



S.A.No.414 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.11.2025

PRONOUNCED ON : 18.12.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

S.A. No.414 of 2014
and MP No.1 of 2014

S. Mani
S/o.Sivamurthy
No.6, Chandrasena Complex,
4th cross, Magadi road,
Bangalore – 23
Karnataka State.

...Appellant

Versus

N.R.Ravikumar
S/o.N.A.Kumar
D.No.20, S.B.Road,
V.V.Pura, Bangalore,
Karnataka State.

... Respondent

PRAYER in S.A.:

Second Appeal filed under Section 100 of the Civil Procedure Code to set aside the judgment and decree in A.S.No.50 of 2012, on the file of the Principal District Court, Krishnagiri dated 06.02.2013, confirming the judgment and decree in O.S.No.240 of 2001, on the file of the Subordinate Court, Hosur, dated 16.06.2012 and the Second Appeal be allowed with costs throughout.



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PRAYER in MP.No.1 of 2014:

To stay all further proceedings pursuant to the judgment and decree in O.S.No.240 of 2001 on the file of the Sub Court, Hosur dated 16.06.2012 confirmed by the judgment and decree in A.S.No.50 of 2012 on the file of the Principal District Judge, Krishnagiri dated 06.02.2013 pending disposal of the above Second Appeal.

APPEARANCE OF PARTIES:

For Appellant : Mr.C.Jagadish

For Respondents : Mr.V.Nicholas

JUDGMENT

Heard.

2. This Second Appeal is filed by the defendant against the judgment and decree dated 06.02.2013 in A.S. No.50 of 2012 on the file of the Principal District Court, Krishnagiri, confirming the judgment and decree dated 16.06.2012 in O.S. No.240 of 2001 on the file of the Subordinate Court, Hosur.

3. For the sake of convenience, the parties are referred to as *plaintiff* and *defendant*, as arrayed before the Trial Court.

4. Facts in brief: The plaintiff instituted the suit for recovery of a



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sum of Rs.1,69,765/- based on an “on demand” promissory note dated 25.12.1998 for Rs.1,25,000/- carrying interest at 12% per annum.

According to the plaintiff, the defendant, who was known to him, borrowed the said amount for purchase of property, family expenses, and development of family properties and executed the suit promissory note along with a consideration receipt in the presence of attesters. Despite repeated oral demands, the defendant failed to repay the amount.

5. The defendant denied the borrow and execution of the promissory note. He set up a defence that there existed a partnership between the parties and that blank signed promissory note forms and cheques were kept in the joint office for raising loans, which were allegedly misused by the plaintiff. He also referred to earlier litigation and contended that all financial transactions had already been settled.

Findings of the Courts below

6. The Trial Court framed necessary issues and decreed the suit. The defendant admitted his signature in the suit promissory note. P.W.2, a witness to the promissory note, was examined and supported the plaintiff's case. The Trial Court invoked the statutory presumption under



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Section 118 of the Negotiable Instruments Act, 1882 and held that the defendant failed to rebut the presumption of consideration.

7. The First Appellate Court confirmed the judgment and decree. It relied upon Sections 118 and 20 of the Negotiable Instruments Act, 1882 and held that even assuming the defence of blank signed promissory note, the burden was on the defendant to establish absence of consideration or misuse, which he failed to do.

8. This Second Appeal was admitted on 10.03.2020 on the following substantial questions of law:

1. Whether the Courts below were right in granting a decree for recovery of money based on the Experts opinion, more so, when the opinion of the Expert was not made part of the evidence in the suit and the Expert was not examined in support of the opinion?
2. Whether the Courts below were right in decreeing the suit despite the contradictions found in Exhibits A3 and A4?

9. It is an admitted fact that the Finger Print / Handwriting Expert's report was not marked as an exhibit and the expert was not examined. In



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spite of the same, both the Trial Court and the First Appellate Court made references to the expert opinion in their judgments.

10. Such an approach cannot be approved. An unmarked document, not forming part of the evidentiary record, cannot be relied upon for adjudication. To that extent, the Courts below were not right in referring to the expert opinion.

11. However, a careful reading of the judgments of the Courts below clearly shows that the core findings are not founded upon the expert opinion. The decree rests primarily on:

- i. the admission of signature by the defendant,
- ii. the oral evidence of P.W.2, the attesting witness, and
- iii. the statutory presumption under Section 118 of the Negotiable Instruments Act, read with Section 20 thereof.

12. Even excluding the expert opinion in entirety, the findings of the Courts below stand independently supported by legally admissible evidence. The defendant has failed to rebut the statutory presumption by acceptable evidence.



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13. Accordingly, while the reference to the unmarked expert opinion is held to be legally unsustainable, the ultimate conclusion arrived at by the Courts below does not warrant interference. The first substantial question of law is answered accordingly.

14. On a careful examination of Exhibits A3 and A4, this Court does not find any material contradiction affecting the plaintiff's case. These documents are merely ancillary in nature and do not undermine the statutory presumption available to the plaintiff under Section 118 of the Negotiable Instruments Act.

15. Exhibits A3 and A4 were marked by the plaintiff through the defendant only to ascertain the native address of the defendant. Further, Exhibit A4 contains a reference to the suit promissory note dated 25.12.1998, and no discrepancy is found in that regard.

16. It is true that a discrepancy appears relating to the promissory note dated 25.12.2000 and the date 25.04.2000 found in Exhibit A4 pertaining to O.S. No.218 of 2001, which was disposed of on the basis of an out-of-court settlement. However, such discrepancy will not, in any manner, affect the present case. Hence, this Court holds that the



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discrepancies noticed in Exhibits A3 and A4 do not affect the merits of this suit. Accordingly, the second substantial question of law is answered.

17. Though this Court has accepted the contention of the appellant that the approach of the Courts below in referring to an unmarked expert opinion is not correct in law, the decree passed by the Courts below is otherwise sustainable even in exclusion of such opinion.

18. The findings are concurrent findings of fact, based on proper appreciation of evidence and correct application of law. No perversity, misapplication of law, or substantial legal error is made out so as to warrant interference under Section 100 CPC.

19. Accordingly, the Second Appeal is **dismissed**. No costs. Consequently, connected miscellaneous petition is also closed.

18.12.2025

dpq

Index:Yes/No

Speaking Order /Non-speaking order

Neutral citation:Yes/No



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To

1. The Sub Court, Hosur
2. The learned Principal
District Judge, Krishnagiri.
3. The Section Officer,
V.R.Records, Madras High Court.



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DR. A.D. MARIA CLETE, J

dpq

Pre-Delivery Judgment in
S.A. No.414 of 2014
and MP No.1 of 2014

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