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S.A.No.336 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

S.A.No.336 of 2024
and
C.M.P.No.10015 of 2024

S.Seshkumar

... Appellant/Defendant

Vs.

K.Jayasundari

... Respondent/Plaintiff

PRAYER: This second appeal is filed under Section 100 of C.P.C.to set aside the Judgment and Decree made in A.S.No.45 of 2022 dated 26.04.2023 on the file of III Additional District and Sessions Court, Vridhachalam in confirming the judgment and decree made in O.S.No.389 of 2014 dated 30.09.2022 passed by the Principal Subordinate Judge, Vridhachalam.

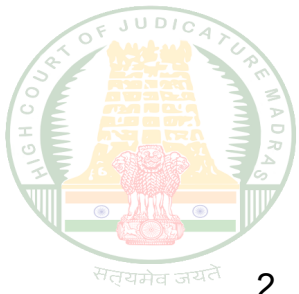
For Appellant : Ms.R.Varalakshmi

For Respondent : Mr.C.Munusamy

JUDGMENT

This second appeal has been preferred by the defendant in the suit against the Judgment and Decree dated 26.04.2023 in A.S.No.45 of 2022 passed by the IIIrd Additional District Court, Vridhachalam.

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2. The parties are indicated herein as per their litigative status and ranking before the Trial Court.

3.1. According to the plaintiff, on 08.01.2012, the defendant Sheshkumar obtained loan amount of Rs.1,00,000/- from him and he executed a promissory note on the same day in his favour promising to repay the said amount with interest at the rate of 12% p.a., on demand either to the plaintiff or to any other person on her order. Again on 12.02.2012, the defendant borrowed a sum of Rs.1,00,000/- from the plaintiff and executed another promissory note in favour of the plaintiff, agreeing to repay the said amount with interest at the rate of 12% p.a., on demand either to the plaintiff or to any other person on her order. On 26.02.2012, the defendant borrowed a sum of Rs.50,000/- from the plaintiff and executed another promissory note in favour of the plaintiff, agreeing to repay the said amount with interest at the rate of 12% p.a., on demand either to the plaintiff or to any other person on her order.

3.2. Despite repeated requests and demand made by the plaintiff, the defendant neglected to repay the amount either towards principal or interest and the plaintiff caused to issue legal notice dated 03.07.2014 to the defendant, calling upon him to repay the above said amounts with interest.



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3.3. As the said amounts were not repaid by the defendant, suit was laid by the plaintiff for recovery of money from the defendant for a sum of Rs.3,33,798/- together with interest at the rate of 12% per annum from the date of plaint.

4. The defendant *inter-alia* would contend that the defendant never borrowed any amount from the plaintiff and did not execute any promissory note in favour of the plaintiff. In fact, the defendant does not even know the plaintiff, had borrowed a sum of Rs.50,000/- from one Jothi on 04.06.2004 and Rs.20,000/- on 23.08.2004. For the said transactions, the defendant issued two signed promissory notes to the said Jothi. The plaintiff who is the sister of Jothi, forged the promissory notes and filed the suit.

5. Based on the divergent pleadings, the trial Court framed the relevant issues. At trial, to substantiate the plaint details, on the plaintiff's side, four witnesses were examined and ten documents were marked. On the defendant's side, defendant has examined himself as DW1 and no document was marked.

6. The trial Court upon consideration of oral and documentary evidence and after hearing the arguments advanced by either side, relying upon the evidence of PW1 to PW4 and Exs.A1 to A5 held that the plaintiff is entitled for



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money decree as prayed for and decreed the suit in entirety.

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7. Aggrieved, the defendant preferred appeal in A.S.No.45 of 2022 before the IIIrd Additional District Court, Vridhachalam. The First Appellate Court upon consideration of entire case records and after hearing the arguments advanced by either side, confirmed the judgment of the trial Court and dismissed the appeal. Aggrieved, the defendant herein has preferred this Second Appeal.

