



S.A.No.47 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2025

CORAM:

THE HONOURABLE **Mrs.JUSTICE R.KALAIMATHI**

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1.A.Chitra
2.A.Ramana Priya
3.A.Raghav Subramaniam
(S/o.Late I.S.Ashok Kumar, 3rd appellant
mentally challenged Rep. by his mother
1st appellant as his guardian) ... Appellants / plaintiffs 2 to 4

vs.

B.V.Ragupathi ... Respondent / Defendant

PRAYER: This Second Appeal is filed under Section 100 of C.P.C., against the judgment and decree passed in A.S.No.22 of 2021, dated 18.02.2022 on the file of Additional District Court, Dharmapuri confirming the judgment and decree passed in O.S.No.31 of 2010 , dated 27.01.2021 on the file of the Principal Subordinate Court, Dharmapuri.

For Appellants : Mr.P.Valliappan
Senior Counsel
for M/s.P.V.Law Associates

For Respondent : Mr.V.Nithyanandam



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JUDGMENT

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The plaintiffs who lost their case before the First Appellate Court have preferred this second appeal against the Judgment and Decree dated 18.02.2022 passed in A.S.No.22 of 2021 by the Additional District Court, Dharmapuri.

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

3. According to the plaintiffs, the defendant obtained a loan amount of Rs.3,00,000/- for his family expenses from the first plaintiff on 07.10.2007 and on the same day, he executed a promissory note in favour of the first plaintiff, agreeing to repay the principal and interest. As agreed upon, the defendant neither repaid the principal nor the interest. As the defendant was protracting to repay the said loan amount, the first plaintiff caused to issue a legal notice dated 15.03.2010 to the defendant herein. On receipt of notice, the defendant sent a reply notice dated 20.03.2010 with false contents. Hence, the suit for recovery of money.



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4. Contending contra, the sole defendant would state that it is incorrect that he obtained a loan of Rs,3,00,000/- from the first plaintiff on 07.10.2007 and on the same day he executed a pronote in favour of the first plaintiff. He does not know the first plaintiff. The defendant is a retired teacher. The suit promissory note is a forged document. He obtained loan from one S.Moorthy, son of Subramani Chetti, who was working in the Karur Vysya Bank, Dharmapuri Branch and repaid the amount to him. The defendant had given blank promissory note to said Mr.S.Moorthy, which was not received back from him after the repayment was made on 05.09.2005. Under these circumstances, he would contend that he would not misuse the blank pronote. Hence, the suit is liable to be dismissed.

5. Based on the rival pleadings, the trial Court framed the relevant issues. At trial, to substantiate the plaint details, on the plaintiffs' side two witnesses were examined and five documents were marked. On the side of the defendant, one witness was examined and 47 documents were marked.



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6. Upon consideration of oral and documentary evidence and after hearing the arguments of both sides, the Trial Court has concluded that the first plaintiff has not proved that the defendant has executed a pronote – Ex.A1 in respect of the loan obtained by the defendant and chose to dismiss the suit.

7. Aggrieved, the plaintiffs preferred appeal in A.S.No.22 of 2021 before the Additional District Court, Dharmapuri. Upon perusal of the entire case records and having heard the arguments advanced by both sides, the 1st Appellate Court came to the conclusion that the evidence of P.W.1 and P.W.2 are not believable and held that the suit promissory note suffers for want of proof with regard to execution and passing of consideration and dismissed the said appeal by confirming the judgment and decree passed in O.S.No.31 of 2010 by the Subordinate Court, Dharmapuri.

8. To put it in a nutshell, the case of the plaintiff is that the defendant borrowed a sum of Rs.3,00,000/- from him on 07.10.2007 for his family expenses and executed a promissory note on the same day, agreeing to repay the said amount with interest at the rate of 12% p.a. As the



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defendant did not come forward either to repay the principal or the interest, a legal notice dated 15.03.2010 was issued, and on receipt of reply notice with incorrect particulars. Thereafter, the plaintiff laid the suit for recovery of money.

9. The defendant resisted the suit by stating that he did not execute a suit promissory note and he does not have acquaintance with the first plaintiff. He borrowed a sum of Rs.20,000/- on 14.05.2004 from his friend, one S.Moorthy, who was working as clerk at Karur Vysya Bank, Dharmapuri and he has signed four promissory notes and handed over to the said S.Moorthy. He repaid the said amount of Rs.20,000/- along with interest of Rs.10,000/-. Upon demand by him, the said promissory note was not returned by the said S.Moorthy. Hence, the plaintiff has stolen the suit promissory note from the said S.Moorthy and filed this case.

