

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

RSA.No. 1170 of 2013 ()

**(AGAINST THE JUDGMENT IN AS.NO. 188/2009 OF ADDL.DISTRICT COURT
(SPECIAL), KOTTAYAM DATED 20-09-2012)**

**(AGAINST THE JUDGMENT AND DECREE IN OS.NO. 214/2008 OF
ADDL.MUNSIFF COURT, KOTTAYAM DATED 07-03-2009)**

APPELLANT/APPELLANT/DEFENDANT:

**SAM KUMAR V.V., AGED 51 YEARS,
RESIDING AT PARAPPURATHU HOUSE,
AYMANAM.P.O., KOTTAYAM.**

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENT/RESPONDENT/PLAINTIFF:

**JOSE VALIYAVEEDAN, AGED 50 YEARS,
VALIYAVEETIL HOUSE, VADAVATHOOR.P.O.
KOTTAYAM-686 010.**

**THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION
ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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P.B.SURESH KUMAR, J.

R.S.A.No.1170 of 2013

Dated this the 16th day of November, 2015

JUDGMENT

The defendant in a suit for realization of money is the appellant.

2. The case of the plaintiff is that the defendant had borrowed a sum of Rs.50,000/- from him on 21.4.2006 against execution of Ext.A1 promissory note and that the defendant did not pay the amount borrowed when demanded by the plaintiff. The defendant contended that Ext.A1 promissory note is not a genuine document; that there was a chitty transaction between the plaintiff and defendant; that a few signed blank papers were entrusted by the defendant to the plaintiff in connection with the

chitty transaction and that Ext.A1 promissory note is a document created making use of the signed blank papers entrusted by the defendant to the plaintiff. The trial court accepted the case of the plaintiff and decreed the suit and the appellate court confirmed the decision of the trial court. The defendant who is aggrieved by the concurrent decisions against him has thus come up in the second appeal.

3. Heard the learned counsel for the appellant.

4. The only document produced by the defendant before the court below to substantiate his contentions is Ext.B1. Ext.B1 is a pass-book of a chitty transaction. The courts below found that there is nothing in Ext.B1 to connect the said document with the plaintiff. It is in the said circumstances, the courts below accepted the case of the plaintiff and decreed the suit. The fact that the signature contained in Ext.A1 promissory note, on the basis of which the suit was filed, is one put by the defendant is

not in dispute. It is the contention of the defendant that the same is a false document. The question whether Ext.A1 is a false document is a pure question of fact. The courts below have concurrently found, based on the materials on record, that Ext.A1 is a genuine document. In the said view of the matter, I do not find any justification to interfere with the decisions of the courts below, in exercise of my discretion under Section 100 of the Code of Civil Procedure.

The second appeal is devoid of merits and the same is accordingly dismissed. All the interlocutory applications in the appeal are closed.

P.B.SURESH KUMAR, JUDGE.

smm