



S.A(MD)No.643 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.01.2026

DELIVERED ON : 28.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

**S.A.(MD).No.643 of 2025
and
C.M.P.(MD)No.20444 of 2025**

1.Saraswathi
2.Velvizhi

: Defendants/Respondents/
Appellants

Vs.

Selvi

: Plaintiff/Appellant/Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree, dated 27.02.2024 made in A.S.No.16 of 2023, on the file of the Additional District and Sessions Judge, Periyakulam reversing the judgment and decree, dated 25.01.2023 made in O.S.No.104 of 2018, on the file of the Subordinate Court, Periyakulam.



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For Appellants : Mr.G.Ramanathan

For Respondent : Mr.P.Arun Jayatram

JUDGMENT

The Second Appeal is directed against the judgment and decree made in A.S.No.16 of 2023, dated 27.02.2024, on the file of the Additional District and Sessions Court, Periyakulam, reversing the judgment and decree passed in O.S.No.104 of 2018, dated 25.01.2023, on the file of the Subordinate Court, Periyakulam.

2. The appellants are the defendants. The respondent/plaintiff filed the suit in O.S.No.104 of 2018, on the file of the Subordinate Court, Periyakulam against the appellants/defendants for recovery of money due on a promissory note alleged to have been executed by the deceased Veeramuthu. The defendants filed their written statement and contested the suit. The learned Subordinate Judge, Periyakulam after framing necessary issues and after full trial, passed the judgment and decree dated 25.01.2023, dismissing the suit. Aggrieved by the dismissal of the suit, the plaintiff preferred an appeal in A.S.No.16 of 2023 and the learned Additional District and Sessions Judge, Periyakulam upon considering the materials available on record and on hearing the arguments of



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both sides, passed the impugned judgment and decree, dated 27.02.2024, setting aside the judgment and decree passed by the trial Court and thereby decreed the suit as prayed for. Challenging the impugned judgment and decree, the defendants have preferred the present Second Appeal.

3. At the outset, it is necessary to refer the mandate of Hon'ble Supreme Court for High Courts in deciding the second appeal under Section 100 of the Civil Procedure Code, given in the case of **Gurnam Singh (dead) by LRs., and others Vs. Lehna Singh (dead) by LRs.**, reported in **AIR 2019 SC 1441**, that the jurisdiction of the High Court in an appeal under Section 100 of the Code of Civil Procedure is strictly confined to the case involving substantial question of law and the relevant passage is extracted hereunder:

“18. Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High Court, in an appeal under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to re-appreciate the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring



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interference in Second Appeal. We have noticed and even as repeatedly observed by this Court and even in the case of Narayanan Rajendran v. Lekshmy Sarojini, (2009) 5 SCC 264, despite the catena of decisions of this Court and even the mandate under Section 100 of the CPC, the High Courts under Section 100 CPC are disturbing the concurrent findings of facts and/or even the findings recorded by the First Appellate Court, either without formulating the substantial question of law or on framing erroneous substantial question of law.”

4. The Hon'ble Supreme Court in the case of ***Chandrabhan Vs. Saraswati and others*** reported in **2022 SCC OnLine SC 1273** has specifically held that right of appeal is not automatic and right of appeal is conferred by statute and when statute confers a limited right of appeal restricted only to cases which involve substantial questions of law, it is not open to the High Court to sit in appeal over the factual findings arrived at by the First Appellate Court and the Hon'ble Supreme Court summarized the principles relating to Section 100 C.P.C., which are as follows;

“(i) An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a



document or wrong application of a principle of law in construing a document, it gives rise to a question of law.

(ii) The High Court should be satisfied that the case involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question, answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents and involves a debatable legal issue. A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but the court below has decided the matter, either ignoring or acting contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still debatable, but because the decision rendered on a material question, violates the settled position of law.

(iii) The general rule is that the High Court will not interfere with findings of facts arrived at by the courts below. But it is not an absolute rule. Some of the well-recognised 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. When we refer to



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"decision based on no evidence", it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding."

