



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 28.09.2020

Coram::

The Honourable Dr.Justice G.Jayachandran

S.A.No.544 of 2010
& M.P.No.1 of 2010

Chinnaraj,
S/o.Krishna Gounder,
No.5/A, Guruvappam Street,
Polur Town and Taluk,
Tiruvannamalai.

... Appellant/Defendant

/versus/

Arasu,
S/o.Arunachalam,
No.1, Ponnysamy Street,
111, Polur Town and Taluk.

... Respondent/Plaintiff

Prayer: Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree dated 14.12.2009, made in A.S.No.79 of 2007 on the file of the Sub Court, Arani, Tiruvannamalai District, confirming the judgment and decree dated 15.03.2006 made in O.S.No.61 of 2005, on the file of the District Munsif, Polur, Tiruvannamalai District.

For Appellant : M/s.S.Guna Seelan

For Respondent : Mr.T.R.Rajaraman

JUDGMENT

(The case has been heard through video conference)

Heard the Learned Counsel for the appellant and the Learned Counsel for the respondent.

2. This appeal is arising out of the decree passed in a money suit based on pro-note dated 17.05.2002, which is marked as Ex.A.1. The plaintiff, to prove the execution of the pro-note and receipt of loan by the defendant has examined three witnesses, who have supported the case of the plaintiff. Whereas, the defendant has taken a plea that it was a blank pro-note signed and given to one Elangovan, pursuant to the chit transaction which he had with Elangovan, who was running an unregistered Finance. Having accepted the signature found in the pro-note Ex.A.1, the burden shifted on the defendant to prove that no consideration was passed to him and it was executed in the manner he has narrated in the written statement.

3. On perusing the pleadings and the evidence, this Court finds that the defendant has examined himself as D.W.1 and there is no supporting oral evidence on his side. He has marked 6 exhibits, which are related to the transaction with Elangovan. Further, the defendant has marked the Bank Account book to show that he borrowed a sum of Rs.35,000/- from the Co-operative Housing Bank on 12.03.2002 and he discharged the loan he availed from Elangovan. The Trial Court has analysed all these evidence and found that there is no link between transaction projected by the defendant with Elangovan to that of his transaction with the brother of Arasu, who is the plaintiff herein in whose name the pro-note stands.

4. On considering the evidence and the oral submission raised by the Learned Counsel for the appellant, this Court finds that the defendant has not effectively rebutted the presumption against him through substantial evidence since having admitted the execution of the pro-note the presumption of consideration under Section 118 of Negotiable Instrument Act stands against the appellant. Having failed to effectively rebut the presumption against him, this Court finds no substantial questions of law involved to interfere.

5. Accordingly, the Second Appeal is dismissed. No costs. Consequently, Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,
Arani, Tiruvannamalai District.

2. The District Munsif, सतयमेव जयते
Polur, Tiruvannamalai District.

Copy to : The Section Officer, V.R. Section,
High Court, Madras.

+1cc to Mr.T.R.Rajaraman, Advocate SR.No.31576

AKM/15.03.21 /2P-5C/

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