



S.A(MD)No.154 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 03.11.2025

Pronounced on : 30.01.2026

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

S.A(MD)No.154 of 2019

T.Sivakumar,
S/o.Thankaraj,
Clavaravilai Veedu,
Kattathurai Post,
Veeyanoor Village,
Kalkulam Taluk,
Kanyakumari District.

...Appellant/Appellant/Defendant

Vs.

J.Jebamonydhas @ Eronimas,
S/o.Joseph,
Poovanthattu Villai,
Kuttakuzhi,
Veeyanoor Village,
Kalkulam Taluk,
Kanyakumari District.

... Respondent/Respondent/Plaintiff

PRAYER :- This Second Appeal is filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree in A.S.No.30 of 2013 on the file of the Principal District Judge, Nagercoil, dated 19.03.2018, confirming the decree and judgment in O.S.No.72 of 2010 on the file of the Subordinate Judge, Padmanabhapuram, dated 17.10.2012.



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For Appellant : Mr.T.Selvakumaran

For Respondent : Mr.H.Thayumanaswamy

JUDGMENT

This Second Appeal is filed against the judgment and decree, dated 19.03.2018 made in A.S.No.30 of 2013 on the file of the Principal District Court, Nagercoil, confirming the judgment and decree, dated 17.10.2012 passed in O.S.No.72 of 2010 on the file of the Subordinate Court, Padmanabhapuram.

2.The appellant is the defendant and the respondent is the plaintiff in O.S.No.72 of 2010 on the file of the Subordinate Court, Padmanabhapuram. The respondent/plaintiff filed the suit for recovery of money against the appellant/defendant.

3.For the sake of convenience, the parties are referred to as plaintiff and defendant as arrayed in O.S.No.72 of 2010 on the file of the Subordinate Court, Padmanabhapuram.



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4.Case of the plaintiff:

The defendant borrowed Rs.2,00,000/- from the plaintiff at the plaintiff's house on 20.07.2007 for the purpose of his business. The defendant executed a pronote, dated 20.07.2007, in his own handwriting. The brother of the defendant is the first attester. The defendant agreed to repay the loan amount with 12% p.a. interest. Thereafter, the defendant has not repaid any amount either towards principal or interest in spite of several demands. Hence, the plaintiff issued a legal notice on 28.06.2010. The defendant received the legal notice on 29.06.2010, but he has not sent any reply or repaid the loan amount. Therefore, the plaintiff filed the suit.

5.Case of the defendant as per Written Statement and Additional

Written Statement:

The defendant has not borrowed any loan and he has not executed any pronote. The defendant did not agree to pay any interest. In fact, there was no money transaction between the plaintiff and the defendant on 20.07.2007. The plaintiff is a money lender demanding exorbitant interest in the locality. The defendant is neighbour of the plaintiff, prior to 1998, he borrowed money from the plaintiff. At that time, he executed the document without any date.



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However, the defendant repaid the loan in short duration. The defendant has not borrowed any loans after 1998. The defendant's brother never put any signature as attesor. The signatures of the defendant and his brother were forged. The defendant sent reply on 08.07.2010. The suit is barred by limitation. So, the suit is liable to be dismissed.

6.Before the trial Court the following issues were framed:

- (1) Whether the defendant borrowed a sum of Rs.2,00,000/- from the plaintiff on 20.07.2007 and executed a suit pronote?*
- (2) Whether the plaintiff is entitled to the decree as claimed for in the suit?*
- (3) To what relief, the plaintiff is entitled to?*

7.During trial, on the plaintiff's side, P.W.1 and P.W.2 were examined and Ex.A.1 to Ex.A.6 were marked. On the defendant's side D.W.1 to D.W.3 were examined and Ex.C.1 was marked.

8.After hearing both and considering evidences of both sides, the learned Subordinate Judge, Padmanabhapuram, concluded that the defendant has borrowed money from the plaintiff as pleaded in the plaint and decreed the suit



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with interest at the rate of 12% p.a. on Rs.2,00,000/- from the date of suit till the date of decree, thereafter, 6% p.a, till the realization by passing judgment and decree, dated 17.10.2012.

