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S.A.No.193 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.193 of 2021

Renganathan

... Appellant

vs.

1.Sekar

2.Latha

... Respondents

PRAYER: Second Appeal is filed under Section 100 of the Code of Civil Procedure, to set aside the Judgement and Decree dated 22.10.2019 made in A.S.No.40 of 2018 on the file of the learned Additional District and Sessions Judge, Ariyalur, reversing the Judgment and Decree dated 24.09.2018 made in O.S.No.158 of 2017 on the file of the Subordinate Judge, Jayankondam.

For Appellant : Mr.D.Kumaralingam

For Respondents : Mr.R.Venkatesulu
for M/s.Usha Raman



S.A.No.193 of 2021

J U D G M E N T

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The unsuccessful plaintiff is the appellant. He filed a suit for recovery of money based on Promissory Note. The suit was decreed by the Trial Court as prayed for. The appeal filed by the defendants was allowed and the suit dismissed. Aggrieved by the same, the plaintiff has come before this Court.

2. According to the appellant/plaintiff, the respondents/defendants borrowed a sum of Rs.1,00,000/- on 05.07.2011 from the plaintiff and executed suit promissory note. In spite of demand made by the plaintiff, the defendants failed to repay the amount and hence, a legal notice was issued on 11.03.2014 calling upon them to repay the amount due under the promissory note. The defendants came up with a false reply, hence, the suit was laid seeking recovery of money based on the suit Promissory Note.

3. The defendants filed written statement denying the execution of the suit promissory note. It was the specific case of the defendants that they have not received a sum of Rs.1,00,000/- from the plaintiff and executed suit promissory note. It was further pleaded that in the year 2004, the

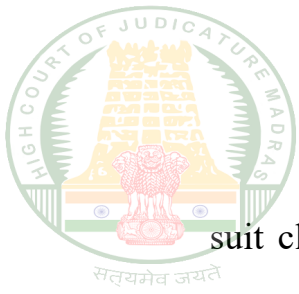


S.A.No.193 of 2021

1st defendant borrowed a sum of Rs.17,000/- from the plaintiff through one Magadevan and no promissory note or document was executed acknowledging the receipt of the above said amount. In the year 2009, the 1st defendant repaid the entire amount together with interest and discharged the debt. It was also further pleaded by the defendants that the plaintiff filed complaint before the Superintendent of Police, Ariyalur against the 1st defendant seeking recovery of Rs.85,000/- allegedly paid by him to the 1st defendant and the said complaint was disposed by advising the parties to settle the dispute through Civil Court. On these pleadings, the defendants sought for dismissal of the suit.

4. Before the Trial Court, the plaintiff was examined as PW.1. One of the attesor to the suit promissory note was examined as PW.2. The scribe of suit promissory note was examined as PW.3. On behalf of the plaintiff, 5 documents were marked as Exs.A1 to A5. The 1st defendant was examined as DW.1. On behalf of the defendants, 3 documents were marked as Exs.B1 to B3.

5. The Trial Court on appreciation of oral and documentary evidence available on record, came to the conclusion that the plaintiff was entitled to



S.A.No.193 of 2021

suit claim and decreed the suit as prayed for. Aggrieved by the same, the defendants preferred an appeal in A.S.No.40 of 2018 on the file of the Additional District and Sessions Court, Ariyalur and the First Appellate Court reversed the findings of the Trial Court and dismissed the suit. Aggrieved by the same, the plaintiff has come before this Court.

6. At the time of admission, this Court formulated the following substantial question of law, by order dated 19.06.2024:-

“Whether the burden of proof lies on the defendants to prove that the signatures found in the promissory note do not belong to them?

Whether the plaintiff has discharged his initial burden as per Section 101 of the Indian Evidence Act?”

7. The learned counsel appearing for the appellant vehemently contended that due execution of suit promissory note was proved by the plaintiff by examining the attestor and scribe of the promissory note. The learned counsel further submitted that the First Appellate Court over looked the evidence of PW.2 and PW.3 and came to the conclusion that the plaintiff failed to discharge the burden of proving due execution of promissory note.



