



S.A.No.1274 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM

THE HONOURABLE MR.JUSTICE V. SIVAGNANAM

S.A.No.1274 of 2013

MP.No.1 of 2013

S.Subramani

... Appellant

Vs

V.R.K.Shanmugham

...Respondent

Prayer : Second Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree in AS.No.59 of 2010 dated 28.07.2011 on the file of the Principal District Judge, Namakkal confirming the judgment and decree in OS.No.317 of 2008 dated 02.08.2010 on the file of the Sub Judge, Rasipuram.

For Appellant	:	Mr.K.Vasuvenkat
For Respondent	:	Mr.P.Valliappan, Sr.Counsel for Mr.K.M.Hareesh

JUDGMENT

The learned counsel for the appellant vehemently argued that the appeal involved substantial questions of law and the findings of the trial Court is perverse and not appreciated by the evidence let in by the defendant. Therefore, the second appeal has to be admitted and substantial question of law has to be framed.



S.A.No.1274 of 2013

WEB COPY

2. The learned counsel for the respondent supported the judgment of the trial Court and the first appellate Court and also contended that the findings of the trial Court disbelieved on the face of the evidences. Under these circumstances, the findings cannot be deemed to be perverse and no substantial question of law involved and pleaded to dismiss the second appeal.

3. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the judgment of the Courts below and the materials available on record.

4. On perusal of the records, the facts reveal that the appellant is the defendant in OS.No.317 of 2008 on the file of the Sub Judge, Rasipuram. The respondent/plaintiff filed the suit against the appellant/defendant based on the promissory note dated 20.06.2007 executed for a sum of Rs.4,00,000/- along with interest received towards his family expenses. The appellant remains unpaid after several request and after issuing legal notice,



S.A.No.1274 of 2013

the present suit has been filed for recovery that a sum of Rs.4,88,600/- with subsequent interest.

5. In this case, the defendant had filed written statement and contested the suit on the ground that the thumb impression in the disputed promissory note/Ex.A1 was not executed by him. Further, while executing the power of deed, signatures were obtained in blank promissory note and other documents that may be used for case purpose. Based on the aforesaid pleadings, the trial Court framed the issues and considered the evidences let in by the parties and found that the execution of promissory note/Ex.A1 was proved by evidence let in by the plaintiff and evidences of PW1 to PW3 also proved the execution of Ex.A1/promissory note and observed that though the defendant pleaded some blank promissory note and blank signatures have been obtained by the plaintiff and it may be used for the purpose of the suit. The defendant has not explained and proved under what circumstances he had executed the blank promissory note and signed in the blank papers. That apart, admittedly, the general power of attorney was cancelled vide Ex.B2 dated 13.01.2004. Thereafter, the defendant had not taken any action



S.A.No.1274 of 2013

for getting back the blank promissory note and signed blank papers. The trial Court observed that though the defendant after receiving notice from the plaintiff with regard to repayment of the loan amount received by him based on the promissory note, the defendant has not issued any reply notice and not disputed the thumb impression in Ex.A1.

6. Under these circumstances, the trial Court comes to the conclusion that the execution of promissory note/Ex.A1 was proved with sufficient evidence and decreed the suit as prayed for by the plaintiff. The same was also confirmed by the first appellate Court on appreciation of evidences.

7. On perusal of judgments of the Courts below and oral and documentary evidences, I find no perversity in the findings of the trial Court, since the entire findings is based upon the evidences. Hence, there is no Substantial Questions of Law involved in this appeal.

8. The learned counsel for the appellant does not meet out the parameter laid down by the Hon'ble Supreme Court in the following decisions:-



S.A.No.1274 of 2013

1. AIR 2001 SC 965 – Santhosh Hazari v. Purusottam Tiwari (died) by Lrs.
2. AIR 2008 SC 380 – Boodireddy Chandraiah and others v. Arigela Laxmi and another.
3. AIR 2008 SC 1749 – Kashmir Singh v. Harnam Singh and another.

9. Further, on perusal of the records and the judgments of the trial Court and the first appellate Court, I find, the findings recorded by the trial Court as well as by the first appellate Court are not perverse and the view being based on evidences on record and no another view is possible. There is no substantial questions of law arisen to be decided in this appeal.

10. In the result, second appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2024

tsh
Index:Yes/No
Speaking order/Non-speaking order
Neutral Citation:Yes/No



WEB COPY



S.A.No.1274 of 2013

V. SIVAGNANAM, J.
tsh

To

1. The Principal District Judge, Namakkal.
2. The Sub Judge, Rasipuram.

S.A.No.1274 of 2013

24.04.2024.