



A.S.No.613 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2025

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Appeal Suit. No.613 of 2024

1. S.Amarnath

2. A.Gowrishankari

... Appellants

-Vs-

A.K.Elamurgan

... Respondent

Prayer:- Appeal Suit filed under Section 96 of Civil Procedure Code r/w. Order 41 Rule 1 of Civil Procedure Code to set aside the Judgment and Decree dated 31.07.2023 in O.S.No.3430 of 2020 on the file of the learned IV Additional Judge, City Civil Court, Chennai.

For Appellants : Mr.M.Devaraj

For Respondent : Mr.S.Kadarkarai
Caveator

J U D G M E N T

This First Appeal has been filed by the Defendant to set aside the Judgment and Decree dated 31.07.2023 in O.S.No.3430 of 2020 passed by



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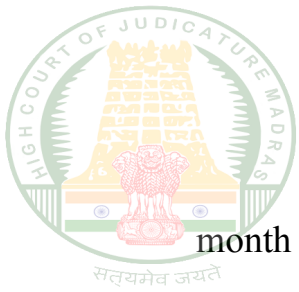
the learned IV Additional Judge, City Civil Court, Chennai.

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2. The averments found in the Plaint reads as follows:-

The Defendants had borrowed a sum of Rs.7,00,000/- from the Plaintiff on 14-08-2014 and they had executed an on-demand promissory note in favour of the Plaintiff on the same day evidencing the borrowal and promising to repay the said amount of Rs.7,00,000/- to the Plaintiff together with interest at 24% p.a. Again the Defendants had borrowed a sum of Rs.2,00,000/- from the Plaintiff on 01-02-2015 and they had executed an on-demand promissory note in favour of the Plaintiff on the same day evidencing the borrowal and promising to repay the same with an interest at 24% p.a. Subsequently, the Defendants had borrowed a further sum of Rs.4,00,000/- from the Plaintiff on 04-02-2015 and the Defendants had executed an on-demand promissory note in favour of the Plaintiff on the same day evidencing the borrowal and promising to repay the said amount with interest at 24% p.a.

3. The Defendants had to pay interest of Rs.14,000/- per month for the promissory note dated 14-08-2015, Rs.4,000/- per month towards interest for the promissory note dated 01-02-2015, and Rs.8,000/- per



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month for the promissory note dated 04-02-2015. The Defendants used to

pay interest in respect of the above said 3 promissory notes by way of single joint payment and asked the Plaintiff to appropriate the interest towards three promissory notes. The Defendants used to pay the interest to the Plaintiff in bits and parcels and the Defendants had totally paid a sum of Rs.6,31,250/- to the Plaintiff towards part interest towards the said 3 promissory notes. The Defendants had paid a sum of Rs.20,000/- to the Plaintiff towards part interest on 28-05-2019. Subsequently, the Defendants started to evade payment of interest and hence the Plaintiff called upon them to repay the principal amounts in respect of the above said 3 promissory notes along with the pending interest dues. However, the Defendants failed to repay the amounts.

4. Hence the Plaintiff issued a legal notice to the Defendants on 25-12-2019 calling upon them to jointly and severally pay to him the sum of Rs.13,00,000/- towards principal amount in respect of the said 3 promissory notes and a sum of Rs.11,94,750/- towards interest and in all Rs.24,94,750/-. Though the Defendants had received the said notice, they neither sent any reply nor paid the amounts due to the Plaintiff. In spite of several demands and requests, the Defendants had failed and neglected to



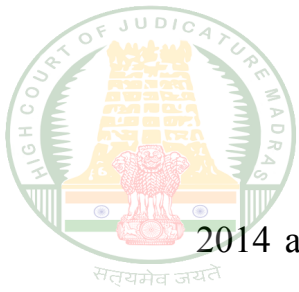
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repay the loan amount to the Plaintiff. As on date the Defendants are jointly and severally liable to pay the Plaintiff a sum of Rs.13,00,000/- towards the principal amount in respect of the promissory notes dated 14-08-2014, 01-02-2015, 04-02-2015 and a sum of Rs.14,28,750/- towards interest and in total Rs.27,28,750/- in respect of the said 3 promissory notes. Therefore, the Plaintiff is entitled to recover from the Defendants the amount under the said 3 promissory notes with future interest at the rate of 24% per annum on the principal amount and hence he prays for decreeing the Suit.

