



S.A.No.677 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

S.A.No.677 of 2017
and
C.M.P.No.17528 of 2017

1.Eswaran @ Sangameswaran
2.B.C.Srinivasan

...Appellants

Vs.

1.J.P.Satchidanandam(Died)
2.Thilagavathy
3.Thangaraj
4.Rupa @ Rukumani
(R2 to R4 are brought on record as Lrs
of the deceased R1, vide Court order
dated 07.11.2024 made in C.M.P.No.1840/2022
in S.A.No.677 of 2017)

...Respondents

Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the judgment and decree dated 28.03.2017 made in A.S.No.01 of 2016 on the file of the learned Fourth Additional District Court, Erode District at Bhavani, confirming the judgment and decree dated 06.02.2015 made in O.S.No.180 of 2000 on the file of the learned Sub Court, Bhavani by



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allowing this Second Appeal before this Hon'ble Court with costs throughout and thus render justice.

For Appellants : Ms.M.Adhishree
For Mr.N.Manoharan

For Respondents : Mr.T.Danyakumar (For R2 to R4)
R1 - Died

JUDGMENT

The Second Appeal has been filed to set aside the judgment and decree dated 28.03.2017 made in A.S.No.01 of 2016 on the file of the IV Additional District Court, Erode District at Bhavani, confirming the judgment and decree dated 06.02.2015 made in O.S.No.180 of 2000 on the file of the learned Sub Court, Bhavani.

2. Heard Ms.M.Adhishree, learned counsel appearing for the appellant and Mr.T.Danyakumar, learned counsel appearing for the respondents 2 to 4.

3. The learned counsel appearing for the appellant would contend that a suit was initiated by the respondent herein seeking recovery of money on the basis of a promissory note. The suit was resisted by the appellants by contending that the suit promissory note was a promissory note executed as early as in the year 1985 for the amounts borrowed between 1982 and 1985,



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that too in favour of a third party. She would further submit that the appellants have also taken out necessary applications for sending the suit promissory note for Forensic examination. The said application was dismissed, against which originally a Civil Revision Petition was filed before this Court, in which this Court, in its order dated 07.02.2003, had directed the trial Court to follow the procedure for getting the opinion of the handwriting expert from any Government laboratory on the appellants depositing a sum of Rs.20,000/-. The appellants have also deposited the sum as directed by this Court. However, the Assistant Director of the Forensic Department had informed the Court that it would not be possible to come over in person to take photographs of the suit promissory note to execute his task and had suggested that a Commissioner could be appointed for carrying the same to their office for verification.

4. Thereafter, an application was taken out in I.A. No. 47 of 2010, for appointment of a Advocate Commissioner for that purpose. The said Interlocutory Application came to be dismissed, and as against the same, they had come to this Court in C.R.P. No. 2067 of 2010. This Court had dismissed



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the said Revision Petition. The Courts below, according to them, have not taken the claim of the appellants in its proper perspective and had proceeded to decree the suit as prayed for. She would submit that the claim of the appellants could not be substantiated in view of the orders. She would further contend that the respondent had failed to prove that the document was executed as claimed in the plaint, and the same has not been disputed. Therefore, she would seek interference of the judgment and decree of the Courts below.

5. Countering her arguments, Mr.Danya Kumar, learned counsel for the respondents 2 to 4, would contend that the appellants have not filed any appeal against the order passed by this Court in C.R.P.No.2067 of 2010, and now they cannot contend that the documents ought to have been sent for Forensic examination. He would further submit that the Courts below have found that the suit promissory note had only been executed by the appellants as claimed by the plaintiff in his plaint. He would also submit that the defendants had admitted to the signature, but have only claimed that the suit promissory note was executed much before, and therefore the suit itself



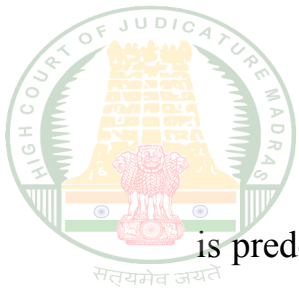
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would be hit by limitation. Even though they have attempted to send the same for Forensic examination, this Court, in its order dated 16.07.2013, had rejected their claim, against which, the appellants have not preferred any further appeal.

6. Therefore, the appellants have failed to prove that the said document was executed as claimed by them in the year 1985. He would further submit that the onus of proof to deny a document not executed at a particular date lies on the person who denies it, and not on the person who claims execution on the said date, that too in the light of the admission of the signature in the suit promissory note. Therefore, he would submit that the appeal would have to be dismissed.

7. I have considered the rival submissions made on behalf of learned counsel on either side.

8. Two substantial questions of law were sought to be framed by the appellants. The first substantial question of law, as framed by the appellants,



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is predominantly a factual one and does not involve any question of law. The

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9. As regards the second question of law, the appellants claimed that the Courts below had committed an error by fixing the onus on the appellants to disprove the existence of consideration by leading direct evidence.

10. Factually, the Courts below have found that the suit promissory note had been executed by the defendants on their admission of signature in the same. It is the defendant who had claimed to have executed the promissory note in favour of a third party, which has been misused by the appellants. When that being so, it is only the appellants who would have to prove by way of evidence, execution of such promissory note as early as in the year 1985 in favour of a third party. They have failed to examine any third party to substantiate their claim in the written statement. Further, as rightly pointed out by the learned counsel for the respondents, their efforts to substantiate their claim also ended with the dismissal of C.R.P.No.2067 of 2010, and hence this Court finds no substantial question of law for this Court



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to entertain the second appeal.

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11. In fine, the Second Appeal stands dismissed. However, there shall be no order as to costs.

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Index : Yes/No

Speaking Order/Non-Speaking order

To

- 1.The Sub Court, Bhavani.
- 2.The IV Additional District Court,
Erode District.
- 3.The Section Officer,
V.R.Section,
High Court, Madras.

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K.KUMARESH BABU, J.

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