



WEB COPY



SA No. 628 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

SA No. 628 of 2024

and

CMP.No.19925 of 2024

N.Rajeshwari
W/o.Late Muthuraja, Sozhiambakkam
Village, Gummidipoondi Panchayat
Union, Thiruvallur District 601 201

Appellant(s)

Vs

1. G.Santhanam
S/o.R.Gopalakrishnan No.72-B, First
Floor, 1st Main Cross Street,
Vagiravelu Nagar, Kolathur, Chennai
600 099

2.M.Saravanan
S/o.Lates Muthuraja

3.S.Ponnammal
W/o.Sankaralingam

Respondent(s)



SA No. 628 of 2024

PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, to set aside the Judgment and decree of the XXII Additional city Civil court at Allikulam, Chennai in AS No.45/2021 dt. 06.01.2024 and confirming Judgment and decree in OS No.4651/2010 dt. 25.11.2019 on the file of VII Assistant City Civil Court, Chennai.

For Appellant(s): M.Tamizavel

For Respondent(s): Mr.G.B.Rajesh For
Mr.L.K.Manjunath For R1

JUDGMENT

The appellant has filed this appeal to set aside the Judgment and decree of the XXII Additional city Civil court at Allikulam, Chennai in AS No.45/2021 dated 06.01.2024 and confirming Judgment and decree in OS No.4651/2010 dated 25.11.2019 on the file of VII Assistant City Civil Court, Chennai.

2. For the purpose of convenience, the parties herein are referred to as they were ranked in the suit.

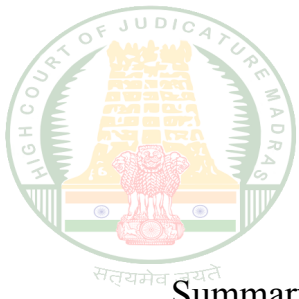


SA No. 628 of 2024

WEB COPY

3. Challenging the concurrent findings of the courts below, the 2nd defendant preferred this appeal. Before the trial court, the first respondent/plaintiff filed a suit for money claim based on a promissory note dated 20.03.2007. The plaintiff contended that he and the original defendant, Muthuraja, were known to each other, and for urgent needs, the defendant borrowed a sum of Rs.60,000/-. He agreed to repay the amount at the rate of 24% interest and executed a promissory note but failed to pay both the interest and the principal amount. A legal notice was issued on 16.03.2010, but the defendants failed to respond and did not repay the amount. Hence, the suit was filed.

4. Pending the suit, the original defendant, Muthuraja, passed away. His legal heirs, namely his wife, son, and mother, were impleaded as defendants D2 to D4 in O.S. No. 4651 of 2010. They contested the suit, denied the borrowal of the loan, and alleged that the promissory note was fabricated. They further claimed that no notice was served on them.



SA No. 628 of 2024

WEB COPY

Summary proceedings were initiated. No reply was given by the defendants upon issuance of notice. The suit was decreed, and against this, an appeal was preferred in A.S. No. 95 of 2011.

5. The first appellate judge, after considering the entire facts, observed that although the defendants had raised certain contentions before the court, such pleas were not included in the written statement. The trial court, therefore, decreed the suit, holding that the signature in Exhibit A1 (the promissory note) was not denied or disproved by the defendants through expert opinion. Challenging this, an appeal was filed in A.S. No. 95 of 2011. The first appellate judge analyzed the evidence on record and allowed the appeal, holding that the promissory note was time-barred and appeared to be fabricated. Challenging these findings, the present appeal has now been filed.

6. The learned counsel for the appellant argued that the first appellate judge failed to consider the evidence on record, and that the appeal was



SA No. 628 of 2024

wrongly confirmed despite the lack of rebuttal evidence from the defendant.

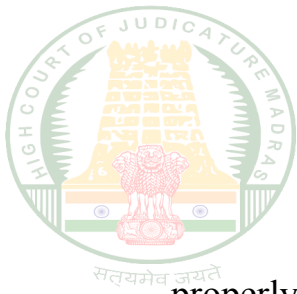
Therefore, the findings of the first appellate court should be set aside.

7. The Learned Counsel for the Appellant challenging the appeal on following grounds.

(i) Both Courts below failed to note that Ex.A1 pro-note dated 20.03.2007 is a forgery document which is not properly proved by the 1st respondent / plaintiff beyond the doubt that signature found in Ex.A1 is the signature of appellant's husband namely Muthuraja.