5. The averments found in the written statement filed by both the Defendants are as follows:-

The averments found in the Plaint are denied specifically except those that are specifically admitted. The Suit is neither maintainable in law nor on facts, nor is there in any cause of action to maintain the Suit. The promissory note is dated 04-02-2015 and any claim based on the same ought to have been filed within 3 years from the said date and this Suit having been filed much after the same is barred by limitation and the same is liable to be dismissed. Without prejudice to the above submission, these Defendants submit that a sum of Rs.2,00,000/- was borrowed on 31-06-



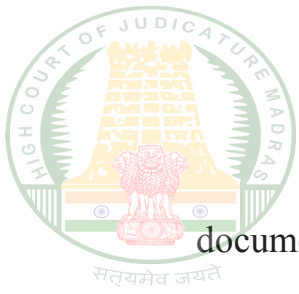
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2014 agreeing to pay a monthly interest of 3 percent on the same. After deducting the interest the remaining amount was paid to the Defendants.

The Defendants had executed blank promissory note for the said amount. Likewise a sum of Rs.4,00,000/- was borrowed on 14-08-2014 with the same terms and conditions. The Defendants had executed a promissory note without mentioning the date and amount. The Defendants had repaid a sum of Rs.18,000/- every month from September 2014 onwards. Prior to that the Defendants had paid interest of Rs.6,000/- for two months for the sum of Rs.2,00,000/- borrowed on 31-06-2014.

6. The Defendants had borrowed a sum of Rs.4,00,000/- on 04.02.2015 and as on the said date the total amount borrowed was Rs.10,00,000/- from the Plaintiff. The Defendants have been paying Rs.30,000/- every month from March 2015 onwards to the Plaintiff. Some of the repayments were made through cash and the rest of them were paid through Bank transfer to the Plaintiff's account or to the account of his wife or to the account of Mrs.Rajalakshmi as directed by the Plaintiff. The Defendants have paid Rs 14,07,000/- to the Plaintiff either by cash or by Bank transfer. As on date, there is no due payable to the Plaintiff. The entire amount has been paid and the Plaintiffs without returning the



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documents executed in blank, have filled them and used the same for filing this Suit, claiming false amount and also charging false interest.

7. It is specifically denied that a sum of Rs.7,00,000/-was borrowed on 14-08-2015. By manipulating the documents the said averment has been made. No amount as alleged in para 3 of the Plaint was borrowed on 01-02-2015. With the help of the blank documents, the same is also fabricated. The averment made in Para 5 that the interest of Rs.14,000/-, Rs.4,000/- and Rs.8,000/- were paid is specifically denied. As per tabulation a sum of Rs.30,000/- being 3% interest on Rs.10,00,000/- has been paid. The Plaintiff had charged exorbitant interest which he is not legally entitled to and hence the claim of the Plaintiff is unsustainable. Further the averment that only a sum of Rs.6,31,250/-has been paid is specifically denied. In fact a total sum of Rs. 14,07,000/- was paid which includes the principal as well as the interest and as such entire amount of Rs.10,00,000/- which was borrowed from the Plaintiff was repaid.

8. The Plaintiff with the blank documents wanted to extract more money and gave a Police Complaint alleging as if the Defendants had cheated the Plaintiff. The Police had conducted the enquiry and after



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coming to know the fact that the Plaintiff had charged exorbitant interest and that the entire amount had been repaid to the Plaintiff, the Police Authorities have closed the case. Further, the averment that the principal sum of Rs.13,00,000/- is due and a sum of Rs.11,94,750/- towards interest is due, is specifically denied. No amount is due and payable to the Plaintiff in respect of the loan availed by the Defendants. The statement of the payment is mentioned below which would clearly show that the entire amount has been paid and hence they prayed for dismissal of the Suit with cost of the Defendants.

9. The Issues framed in this case reads as follows:-

“1. Whether the Plaintiff is entitled to get a money decree for a sum of Rs.27,28,750/-against the Defendants or not?

