



S.A(MD)No.470 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

**S.A(MD)No.470 of 2025
and
CMP(MD)No.16437 of 2025**

R.Thangarasu

... Appellant/Defendant

Vs.

A.K.Thirupathi

...Respondent/Plaintiff

PRAYER :- This Second Appeal is filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree passed in A.S.No.15 of 2024, dated 05.08.2025 on the file of the Principal Sub Court, Pudukottai, confirming the judgment and decree passed in O.S.No.89 of 2015, dated 15.12.2023 on the file of the Principal District Munsif Court, Pudukottai.

For Appellant : Mr.V.Karthick Raja



S.A(MD)No.470 of 2025

JUDGMENT

WEB COPY This Second Appeal is filed against the judgment and decree, dated 05.08.2025 made in A.S.No.15 of 2024 on the file of the Principal Sub Court, Pudukottai, confirming the judgment and decree, dated 15.12.2023 passed in O.S.No.89 of 2015 on the file of the Principal District Munsif Court, Pudukottai.

2. The brief facts of the case:

(1) The respondent as the plaintiff filed the suit for recovery of Rs.71,699/- with interest on the basis of promissory note for Rs.50,000/- executed by the defendant in favour of the plaintiff on 17.05.2013. In spite several requests by the respondent/plaintiff and issuance of legal notice on 16.02.2015, the appellant/defendant has not chosen to repay the loan amount. Hence, the respondent/plaintiff filed the suit.

(2) The appellant/defendant filed the detailed written statement contending that he did not know the plaintiff, he is known to the father of the plaintiff as the defendant and the father of the plaintiff worked as driver and conductor respectively in TNSTC, Pudukottai. It is the definite case of the appellant/defendant that he borrowed Rs.20,000/- from the father of the



S.A(MD)No.470 of 2025

plaintiff, at that time the father of the plaintiff obtained signature of the defendant in unfilled pronote, however, he cleared the loan, all of a sudden, the father of the plaintiff died, thereafter, by using the same, the plaintiff has filed the suit.

3. Before the trial Court, the respondent/plaintiff let in oral evidence and documentary evidence, but the appellant/defendant did not let in any evidence, either oral or documentary. After hearing both, the Trial Court decreed the suit. Aggrieved by the judgment and decree of the Trial Court, the appellant/defendant filed the civil appeal in A.S.No.15 of 2024 before the First Appellate Court/Principal Sub Court, Pudukottai. The First Appellate Court, after considering both sides arguments and both side evidence, dismissed the appeal.

4. Aggrieved by the judgment and decree of the first Appellate Court the appellant/defendant preferred this Second Appeal.

5. Heard the learned counsel for the appellant and perused the records.



S.A(MD)No.470 of 2025

WEB COPY 6. The learned counsel for the appellant/defendant has mainly argued that the appellant/defendant has obtained loan from the father of the plaintiff, at the time of lending loan, his signature was obtained in unfilled pronote by the father of the plaintiff and that the loan was cleared off, the father of the plaintiff suddenly died due to heart attack and he did not return the unfilled pronote.

7. On hearing and on perusal of the records, it is clear that the defendant was working as driver along with the father of the plaintiff, whileso, his version that he is not known to the plaintiff is untenable. The defendant admitted his signature found in Ex.A.1 - Pronote. The execution of the pronote by the defendant has been sufficiently established by the plaintiff by examining P.W.1 and P.W.2. It is a settled position that once the signature in negotiable instrument is admitted, the presumption U/s.118 of the Negotiable Instruments Act will follow. The defendant has not placed any rebuttal evidence that he signed only an unfilled pronote, which was given by him to the father of the plaintiff. The defendant has not produced any oral or documentary evidence to substantiate his case. Even the defendant has not entered into witness box to depose his case.



S.A(MD)No.470 of 2025

It is a settled position of law that if a litigant has not chosen to enter into the witness box to depose his case, an adverse inference has to be taken.

8. When the defendant is alleged to have cleared off the loan obtained from the father of the plaintiff, what prevented him to get back the unfilled signed pronote. Moreover, the defendant has not taken any steps to get back the unfilled signed pronote by issuing any notice. Therefore, when the signature found in Ex.A.1 - Promissory note is admitted by the defendant, nothing needs to be proved. The plaintiff has established presumption under Section 118 of the Negotiable Instruments Act. The Courts below correctly appreciated the evidence and correctly given findings. There is no error in the findings of the Court below. Both Courts below rendered concurrent findings.

9. It is a settled proposition of law that after giving concurrent findings given by the Courts below, as the High Court will not interfere with the concurrent findings of the Courts below, except for some exceptions, as held by the Hon'ble Supreme Court in the case of **Nazir Mohamed v. J.Kamala** reported in (2020) 19 SCC 57, held as follows:

“37.4. The general rule is, that the High



Court will not interfere with the concurrent findings of the courts below. But it is not an absolute rule. Some of the well recognized exceptions are where: (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. A decision based on no evidence, does not refer only to cases where there is a total dearth of evidence, but also refers to case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.”

10. But in this case, the concurrent findings of the Courts below do not fall in the above criteria. Both the Courts below correctly appreciated the evidence adduced on both sides and correctly came to the conclusion that the plaintiff established his case. Therefore, in such circumstances, there is no substantial question of law arises for considering in the second appeal against the concurrent findings of the Courts below. Therefore, considering the above facts and circumstances, this Court is of the opinion that this Second Appeal is liable to be dismissed in the admission stage itself.



S.A(MD)No.470 of 2025

WEB COPY 11. In the result, this Second Appeal is dismissed at the admission stage itself. The judgment and decree passed by the Courts below are confirmed. No costs. Consequently, the connected Miscellaneous Petition is closed.

13.10.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
VSD

To

- 1.The Principal Sub Court,
Pudukottai.
- 2.The Principal District Munsif Court,
Pudukottai.
- 3.The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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S.A(MD)No.470 of 2025

P.VADAMALAI, J.

VSD

ORDER MADE IN
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