



S.A.No.157 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

S.A.No.157 of 2024

E.Kannan

...Appellant

Vs

V.Dhayalan

...Respondent

Prayer: Second Appeal is filed under Section 100 of C.P.C against the judgment and decree dated 30.08.2022 in A.S.No.18 of 2021 passed by the Principal District Judge, Vellore District confirming the judgment and decree dated 05.08.2021 in O.S.No.252 of 2019 by the Special Sub Court (LAOP Cases), Principal Sub Court O.S.No.79 of 2012, Vellore.

For Appellant : Ms.R.Lakshmi Narayanan



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JUDGMENT

The defendant is the appellant before this Court challenging the judgment and decree passed by the learned Principal District Judge, Vellore in A.S.No.18 of 2021 in and by which the learned Judge has confirmed the judgment and decree passed by the Special Subordinate Judge, Special Subordinate Court (LAOP Cases), Vellore.

2. The facts which have culminated in the filing of the above second appeal are herein below set out, with the parties being referred to in the same ranking as before the trial Court.

3. The plaintiff had filed the above referred suit for recovery of a sum of Rs.1,62,520/- together with interest 12% per annum, which he would submit had been lent to the defendant. The plaintiff would submit that, as a security, the defendant had executed a promissory



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note dated 06.04.2009, promising to pay the amount on demand with interest @ 12%. However, the defendant had failed to re-pay the amount. The plaintiff had issued a legal notice on 09.08.2011 calling upon the defendant to repay the said sum. The defendant, who had received the notice, neither replied nor repaid the mount. Therefore, the plaintiff was constrained to file the suit.

4.The defendant had filed a written statement, *inter-alia*, contending that the promissory note is a forged one. However, the defendant would submit that in the course of jaggery business, he was transacting with the plaintiff. The plaintiff had obtained a signature from him in the blank promissory note. The defendant would submit that he is doing the jaggery business with the plaintiff and the plaintiff is in the habit of exploiting the agriculturists who go to sell their produce, namely, jaggery. The defendant was also in contact with the plaintiff in such a situation. However, he had stopped all his



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transactions with the plaintiff in the year 2003 itself. The defendant, being an agriculturist, is entitled to the benefits of Tamil Nadu Agriculturists Debt Relief Act. Since the suit is based on a forged pronote, the same has to be dismissed.

5. The trial Court had framed the following issues:

- 1. Whether the plaintiff is entitled to the suit claim as prayed for?*
- 2. To what other relief the plaintiff is entitled to?*

6. The plaintiff had examined himself as P.W1 and one Tr.N.Venkatesan was examined as P.W2 and marked Exs.A1 to A3. The defendant had examined himself as D.W1 and one Tr.K.M.Venkatesan was examined as D.W2. On the side of the defendant, Exs.B1 to B4 were marked.



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7. The learned Judge, on analyzing the evidence on record, found that the plaintiff, by examining P.W2, had proved the Ex.A1-Promissory note. That apart, D.W1 has himself admitted his signature in the promissory note by stating that in the course of business, the plaintiff had obtained his signature in a blank promissory note in the year 2002 and 7 years later, the same has been used to create a suit promissory note and that the suit is barred by limitation. Once signature is proved, it is for the defendant to prove that the consideration has not passed. That apart, the defendant had also scuttled the examination of the suit promissory note by an expert. Though the Court had appointed an Advocate Commissioner for the said purpose, the Advocate Commissioner returned the warrant stating that the defendant is not cooperating to execute the warrant. The learned Special Subordinate Judge had decreed the suit. Challenging the same, the defendant had filed A.S.No.18 of 2021 on the file of the



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Principal District Court, Vellore. The learned Judge had also confirmed the judgment and decree of the trial Court and dismissed the appeal. Challenging the same, the defendant is before this Court.

8. Heard the learned counsel for the appellant and perused the materials available on record.

9. The plaintiff had come to the Court with a case that the defendant had borrowed a sum of Rs.1,20,000/- and had executed a promissory note as a security. He has proved the same by examining P.W2, who has spoken about the execution of the promissory note and whose evidence has not been rebutted by the plaintiff. The defendant has come forward with the contention that in his written statement, he had stated that the promissory note had been forged and that he had not executed the same. He has submitted that he has only contact with the plaintiff in the course of doing jaggery business and he had traded with



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the plaintiff between 2002-2003. However, the defendant, in the course of evidence and arguments, has admitted the execution of the promissory note. He would state that this blank promissory note was executed by him in the year 2002 and not in the year 2009, when the promissory note is said to have been executed. He would plead limitation. However, none of these contentions have been proved by the defendant. Once the execution has been proved, the onus is on the defendant to prove that he has not received the consideration. This onus has not been discharged by the defendant. Therefore, while considering the judgment and decree of both the Courts below, it does not require any reconsideration and no substantial question of law arises for consideration in the instant appeal. Accordingly, the second appeal is dismissed. No costs.

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Index: Yes/No

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Speaking order/non-speaking order
srn

To

1. The Principal District Judge, Vellore.
2. The Special Sub Court (LAOP Cases), Principal Sub Court Vellore.
3. The Section Officer, V.R.Section, High Court, Madras.



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P.T.ASHA, J.,

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