2. Whether the Plaintiff is entitled to get 24% interest for the principal amount of Rs.13,00,000/- from the date of Plaint or not?

3. Whether the entire amount with interest was repaid to the Plaintiff by the Defendants or not?

4. Whether the Suit is barred by Limitation or not?

5. Whether the claim of the Plaintiff was made through falsely created promissory notes or not?

6. What are the other reliefs available to the parties?”

10. On the side the Plaintiff, Plaintiff was examined as P.W-1 and one Ravichandran was examined as P.W-2 and Ex.A-1 to Ex.A-5 were



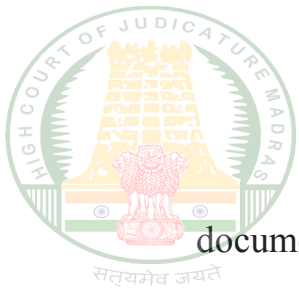
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marked. On the side of the Defendants, the 1st Defendant was examined as D.W-1 and Ex.B-1 alone was marked.

11. On assessment of evidence, the learned IV Additional Judge, City Civil Court, Chennai by Judgment dated 31.07.2023 had decreed the Suit by answering issues in favour of the Plaintiff. Aggrieved, the Defendants before the learned IV Additional Judge, City Civil Court, Chennai had preferred this Appeal.

12. The learned Counsel for the Appellants submitted that the Appeal is filed by the Defendant against the Judgment and Decree passed by the learned IV Additional Judge, City Civil Court, Chennai in O.S.No.3430 of 2020 dated 31.07.2023 decreeing the Suit for Rs.13,00,000/- with interest at the rate of 12% per annum till the date of Decree and subsequently at 6% till the date of realization.

13. The Suit is filed based on the alleged promissory note executed Ex.A-1 to Ex.A-3 dated 14.08.2014, 01.02.2015 and 04.03.2015. All the 3 documents are not promissory notes as defined under Section 4 of the Negotiable Instruments Act. Hence, the trial Court treating the said

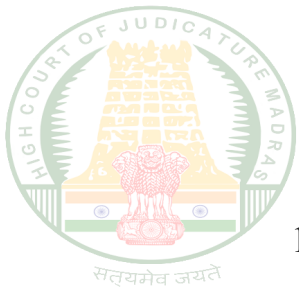


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documents as promissory notes is erroneous and as such the Decree passed is unsustainable. Hence, the mere admission of the signatures in the said documents is of no consequence. Further, the bare reading of the documents show that the same has been fabricated. The perusal of the document would show that the print out has been taken in the blank signed stamped papers which is evident from the fact that the witnesses have signed the signatures of the Appellants.

14. The learned Counsel for the Appellants submitted that the Plaintiff/Respondent had failed to prove the Ex.A-1 to Ex.A-3 in the manner known to law, where in the same is an agreement which will have to be executed in the presence of the witnesses. Further, P.W-2 who has been examined had deposed that he was employed in the Railway and had to attend the duty from morning to evening. However, the alleged time of the execution of the document is the time during which the P.W-2 was on duty. This would clearly establish the fact that the entire documents are fabricated. Hence, the Decree passed on the fabricated documents is liable to be set aside.



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15. The learned Counsel for the Appellants further submitted that

without prejudice to the above contention, the Suit is barred by limitation.

The fact is that the alleged documents are dated 14.08.2014, 01.02.2015 and 04.02.2015 and the period of limitation expires on 13.08.2017, 31.01.2018 and 03.02.2018. The Suit has been filed on 13.10.2020 which is beyond the period of limitation. Therefore, he prays to allow the Appeal and set aside the Judgment and Decree passed by the trial Court in O.S.No.3430 of 2024 dated 31.07.2024.

