

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 07.08.2020  
CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

S.A.No.338 of 2010  
&MP.NOs.1&2 of 2010

M.Ramachandran

.. Appellant/ defendant

Vs.

Venkatasubburayalu

.. Respondent/Plaintiff

PRAYER: Second Appeal is filed under Section 100 of C.P.C against the judgment and decree passed in A.S.No.71 of 2009 dated 16.12.2009 on the file of the learned Principal District Judge, Villupuram with respect to awarding interest at the rate of 48% from the date of pronote to the date of suit thereby partly allowing the judgment and decree made in O.S.No.12 of 2001 dated 17.04.2009 on the file of the learned Subordinate Judge, Tindivanam.

For Appellant : Mr.D.Ravichander  
For Respondent : Mr.S.Sasi Kumar

J U D G M E N T

(The case has been heard through video conference)

This second appeal has been preferred against the concurrent finding of the Courts below regarding the liability of the appellant herein in respect of pronote executed for Rs.90,000/- with promise to repay with 48% interest p.a. for the the goods (paddy) sold by the plaintiff.

2. The plaintiff for the supply of paddy to the tune of Rs.90,000/- calculated interest of 48% and the suit laid for Rs.2,19,240/-. The Trial Court considering it as commercial transaction rejected the plea of the appellant herein/defendant that the due was only Rs.60,000/- and interest at the rate of 48% is exorbitant. Aggrieved by the judgment and decree, the appellant herein has preferred the first appeal, wherein the First Appellate Court has modified the interest portion post suit alone while accepting the claim of 48% interest (i.e Rs.2,19,240/-) from the date of pronote (06.01.98) till the date of suit. Accordingly, interest has been reduced from 48% to 9% from the date of suit till the date of recovery. Still not satisfied, the present second appeal is filed contending that the principle amount shown itself is incorrect and for the debt of Rs.90,000/- interest ought to have been calculated only at the rate of 9% from the

date of pronote.

3. After notice, the respondent has entered appearance through counsel, it is submitted across the bar that at the time of hearing the second appeal, this Court has granted interim stay on condition that the appellant to deposit the principal amount (Rs.90,000/-) along with interest at the rate of 9% from the date of pro-note till the Appellate Court judgment.

4. The learned counsel for the appellant would submit that as per the interim order dated 15.03.2010 money has been deposited calculating the interest at the rate of 9% from the date of pro-note (06.01.1998) till the date of Appellate Court judgment (16.12.2009).

5. The learned counsel for the respondent would submit that the paddy worth Rs.90,000/- was purchased by the appellant on 06.01.1998. For consideration, pronote executed by the appellant herein. He agreed to pay interest at the rate of 48% per annum. Being a commercial contract interest as per the terms of contract prevail. Though the first appellate Court has modified and reduced it to 9% interest from the date of filing the suit till the date of recovery, both the courts below have found the execution of pronote and passing of consideration proved. Therefore, there is no substantial question of law involved in this case for interference for the High Court under Section 100 C.P.C.

6. On considering the evidence, this Court finds that there is no substantial question of law involved in this appeal. However considering the nature of the transaction between the litigants and the exorbitant interest @ 48% per annum mentioned in the pro-note being usurious, on equity court is bound to interfere, since it is against the public policy. Therefore, the plaintiff will be entitled for interest at the rate of 12% from the date of pro-note till the date of suit for the principle of Rs.90,000/- i.e (from 06.01.1998 to 05.01.2001)  $\text{Rs.90,000/-} \times 12/100 \times 3 = \text{Rs.1,22,400/-}$ . From the date of suit till the date of recovery, he is entitled for interest @ 9% to the principal Rs.90,000/-. If any money deposited by the defendant/appellant, the plaintiff/respondent shall be permitted to withdraw the same without resorting to E.P. For the balance, he is at liberty to proceed against the appellant/plaintiff as per law.

7. Accordingly, the Second Appeal is disposed of . The parties shall bear their respective costs.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar

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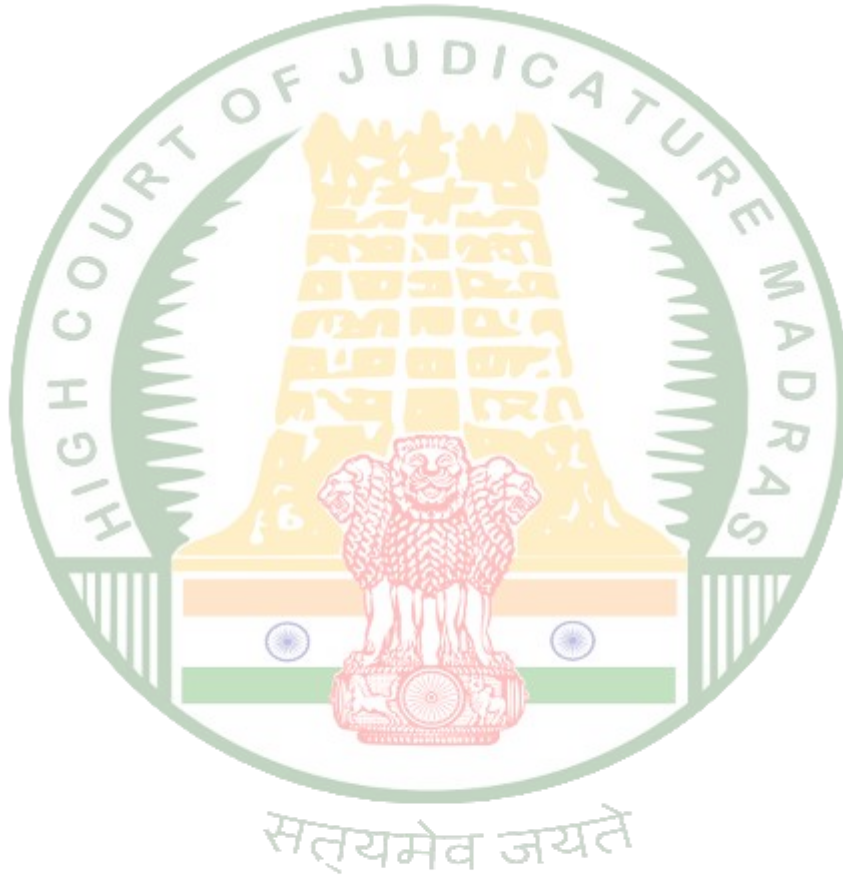
To,

1.The Principal District Judge, Villupuram.

2.The Subordinate Judge, Tindivanam.

S.A.No.338 of 2010

A.SK(02/09/2020)



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