(ii) Both the Courts below failed to note that the suit filed by the 1st respondent / plaintiff on the basis of Ex.A1 is a time barred suit and the same is liable to be dismissed on the sole ground of limitation.

(iii) Both the Courts below erred in decreeing the suit as well as first appeal without considering the fact that the trial Court has no territorial jurisdiction to entertain the suit since the cause of action didn't arise within the jurisdiction of trial Court and the appellant being resided out of territorial jurisdiction of trial Court the 1st respondent / plaintiff has not



SA No. 628 of 2024

WEB COPY

properly proved the territorial jurisdiction of trial Court which has territorial jurisdiction to entertain the suit filed by the 1st respondent / plaintiff.

(iv) Both the Courts below failed to note that even though petition to leave to defend was dismissed by the trial Court the same was allowed on appeal filed by the appellant herein.

8. The learned counsel for the appellant further submitted the following substantial questions of law is involved:

"(a) Whether both the trial Court as well as 1st appellate Court is correct in passing the decree and judgment in favour of the 1st respondent / plaintiff on the basis of Ex.A1 pro-note dated 20.03.2007?

(b) Whether the trial Court has territorial jurisdiction to entertain the suit in O.S.No.4651 of 2010 since there is no cause of action arises for the Ex.A1 pronote dated 20.03.2007?

(c) Whether the 1st respondent/ plaintiff has proved the signature of the deceased Muthuraja in Ex.A1 with sufficient documentary evidence?".



SA No. 628 of 2024

WEB COPY

9. The learned counsel for the respondents countered that the appellant, who is the legally wedded wife of the deceased Muthuraja (original defendant), did not dispute the signature found on the promissory note. Furthermore, the original defendant did not reply to the pre-suit notice issued by the plaintiff nor took steps to defend the suit initially. Therefore, the lower courts rightly held that the plaintiff's claim was proved, and the appeal should be dismissed as no merit.

10. It is admitted that a pre-suit notice was issued by the plaintiff, but no reply was provided by the defendant. The application filed by the defendant to contest the suit was also dismissed. An appeal against this dismissal was allowed, after which the defendants contested the suit by alleging that the promissory note was fabricated. However, no steps were taken to disprove the signature found on Exhibit A1. The court concludes that no rebuttal evidence was adduced by the defendants to establish that Exhibit A1 was fabricated. Hence, the findings of the lower courts need no interference.



SA No. 628 of 2024

WEB COPY

11. As the trial court had already granted the defendants an opportunity to defend, and they failed to take adequate steps to disprove the plaintiff's claim, the findings are confirmed. Accordingly, Question of Law A is answered. Regarding Question of Law B, there is no dispute concerning the jurisdiction. On examining the written statement, no such plea was raised by the defendants. Without specific pleadings, no evidence can be admitted. Therefore, the second question of law does not arise in this case.

12. Accordingly, this appeal is dismissed as devoid of merits. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

13. At the time of admission, the appellant deposited Rs.25,000/- as a conditional amount. The total amount liable to be paid is Rs.1,75,000/-. The appellant is directed to pay the remaining amount to the 1st



SA No. 628 of 2024

WEB COPY

respondent/plaintiff within three months from the date of receipt of a copy of this order. The first respondent/plaintiff is permitted to withdraw the deposited sum of Rs.25,000/-. As of date, the first respondent is aged about 77 years. The appellant, who is working as a Head Mistress in a Government school, is directed to pay the remaining sum of Rs.1,50,000/- as a lump sum amount within three months from the date of receipt of a copy of this order. Failing compliance, the first respondent/plaintiff is at liberty to approach the Execution Court. If any amount has been attached from the salary of the appellant by order of this Court, the same shall be deducted from the balance total claim amount of Rs.1,50,000/-.

21.04.2025

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

rii

To

1. The VII Assistant Judge, City Civil Court, Chennai.
2. The XXII Additional City Civil Court, Allikulam, Chennai.
3. The Section Officer, VR Section, High Court of Madras.

9\10



WEB COPY



SA No. 628 of 2024

T.V.THAMILSELVI, J.

rri

**SA No. 628 of 2024
and
CMP.No.19925 of 2024**

21.04.2025

10\10