8. Plaintiff laid the suit for recovery of money based on the three promissory notes said to have been executed by the defendant on three different dates. The defendant's core defence is that he does not know the plaintiff : He knows one Tvl.Jothi who is the brother of the plaintiff and on two occasions, he received loan amount of Rs.50,000/- and Rs.20,000/- on two different dates and he issued two signed unfilled promissory notes to Joithi. The plaintiff who is the sister of Joithi has created the suit promissory notes and filed the suit.

9. It is the evidence of PW1 that one Ramachandran had come alongwith defendant, requested for loan for personal expenses. Ramachandran, Balasubramanian, and Sankar had come to her residence and a sum of Rs.1,00,000/- was received by the defendant and he executed the promissory note. Suit promissory note was scribed by Ramachandran.



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She has spoken about the execution of first promissory note and attestation made by the attestors. It is her evidence that at the first instance the defendant executed the promissory note and thereafter, the attestors, Balasubramanian and Sankar attested the 2nd promissory note.

10. Thereafter, on 26.02.2012 at the request of the defendant she gave an amount of Rs.50,000/- to the defendant and 3rd promissory note was executed at her residence by Seshkumar in the presence of Sankar and Balasubramanian. It is the evidence of PW2 - Balasubramanian that the attestors and the defendant are working in the Thermal 2, Neyveli Lignite Corporation and the defendant has signed in all the three promissory notes. In respect of 3rd promissory note alone PW2 has been cross-examined. It is the specific evidence of PW2 that the defendant received loan amount from the plaintiff on three occasions containing Rs.1000/- notes. Another witness namely PW3 - Sankar has corroborated the evidence of PW1. PW2, the scribe of the suit promissory note. Ramachandran has been examined as PW4.

11. It is the evidence of PW4 that the defendant told him to get loan from the plaintiff and in fact, he introduced the defendant to the plaintiff. Plaintiff gave loans to the defendant out of the death benefits of her husband. Apart from preparing the promissory note, PW4 has spoken about the receipt of amounts by the defendant from the plaintiff on three occasions in clear terms.



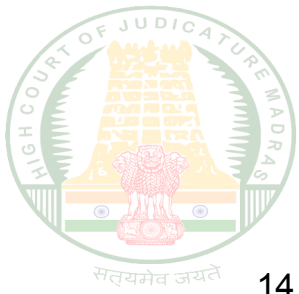
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PW2 to PW4 are working in Neyveli Lignite Corporation. Plaintiff's husband also worked in the same Corporation. At the time of advancement of loans to the defendant, her husband was no more. There is no enmity suggested between PW2 to PW4 and the defendant.

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12. Once the signature found in the promissory note is admitted by the defendant, presumption arises in favour of the plaintiff under Section 118 of Negotiable Instruments Act. It is a rebuttable presumption. The defendant may rebut the presumption through oral or documentary evidence or even through circumstantial evidence, even through the cross examination of PW1 to PW4. More so, nothing advantageous to the defendant was elicited through the cross examination of PW1 to PW4.

13. It is relevant to note that the defendant has not taken any steps either against the said Jothi (brother of plaintiff) or against the plaintiff to the effect that he only signed in unfilled promissory notes in favour of Jothi in respect of the loans obtained by him were misused by the plaintiff herein. Therefore, it has to be construed that these details are put-forth falsely by the defendant. The First Appellate Court on appreciation of oral and documentary evidence and based upon the arguments advanced by either side has rightly confirmed the judgment of the trial Court by holding that the plaintiff is entitled to recover the suit amount as prayed for.



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14. In fine, this Court does not find any good reason to upset the finding of the First Appellate Court. This Court also does not find any perversity or infirmity in the findings of the First Appellate Court. No substantial question of law arises for consideration.

15. Based on the aforestated observations and discussions, this second appeal stands dismissed. Sequel to this, the judgment and decree dated 26.04.2023 passed in A.S.No.45 of 2022 by the Illrd Additional District and Sessions Court, Virudhachalam stands confirmed. No costs. Consequently, connected miscellaneous petition stands closed.

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Internet:Yes
Index:Yes/No
Speaking/Non speaking order
ssn

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1. The III Additional District and Sessions Court,
Vridhachalam.

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2. The Principal Subordinate Judge,
Vridhachalam.

R.KALAIMATHI. J.

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