16. The learned Counsel for the Respondent submitted that though the Defendants accepted borrowing of money from the Plaintiff, they disputed about the total amount claimed by the Plaintiff. To support the claim in the Plaint, the Plaintiff had examined two witnesses, one was the Plaintiff himself and the other one G.Ravichandran, who happened to be one of the attesting witnesses, in all the three promissory notes. A total number of five Exhibits viz., Ex.A-1 to Ex.A-5 were filed. Ex.A-1 to Ex.A-3 are the original promissory notes, Ex.A-4 is the legal notice with the acknowledgment cards and Ex.A-5 is the Plaintiff's Bank Account Statement for the period from 01.01.2015 to 31.03.2018. To contest the claim of the Plaintiff, the Defendants have chosen to examine the first



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Defendant himself as D.W-1 and filed only one Exhibit viz., Ex.B-1-ICICI Bank statement of the first Defendant. No other witness or document has been filed by the Defendants.

17. The learned Counsel for the Respondent submitted that on a detailed and careful scrutiny of the evidence adduced by the parties, the trial Court decreed the Suit on the following findings:-

(i) To support the payment of Rs.13,00,000/- received by the Defendants on three promissory notes of different dates, the trial Court has found that “Ex.A-1 to Ex.A-4 were marked through P.W-1, P.W-2 claims to be an attesting witness has affirmatively answered in support of the Plaintiff even during his cross-examination.”

(ii) alleged that the Defendants have executed only blank promissory notes, which have been filled up by the Plaintiff on his own.

18. According to the Defendants, they have received only a total sum of Rs.10,00,000/- on three occasions, viz., on 31.06.2014, Rs.2,00,000/- at the rate of 3% interest; on 14.08.2014, Rs.4,00,000/- and on 04.02.2014, Rs.4,00,000/- as detailed below and not Rs.13,00,000/- as alleged by the Plaintiff.



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20. The learned Counsel for the Respondent invited the attention of this Court to the Defendants in the course of cross-examination stated that they had signed in blank white papers and the same were filled up subsequently and the Plaintiff obtained his signature. The Court rejected



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this on the ground that “ the evidence adduced by P.W-1 and P.W-2 have

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not been shaken by the cross-examination done by the learned Counsel appearing for the Defendants in any manner known to law”. The trial Court has clearly noted that “the evidence particularly the cross-examination adduced by the first Defendant as D.W-1 itself are more than sufficient to prove the case of the Plaintiff. D.W-1 has categorically admitted the borrowal of monies from the Plaintiff on three occasions and the execution of promissory notes by himself and his wife. He has also admitted the signatures of himself and his wife found in Ex.A-1 to Ex.A-3 in a definite manner during the cross-examination.”

21. As regards the legal presumption of the execution and its binding nature of the promissory notes, the trial Court has clearly observed that “when the Defendants had admitted their signatures found in Ex.A-1 to Ex.A-3, it shall be presumed that the Defendants had put their signatures only after knowing the contents or recitals found in those documents. Even if the Defendants had claimed that they had put their signatures in the blank promissory notes and the Plaintiff alone had filled the contents in it, then it shall be presumed that the Defendants alone had permitted or authorized the Plaintiff to fill up the promissory notes signed by them. The



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Court also upheld that “When the Defendants had admitted their signatures found in all those promissory notes, it shall be presumed that they had issued or drawn the said negotiable instruments only for valuable consideration mentioned in those documents, as per Section 118 of the Negotiable Instruments Act.”

22. As regards the claim of the Defendants that they had received Rs.2,00,000/- on 31.06.2014 both in their written statement, as well as in their proof affidavit, the trial Court negatived the said submission on the main ground that the month of June does not contain the last dated 31st, and held that “ the claim of the Defendants in this regard might be a false one. The Defendants have not produced any documentary evidence to prove the other two borrowals said to have been made by them from the Plaintiff on the dates mentioned by them.”

23. The learned Counsel for the Respondent further submitted by examining himself as P.W-1 and also P.W-2 being the attesting witness to the Suit promissory notes that without any contra corroboration of evidence, as to the defence of the blank promissory notes, the trial Court held that the Plaintiff has proved his case about the borrowing of total sum



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of Rs.13,00,000/- on three different dates by the Defendants. As regards

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the defence levelled by the Defendants that the Suit claim is barred by law of limitation, the trial Court, taking cognizance of the admission of the Defendant, in his cross-examination and also of the statement of accounts filed by the Defendants, whereby they clearly admitted to have paid the last amount of Rs.20,000/- only on 03.08.2019. Accordingly, the trial Court had correctly rejected the claim of the Defendant and held that this Suit had been filed within the period of law of limitation.