9. Aggrieved by the judgment and decree in O.S.No.72 of 2010, the defendant preferred the Civil Appeal in A.S.No.30 of 2013 on the file of the Principal District Judge, Kanniyakumari District at Nagercoil. The first Appellate Court, after hearing both sides and after considering the evidences and findings of the trial Court, passed the judgment, dated 19.03.2018, dismissing the appeal in A.S.No.30 of 2013 by confirming the judgment and decree passed in O.S.No.72 of 2010.

10. Challenging the judgment and decree of the First Appellate Court, the defendant preferred this Second Appeal and the same has been admitted on 17.02.2022 on the following substantial questions of law:-

(a) Whether both the Courts below granting decree for interest, when there is no contract in the suit pronote?

(b) Whether both the Courts below rightly came into the conclusion that Ex.A.1 was executed by



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the appellant, when the alleged execution was not proved by the respondent?

11. Heard both sides and perused the material records in this Second Appeal.

12. The learned counsel for the appellant/defendant has submitted that though the defendant agitated that the suit pronote was not executed by him and it is forged one, but during the course of argument it was admitted that the execution of Ex.A.1 was made by the defendant. It is also submitted that as per the order of this Court while granting stay, the defendant deposited Rs.2,00,000/- to the credit of suit and so, prayed reconsideration of the subsequent award of interest at the rate of 12% from the date of plaint till the date of decree.

13. The learned counsel for the respondent/plaintiff has not raised any objection with regard to reconsideration of the subsequent interest.

14. On perusal of records and on hearing both sides, the Courts below gave concurrent findings that the plaintiff has proved that the defendant



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executed Ex.A.1 pronote on receipt of loan of Rs.2,00,000/- on 20.07.2007.

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On perusal of Ex.A.1, it is clear that there is no mentioning about the payment of interest. However, it is established that the loan was obtained by the defendant for business purposes. So, the awarding of subsequent interest is the discretion of the Court as per Section 34 of CPC. The Courts below awarded interest at 12% p.a. from the date of filing the plaint till the date of decree and thereafter, at 6% p.a. till realization.

15.On perusal of records, at the time of filing of this second appeal, the defendant filed C.M.P(MD)No.3674 of 2019 for stay of decree and this Court passed an order of stay on 04.04.2019 on condition that the defendant should deposit Rs.1,00,000/- on or before 11.04.2019 and to deposit another sum of Rs.1,00,000/- within one month, thereafter, the defendant deposited Rs.1,00,000/- on 11.04.2019. Thereafter, he filed the petition in C.M.P(MD)No.4360 of 2019 seeking time to deposit another sum of Rs.1,00,000/- and the same was granted to deposit Rs.1,00,000/- on or before 16.12.2021 as per the order passed by this Court on 02.12.2021 in C.M.P(MD)No.4360 of 2019. Now, the defendant submitted that he deposited another Rs.1,00,000/- on 23.12.2021. The learned counsel for the plaintiff has



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not denied the payment of the subsequent amount by the defendant. Therefore, considering all these aspects, this Court is inclined to reduce the rate of subsequent interest to 9% p.a. from 12% p.a. on the principal amount of Rs.2,00,000/- from the date of plaint till the date of decree, in other respects the rate of interest at 6% p.a. from the date of decree till the realisation is to be confirmed. Accordingly, substantial questions of law are answered against the appellant.

16.In the result, this Second Appeal is dismissed with costs. The judgment and decree passed by the Courts below are confirmed, but modified in respect of subsequent interest. The rate of subsequent interest on the principal amount of Rs.2,00,000/- is reduced to 9% p.a. from 12% p.a from the date of filing the plaint till the date of decree. In other respects, the rate of interest at 6% p.a from the date of the decree till realization is confirmed.

30.01.2026

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

- 1.The Principal District Court,
Nagercoil.
- 2.The Subordinate Court,
Pamanabhapuram.
- 3.The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

**Pre-Delivery Judgment made in
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