S.A.No.193 of 2021

8. The learned counsel appearing for the respondent by pointing out various contradictions in the evidence of PW.2 and PW.3 stated that plaintiff failed to prove due execution of promissory note.

9. Since the defence raised by the defendants is total denial of execution, it is incumbent on the plaintiff to prove the due execution of promissory note. In order to prove the same, the plaintiff examined himself as PW.1. The attesor and scribe of Ex.A1-Promissory Note have been examined as PW.2 and PW.3 respectively. A perusal of evidence of PW.3 would indicate that though in his proof affidavit he deposed about the payment of Rs.1,00,000/- by the plaintiff to the defendants and execution of suit promissory note by the defendants, in the cross examination, he deposed that he did not remember, who signed on the stamp affixed on the suit promissory note. He also deposed that the plaintiff did not pay any amount to the defendants at the time of preparation of suit promissory note. He also deposed that the plaintiff only directed him to prepare the suit promissory note and agreed to get signature of the defendants by himself. In the light of the answers given by PW.3 in the cross examination, his evidence is not useful to prove due execution of suit promissory note.



S.A.No.193 of 2021

10. PW.1 in his evidence deposed that the defendants signed in the promissory note with their own pen and attesor and scribe of promissory note signed in the promissory note with the pen of scribe. However, PW.2 in his evidence deposed that the defendants signed in the suit promissory note with the pen of the scribe. Therefore, there is a material contradiction between the evidence of PW.1 and PW.2 with regard to the pen used by the defendants for the purpose of signing in the promissory note. Further, PW.2 in his evidence deposed that names of both the defendants were clearly mentioned in the suit promissory note and he had gone through the contents of the suit promissory note and only thereafter, attested the same. However, a perusal of Ex.A1-suit promissory note would indicate the same was executed only in the name of 1st defendant. However, both the defendants signed on the stamp affixed on it.

11. In the light of the above mentioned contradictions in the evidence of PW.2, it is not safe to rely on the evidence of PW.2 to come to a conclusion that the suit promissory note duly executed by defendants. Therefore, the evidence of PW.2 is not also useful to prove due execution. If the evidence of PW.2 and PW.3 are excluded then only evidence available on record is interested testimony of PW.1. As pointed out earlier, there is



S.A.No.193 of 2021

material contradiction between the evidence of PW.1 and PW.2. The First Appellate Court rightly appreciated the same and came to the conclusion that the plaintiff failed to prove the due execution of promissory note.

12. Further, Ex.B2 is a complaint preferred by 1st defendant to District Collector, Ariyalur. Ex.B3 is the Acknowledgment Card issued by the District Collector for having received the complaint. Ex.B2 was dated 13.06.2011. In Ex.B2, the 1st defendant mentioned about receipt of Rs.17,000/- from the plaintiff in the year 2004 and repayment of the same together with interest in the year 2009. He further mentioned that inspite of repayment of debt amount, the plaintiff picked up quarrel and assaulted him. Therefore, he lodged a complaint before the District Collector to take necessary action against the plaintiff. After lodging the complaint on 13.06.2011, it is highly improbable for the defendants to execute suit promissory note subsequently, on 05.07.2011.

13. Taking into consideration of all these aspects, the First Appellate Court came to a factual conclusion that the plaintiff failed to prove the due execution of suit promissory note. I do not find any perversity in the said conclusion reached by the First Appellate Court. Therefore, the substantial



S.A.No.193 of 2021

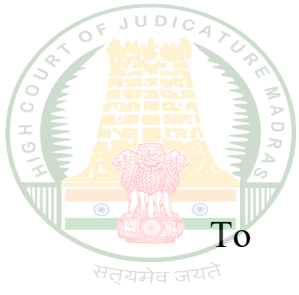
questions of law formulated at the time of admission are answered against the appellant.

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14. Accordingly, the Second Appeal stands dismissed. In the facts and circumstances of the case, there will be no order as to costs.

01.06.2026

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



S.A.No.193 of 2021

To

WEB COPY

- 1.The Additional District and Sessions Court,
Ariyalur.
- 2.The Subordinate Court,
Jayankondam.



WEB COPY



S.A.No.193 of 2021

S.SOUNTHAR, J.

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S.A.No.193 of 2021

01.06.2026