24. As regards, the claim of the Defendants that they have paid the monies through Bank transfer to the account of the Plaintiff and his wife/Vasanthi and also one Rajalakshmi, the Plaintiff had disputed the same and clearly objected that the said Rajalakshmi was a stranger and the Plaintiffs have not authorized the Defendants to pay the amounts through the said Rajalakshmi. In order to rebut this denial, the Defendants have absolutely not produced any supporting evidence. Nor the Defendants have taken any lawful steps to examine the said Rajalakshmi, as a witness to prove their case. On this ground, the trial Court has clearly held that “the said amount said to have been credited into the account of the said Rajalakshmi cannot be given credit to the account of the Plaintiff”.



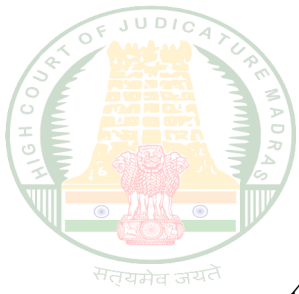
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26. The learned Counsel for the Respondent relied on the ruling of the Division Bench of this Court reported in **2024 (5) CTC 580 (R.Venkatesan @ Venkatesh Vs. Jitesh Kumar Jain)** in which the Court has held that it was for the party who defends that the pro-note was signed on the blank paper without any supporting consideration, to prove his case. Therefore, he seeks to dismiss this Appeal.

Point for Determination:-

- (i) Whether the Suit claim is barred by limitation?***
- (ii) Whether Ex.A-1 to Ex.A-3 are promissory notes?***
- (iii) Whether the Defendants discharged the burden?***



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(iv) *Whether the Judgment of the learned IV Additional Judge, City Civil Court, Chennai is perverse warranting interference by this Court?*

27. Heard the learned Counsel for the Appellants and the learned Counsel for the Respondent.

28. Perused the evidence of P.W-1 and P.W-2 and the documents under Ex.A-1 to Ex.A-5 and the evidence of D.W-1 and the document under Ex.D-1 and the Judgment of the learned IV Additional Judge, City Civil Court, Chennai.

29. On perusal of Ex.A-1 to Ex.A-3, it is found that in the promissory note under Ex.A-1 dated 14.08.2014, it is stated that he undertakes to repay the amount within four years with 2% interest. It is the contention of the learned Counsel for the Appellants/Defendants before the trial Court that the documents marked as Ex.A-1 to Ex.A-3 are not promissory notes as per the definition of promissory note.

30. When the Plaintiff advanced the loan, he obtained signatures of the Defendants 1 and 2, who are husband and wife, on a blank sheet of



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paper, which was subsequently filled in. Therefore, it is contended that it is

not a promissory note. The wordings are cleverly drafted as if it is an

acknowledgment of debt and not a promissory note. Therefore, the learned

trial Judge while assessing evidence and treating the documents marked as

Ex.A-1 to Ex.A-3 as promissory notes thereby invoking the presumption

under Section 118 of the Negotiable Instruments Act, will not hold good.

If it is a promissory note, it is barred by limitation. The promissory note

shall not contain any specified time. It shall contain the words on-demand.

The person who borrows money undertakes to repay the borrowed amount

with interest, the moment it is time specified, it is not a promissory note.

Ex.A-1 dated 14.08.2014 for Rs.7,00,000/-, Ex.A-2 dated 01.02.2015 for

Rs.2,00,000/-, and Ex.A-3 dated 04.02.2015 for Rs.4,00,000/- were

executed by the Defendants 1 and 2 in favour of the Plaintiff undertaking

to repay the amounts within four years. Therefore, it is the contention of

the learned Counsel for the Appellants (Defendants before the trial Court)

that it is not a promissory note, rather it is an acknowledgment of debt and

therefore, it cannot be treated as a Negotiable Instrument and the

presumption under Section 118 of the Negotiable Instruments Act is not

applicable to the documents marked as Ex.A-1 to Ex.A-3. As per the

commentary of Bhashyam & Adiga's The Negotiable Instruments Act, 16th



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Edition, by Bharath Law House, New Delhi, under Section 4 of the
Negotiable Instruments Act, it is not a promissory note. Section 4 of the

Negotiable Instruments Act is extracted hereunder:-

CHAPTER II - Of notes, bills and cheques

4. "Promissory note". -A "promissory note" is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker to pay a certain sum of money only to, or to the order of a, certain person, or to the bearer of the instrument.

