, Ex.A3/ Acknowledgement and the written statement were all identical and, on exercising its power under Section 73 of the Evidence Act, came to the conclusion that the signature found on Ex.A1/ pronote is that of the defendant alone. Having arrived at such conclusion, the trial court proceeded to draw a presumption under Section 118 of the Negotiable Instruments Act with regard to passing of consideration and decreed the suit in favour of the plaintiff. Aggrieved by the same, the defendant filed appeal in A.S.No.195 of 1995 on the



file of the Sub Court, Salem. The lower appellate court, having examined the matter afresh, came to the conclusion that the defendant himself admitted about the execution of the suit pronote by suggesting that the same was executed at Suramangalam Police Station under coercion. As the defendant failed to take any such plea in the written statement, the lower appellate court came to the conclusion that the evidence of the defendant that the suit pronote got executed with coercion etc., cannot be taken into consideration in the absence of any pleadings to that effect.

5. Further, the lower appellate court also took note of the fact that there was no suggestion put to P.W-1 or P.W-2 during the course of their cross-examination on the alleged forgery of the signature on Ex.A1/ pronote. The lower appellate court also took note of the fact that the defendant, having received the notice under Ex.A2 and after having acknowledged the same under Ex.A3, failed to get any reply notice issued and thus came to the conclusion that had there been any dispute about the signature on Ex.A1/ pronote, the defendant would have got issued a reply notice denying the demand made by the plaintiff under Ex.A2/ Notice. Thus, the trial court as well as the lower appellate court, having examined the facts of the case threadbare and the oral and documentary evidence placed on record, arrived at factual findings and accepted the claim made by the plaintiff. It is aggrieved by the said concurrent findings of the trial court as well as the lower appellate court, the defendant is in appeal before this



court under Section 100 of Cr.P.C by raising the following substantial questions of law:-

1) Whether the court below are correct in law in holding that the Exhibit A1 suit pronote agreement dated 30.07.2002 is a valid one?

2) Whether the courts below are correct in law in arriving at a finding that for want of reply to Exhibit A2 legal notice dated 22.07.2004 would prove that Exhibit A1 suit pronote agreement is supported by consideration?

3) Whether the courts below are correct in law in holding that Exhibit A1 suit pronote agreement dated 30.07.2002 is proved in the absence of examination of anyone of the the attesting witness?

6. This court, after having examined the matter in detail and having gone through the judgment of the trial court as well as the lower appellate court and after examining the entire evidence on record, is of the considered view that there is no substantial question of law that would arise for consideration before this court and all the questions raised as questions of law are, infact, questions of fact which this court cannot go into while exercising its jurisdiction under Section 100 of Cr.P.C. In the circumstances, this court is of the considered view that it is not a fit case for admission under Section 100 Cr.P.C, as there is no



substantial question of law that would arise in the matter.

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7. Accordingly, the second appeal is dismissed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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