



WEB COPY

SA No. 237 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

**SA No. 237 of 2026 and
CMP No.7913 of 2026**

T. Murugesan, S/o. Thimmanayakkar,
D.No.1/187, Vedachinnanoor,
Senbagaputhur Post,
Sathyamangalam Taluk,
Erode Dt.

..Appellant(s)

Vs

Baby Daisy, W/o. Sagayaraj,
D.No.8/57A, Siviypalayam,
Sathyamangalam Taluk,
Erode Dt.

..Respondent(s)

Prayer: Second Appeal filed under Section 100 of CPC to set aside the Judgement and Decree made in AS No.63 of 2024 dated 13.10.2025 on the file of the III Additional District Court, Gobichettipalayam, confirming the judgment and decree passed in OS No.223 of 2018 dated 27.06.2022 on the file of the Sub Court, Sathyamangalam.

For Appellant(s):

Mr. T.Shanmugam



JUDGMENT

The unsuccessful defendant is the appellant herein. The respondent herein/ plaintiff filed a suit for recovery of money based on two promissory notes. The suit was decreed by the Trial Court and the findings of the Trial Court was affirmed by the first appellate court. Challenging the concurrent findings of the courts below, the defendant has come before this court.

2. According to the plaintiff, the defendant received a sum of Rs.3,62,500/- from the plaintiff and executed a promissory note on 09.12.2015 in favour of the plaintiff, agreeing to repay the said amount with interest at the rate of 12% p.a. It is also the case of the plaintiff that, after six months, again the defendant borrowed a sum of Rs.1,00,000/- from the plaintiff and executed a promissory note on 07.09.2016 agreeing to repay the said amount with interest at the rate of 12% p.a. According to the plaintiff, inspite of several demands made by him, the defendant failed to pay the amount and hence, the plaintiff issued a pre suit notice on 08.06.2018 calling upon the defendant to pay the amount. Though the defendant received the said notice, he has not sent any reply. Since there was a typographical error in the said pre suit notice issued by the plaintiff, second notice was issued by her on 20.09.2019. However, the defendant failed to pay the amount as demanded by the plaintiff and hence, she filed a suit for recovery of money based on the two promissory notes.



3. The appellant/defendant filed a written statement and denied the execution of the promissory notes by raising a plea of forgery. It is also the case of the defendant that the plaintiff was not known to him and he also denied the execution of promissory notes dated 09.12.2015 and 07.09.2016, on which dates he was out of town. The defendant also stated that he borrowed amounts from one Suresh, who attested suit promissory notes and he handed over unfilled pronotes in his favour and subsequently, the amounts borrowed from Suresh were repaid. However, the promissory notes handed over to the said Suresh had been used by the plaintiff to file the present suit. On these pleadings, the defendant prayed for dismissal of the suit.

4. Before the Trial Court, the plaintiff was examined as PW1 and the attester to the promissory notes was examined as PW2 and 5 documents were marked as Ex.A1 to Ex.A5. On behalf of the defendant, he was examined as DW1 and 4 documents were marked as Ex.B1 to Ex.B4.

5. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the execution of the suit promissory notes by the defendant was properly proved by the plaintiff and decreed the suit as prayed for. Aggrieved by the same, the defendant filed an appeal in A.S.No.63 of 2024 on the file of the III Additional District Court, Gobichettypalayam, The first appellate court confirmed the findings of the Trial



Court. Challenging the concurrent findings of the courts below, the defendant has filed the present second appeal.

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6. The learned counsel for the appellant/defendant would submit that both the promissory notes were executed on the same date and therefore, passing of consideration for the first promissory note is very much doubtful. He would further submit that the suit promissory notes were not executed by the defendant in favour of the plaintiff and unfilled promissory notes handed over to one Suresh was utilised by the plaintiff for filing the present suit. The learned counsel also submitted that the plaintiff failed to prove the passing of consideration.

7. A perusal of the pleadings in the written statement would indicate that the defendant admitted the signature in the suit promissory notes. It was the specific case of the defendant that he handed over unfilled promissory notes to one Suresh, who attested the suit promissory notes and the said unfilled promissory notes have been used by the plaintiff to file the present. Therefore, the defendant admitted his signature in the suit promissory notes. As far as the execution is concerned, the plaintiff examined herself as PW1 and the attester to the suit promissory notes was also examined as PW2. Based on the evidence of PW1 and PW2, the due execution has been properly proved. More over, before filing of the suit, the plaintiff issued pre suit notice calling upon the defendant to



repay the amount due under suit promissory notes, however, the defendant failed to give any reply to the said notice pre suit notice. If the contention of the defendant that he had not executed any promissory note in favour of the plaintiff was true, certainly, he would have issued reply to the pre suit notice, denying the averments contained in the said notice. Failure to give reply to the pre suit notice creates serious doubt with regard to the defense raised by the defendant. Taking into consideration of all these facts, the Trial Court as well as the first appellate court came to the conclusion that the execution of the suit promissory notes by the plaintiff were properly proved. Once the execution is proved, automatically, the plaintiff is entitled to the presumption of passing consideration under Section 118 of Negotiable Instruments Act. The defendant failed to produce any contra evidence to rebut the statutory presumption under Section 118 of Negotiable Instruments Act. Therefore, both the courts below decreed the suit.

8. The conclusion reached by the courts below are based on proper appreciation of evidence available on record and the same are not vitiated by any perversity. Therefore, this court is not inclined to interfere with the findings of the courts below, as no substantial question of law is arising for consideration.



9. Accordingly, this second appeal is dismissed, affirming the findings of the courts below. There shall be no order as to costs. Connected miscellaneous petition is closed.

26-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MST

To

1. The III Additional District Judge, Gobichettypalayam.

2. The Sub Judge, Sathyamangalam.



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S.SOUNTHAR, J.

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