Illustrations

A signs instruments in the following terms:-

(a) *"I promise to pay B or order Rs. 500."*

(b) *"I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand, for value received."*

(c) *"Mr B, IOU Rs. 1,000."*

(d) *"I promise to pay B Rs. 500 and all other sums which shall be due to him."*

(e) *"I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."*

"I promise to pay B Rs. 500 seven days after my marriage with C."

(g) *"I promise to pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum."*

(h) *"I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next."*



The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and (h) are not promissory notes.

2. Essential requisites of a promissory note:-

No particular form of words is necessary to constitute a promissory note. A promissory note may be in the form of a letter or any other form of words which fulfils the requirement of this section and from which the intention to make a note appears. In order to fulfil the definition, the given document must conform to the following requirements:-

- (i) it must be in writing and signed by the maker.*
- (ii) it must contain an unconditional promise to pay a sum certain in money only, and nothing more.*
- (iii) it must be payable on demand or at a fixed or determinable future time.*
- (iv) It must be payable to, or to the order of a specified person or to the bearer.”*

At the same time, it is a negotiable instrument. There is evidence that the Defendants had received money as per the undertaking given under Ex.A-1 to Ex.A-3 promising to repay the amount within four years. Therefore, the claim made by the Defendants in the written statement that the Suit claim is barred cannot be pressed into service. From 2014, for four years Ex.A-1 to Ex.A-3 had been executed. Therefore, within four years by the conduct of the parties, the Defendants ought to have repaid the amount. After four years, when the Defendants had not paid either the interest or the principal, the Plaintiff had instituted the Suit. Therefore, from 2018, within three



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years, the Suit is to be instituted. Therefore, the Suit is not barred by limitation from the date of execution of the documents. The point for determination-1 is answered against the Defendants and in favour of the Plaintiff. The Defendants had marked Ex.B-1, the statement of accounts of Defendants. The claim made by the Plaintiff that the Suit is within time is found acceptable.

31. When the Defendants claim that the Defendants had paid the entire amount and discharged the loan, the burden is upon the Defendants to prove the claim. The Defendants had marked Ex.B-1 which is the statement of accounts of the first Defendant in ICICI Bank regarding the first Defendant/Amarnath's transaction from 01.07.2014 to 31.03.2015 which is not reflected as per the written submissions filed by him. It is for the Defendants to prove the same by summoning documents from the Karur Vysya Bank regarding the accounts in the name of the wife of the Plaintiff/Vasanthi, Account No.1263155000122331. Similarly, furnishing a list of Bank statements by the Defendants does not amount to discharging the burden of proof to the satisfaction of the Court. Therefore, the burden shifts on the Defendants. Therefore, the learned IV Additional Judge had rightly cast the burden on the Defendants to prove the claim of discharge



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and arrived at a conclusion that the Defendants had not discharged a burden. In his cross-examination, the Defendant was confronted regarding the claim made in the written statement that he had paid Rs.3,40,000/- to the account of Rajalakshmi. Also, he had admitted in his cross-examination that on 03.08.2019, he had paid Rs.20,000/- to the Plaintiff/Elamurugan. Therefore, based on the admission made by the Defendants, the learned Judge had decreed the Suit.

32. It is the definite case of the Defendants that they had discharged the burden by paying Rs.14,07,000/- as per the statement furnished in the Appeal, but they had not summoned the Bank Officials concerned in which they had paid periodically a sum of Rs.14,07,000/- and for the cash paid to a sum of Rs.3,40,000/-, they had not obtained any acknowledgment or receipt from the Plaintiff. Therefore, the claim made by the Defendants in the written statement that the amount had been discharged had not been proved. Therefore, on proper appreciation of evidence, the learned Judge had decreed the Suit. Therefore, the finding of the learned IV Additional Judge granting decree in favour of the Plaintiff cannot be faulted. It is a well-reasoned Judgment that does not warrant interference by this Court. Therefore, the Point for Determinations (iv) is answered in favour of the



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Plaintiff/Respondent and against the Defendants/Appellants.

