

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated: 19.09.2017****Coram****WEB COPY****The HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA****S.A(MD)No.406 of 2017**

K.G.Srinivasan .. Appellant/Appellant/Plaintiff

Vs.

G.P.Parthiban .. Respondent/Respondent/Defendant

Prayer:- Second Appeal is filed under Section 100 of Civil Procedure Code against the Judgment and Decree, dated 24.06.2015 made in A.S.No.24 of 2012 on the file of the Third Additional District Court, Thanjavur at Pattukkottai, confirming the Judgment and Decree, dated 29.11.2010 made in O.S.No.22 of 2009 on the file of the Sub Court, Pattukkottai.

For Appellant : Mr.S.Deenadhayalan

JUDGMENT

The second appeal arises against the Judgment and Decree, dated 24.06.2015 passed in A.S.No.24 of 2012 on the file of the Third Additional District Court, Thanjavur, Pattukkottai, confirming the Judgment and Decree, dated 29.11.2010 passed in O.S.No.22 of 2009 on the file of the Sub Court, Pattukkottai.

2.The non-suited plaintiff, before the Courts below, has filed the above Second Appeal challenging the dismissal of his suit for recovery of money based on a promissory note, dated 18.07.2003.

3.The only question that has to be decided in the Second Appeal is whether the endorsement dated 22.04.2006 made by the defendant for having received Rs.2,000/- is valid or not?

4.Though it is admitted by the plaintiff and the defendant that the suit promissory note was executed on 18.07.2003 by receiving Rs.2,00,000/-, subsequent endorsement acknowledging payment of Rs.2,000/-, dated 22.04.2006, was denied. The suit is filed on 20.04.2009. Unless the said acknowledgment is proved to be true and valid, the suit will be barred by limitation, as the



promissory note was executed on 18.07.2003. The defendant, in fact, had admitted the execution of the promissory note though denied the passing of consideration, categorically denied the signature on the endorsement made on 22.04.2006. There appears to be a witness for the said acknowledgment, however, he has also not been examined by the plaintiff.

5.The Courts below have concurrently held that the endorsement having not been proved, which would save the limitation for filing the suit, the plaintiff has to be non-suited and accordingly, dismissed the suit.

6.As there is no reason to interfere with the concurrent findings of the Courts below and no substantial question of law arising out of the same for consideration, this Second Appeal is dismissed at the admission stage itself. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Third Additional District Judge,
Thanjavur, Pattukkottai.

2.The Sub Judge,
Pattukkottai.

COPY TO:

The record Keeper,
V.R Section, Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.S.DEENADHAYALAN, Advocate SR.No.79700

ps

MAS/JC/SAR2:09.10.2017:2P-5C

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