10. Though the defendant denied the execution of the said promissory note in favour of the plaintiff, he has admitted his signature found in Ex.A1 promissory note. When once the signature of the defendant in the promissory note is admitted, then the presumption arises in favour of the plaintiff, as per Section 118 of the Negotiable Instruments Act. The said presumption is rebuttable presumption. The defendant is at

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liberty to rebut presumption through direct or indirect evidence and even through circumstantial evidence.

11. The plaintiff is a retired staff of Indian Bank. From the evidence of P.W1, it appears that he knows the defendant through his brother S.Moorthy. It is the evidence of P.W.1 that a week before the date of Ex.A1 – Promissory Note, the defendant demanded loan him at the Manimalai Bus Service Office in the presence of Sadasivam, Saravanan who are working in the said Bus Service Office. It is his evidence that on 07.10.2017, he gave a sum of Rs.3,00,000/- as a loan to the defendant. When a question was posed to P.W.1 to the effect that he had obtained a blank promissory note from his brother S.Moorthy and filled it up the same, he answered in negative.

12. The above said Sadasivam has been examined as P.W.2. It is the evidence of P.W.2 that he is working as a driver in the above said bus service and he knows the plaintiff as well as the defendant. He supported the case of the plaintiffs and has deposed that the defendant received a sum of Rs.3,00,000/- from the plaintiff and for the said loan amount, he executed a promissory note and signed in the promissory note in his presence and he has attested as the second witness in the said

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promissory note. He knows the plaintiff, Ashok kumar for the past 20 years. He is a bus owner and the defendant used to come to the said Manimalai Bus Service Office. He does not know the name of the first attester and he does not know the name of the scribe. From the evidence of P.W.2, it is pellucid that the first plaintiff was running a bus service. The evidence of P.W.2 is not believable, as he has answered in negative even regarding the material particulars.

13 The defendant has examined himself as D.W1. It appears that the suit promissory note was sent to the Forensic Science Lab and report was received from the said Lab. As the plaintiff has admitted the signature found in Ex.A1 – promissory note, the expert opinion needs no attention.

14. The main defence of the defendant is that he had issued a blank promissory note to S.Moorthy, who is the brother of the first plaintiff herein. On the side of the defendant as many as 47 documents have been marked. When the first plaintiff had claimed that he knows the defendant for a long time, he does not know the address of the defendant who resides at Burgur.



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15. It is pertinent to note that the first plaintiff pleaded ignorance about the place of posting of the defendant on the date of Ex.A1 – Serious and strong doubt arises when these circumstances were true that the plaintiff lent a sum of Rs.3,00,000/- to the defendant without knowing the above said details of the defendant. On the other hand, the claim of the first plaintiff is that he lent a sum of Rs.3,00,000/- to the defendant is not at all probable, especially when he does not even know the basic particulars of a person.

16. From a careful perusal of both sides evidence, more particularly the evidence of the first plaintiff probablise the case of the defendant to the effect that the first plaintiff is not a known person to the defendant, as claimed by him. It is also relevant to note that P.W.2 who is an attestor of the suit promissory note is ignorant of several material particulars. The contradictions in the evidence of P.W.1 and P.W.2 have been elaborately analyzed and brought out by the First Appellate Court.

17. In the given circumstances, this Court is of the considered view that the defendant has suitably rebutted the presumption arose in favour of the plaintiff. Therefore, the First Appellate Court has rightly dismissed

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the appeal, which does not warrant interference by this Court. In such view of the matter, no substantial questions of law arise for consideration.

18. Based on the aforesaid observations and discussions, this Second Appeal stands dismissed. Sequel to this, the Judgment and Decree dated 18.02.2022 in A.S.No.22 of 2021 on the file of the Additional District Court, Dharmapuri stands confirmed. There is no order as to costs.

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Index : Yes/No
Speaking / Non-speaking order
Neutral Citation : Yes/No
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R.KALAIMATHI, J.,

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To

1. The Additional District Court, Dharmapuri.
2. The Principal Subordinate Court, Dharmapuri.

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