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33. On perusal of documents, the claim made by the Defendants that the documents were a typewritten copy, prepared after obtaining signatures on blank sheet of papers cannot be accepted. It was found that it was properly typed. The claim made by the Appellants as Defendants that the attesting witness had not seen the Defendants affixing their signatures in Ex.A-1 to Ex.A-3 as he is an Official working in the Railways and therefore, not expected to be at home on the alleged date and time for the affixing signature in the document under Ex.A-1 and Ex.B-1, are found unacceptable. It is the evidence of P.W-2 that he is a neighbour of the Plaintiff and therefore, he was requested to remain as a witness by the Plaintiff. The objection by the learned Counsel for the Defendants that no summons were served and that he was examined as a witness on oral request by the Plaintiff does not make his evidence inadmissible. It is a clear fact that P.W-2 is a neighbour residing next door to the residence of the Plaintiff as per the evidence of the Plaintiff as well as the witness/P.W-2. Therefore, the evidence of P.W-2 cannot be treated as inadmissible on the objections raised by the Defendants. P.W-2 had withstood in cross-examination, he clearly stated that he was not aware of any other dealings



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other than this transaction. Since he happens to be the witness in all the documents marked as Ex.A-1 to Ex.A-3, he need not be rejected as a stock witness. A person who is residing next door to the Plaintiff was requested by the Plaintiff to remain as a witness for the transaction and he had accordingly, deposed the evidence regarding the transaction. It is found cogent and nothing is found unusual and accordingly, evidence supports the claim of the Plaintiff regarding the grant of loan, regarding execution of promissory notes under Ex.A-1 to Ex.A-3. While the Plaintiff claim these to be promissory notes, the Defendants contend that they are promissory notes as the wordings are different from a typed document.

34. The claim made by the Defendants as Appellants that Ex.A-1 to Ex.A-3 are not promissory notes is accepted. Still, it is a document as proof of acknowledgment of loan. Therefore, the documents can be pressed into service by the Plaintiffs. The contention that the learned IV Additional Judge erroneously exercised presumption under Section 118 of the Negotiable Instruments Act and thereby decreed the Suit, cannot be accepted. Since the Defendants claimed discharge, and also contended that the Plaintiffs claim is barred by limitation, the learned Judge had exercised his discretion under the principles of fairness, equity, and good conscience.



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Regarding the money claim, the period is three years from the date of expiry of the period mentioned in the documents. Since the documents were executed in 2014 which stipulated repayment within four years and the Defendants did not discharge the debt, the Plaintiff instituted a Suit in 2020, it is found within limitation. Therefore, the point for determination-1 is answered in favour of the Plaintiff, holding that the Suit is not barred by limitation.

35. The Point for Determination-2 is answered that Ex.A-1 to Ex.A-3 are not promissory notes. Still, they are instruments executed by the Defendants acknowledging the debt. Therefore, they are valid documents.

36. The Point for Determination-3 is answered that the Plaintiff had proved his case through Ex.A-1 to Ex.A-3. Therefore, the burden is upon the Defendant. He had not discharged the burden cast upon him that he had discharged the burden as per the claim made by the Defendants in the written statement.

37. In the light of the above discussions, the Point for Determination-4 is answered that the learned IV Additional Judge, City



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Civil Court, Chennai had decreed the Suit in favour of the Plaintiff and against the Defendants and the same cannot be faulted. It is a well-reasoned Judgment that does not warrant interference by this Court.

In the result, this *First Appeal is dismissed with costs.* The Judgment and Decree dated 31.07.2023 in O.S.No.3430 of 2020 passed by the learned IV Additional Judge, City Civil Court, Chennai is confirmed.

03.06.2025

dh

Index : Yes/No

Speaking/Non-speaking order

To

1. The Additional Judge – IV,
City Civil Court, Chennai.

2. The Section Officer,
V.R.Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J.,

dh

Pre-delivery Judgment made in
A.S.No.613 of 2024



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