5. Bearing the settled legal position in mind, let us proceed with the present case.

6. The case of the plaintiff is that one Veeramuthu Rajapandian, husband of the first defendant and the father of the second defendant borrowed a sum of Rs.3,00,000/- on 07.07.2015 from the plaintiff to meet out his family expenses and to clear the sundry debts, agreeing to repay the same with interest at Rs.1 per Rs.100/- per month to the plaintiff or his order on demand and executed a promissory note therefor. Though the plaintiff demanded, the said Veeramuthu Rajapandian failed to discharge the debt. Veeramuthu Rajapandian died in the year 2016. Thereafter the plaintiff demanded the defendants, who are the legal heirs of the deceased Veeramuthu Rajapandian to discharge the loan amount. But they have not chosen to repay the loan. Hence, the plaintiff was constrained to issue a legal notice dated 16.08.2017 and since the date of promissory note was omitted to be mentioned by over sight, the plaintiff sent a rejoinder notice dated



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10.04.2018 demanding the defendants to repay the loan amount with interest.

The defendants having received the legal notices, neither sent any reply nor complied with the notice demand. Hence, the plaintiff was constrained to file the above suit to recover the amount due from the defendants out of the estate of the deceased Veeramuthu Rajapandian.

7. The defence of the defendants is of total denial. The defendants have stated that the contention of the plaintiff that Veeramuthu Rajapandian borrowed a sum of Rs.3,00,000/- on 07.07.2015 agreeing to repay the same with interest at the rate of 12% per annum and executed a promissory note is false, that the deceased Veeramuthu Rajapandian had no necessity to obtain any loan from the plaintiff, that the promissory note alleged by the plaintiff is illegal, that notices issued by the plaintiff would by itself show that the plaintiff had suppressed the real facts. Hence, the suit is liable to be dismissed with costs.

8. During trial, the plaintiff examined herself as P.W.1 and examined one Gurusamy, attester of the suit promissory note (Ex.A.1) as P.W.2 and exhibited six documents as Exs.A.1 to A.6. The defendants examined the first defendant as D.W.1 and exhibited one document as Ex.B.1. The report of the forensic science department came to be exhibited as Ex.C.1. The plaintiff as P.W.1 gave evidence



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reiterating her plaint contentions. P.W.1 would say that the deceased Veeramuthu Rajapandian borrowed a sum of Rs.3,00,000/- on 07.07.2015 agreeing to repay the same with interest at 12% per annum and executed Ex.A.1 promissory note. P.W.2 attesor of Ex.A.1 would depose reiterating the version of P.W.1.

9. It is pertinent to note that Ex.A.1 suit promissory note was sent to handwriting expert and a report came to be received under Ex.A.1, wherein it was certified that the signatures found in Ex.A.1 are that of the deceased Veeramuthu Rajapandian. Considering the evidence of P.W.1 and P.W.2 and Ex.C.1 report, the learned trial Judge has rightly drawn a presumption in favour of the plaintiff under Sections 118 and 139 of the Negotiable Instruments Act, but at the same time, by observing that the plaintiff has not proved his wherewithal to lend the loan amount and that there was no cordial terms between the deceased and the plaintiff as there existed a land dispute in pursuance of Ex.B.1 agreement, has come to a decision that the defendants have successfully rebutted the presumption.

10. It is settled law that any amount of pleadings without evidence or any amount of evidence without pleadings are of no use. In the present case, the defendants in their written statement have nowhere whispered that the plaintiff



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had no financial capacity to advance the suit loan amount to the deceased. They have also not pleaded anything with regard to the loan dispute that allegedly existed between the deceased and the plaintiff. Since the plea of want of financial capacity was taken by the defendants during the trial, the plaintiff has produced Ex.A.5, original bank passbook and Ex.A.6, statement of accounts to prove her wherewithal and also to show that she had withdrawn Rs.3,00,000/- from her bank account. As rightly observed by the learned appellate Judge, the trial Court, without perusing Exs.A.5 and A.6 in proper perspective, has given a finding that there was no such proof in Exs.A.5 and A.6 that the plaintiff had withdrawn Rs.3,00,000/- from her bank account and that the said plea of the plaintiff is false.

11. The learned first appellate Judge, upon perusing Exs.A.5 and A.6, has specifically observed that since the plaintiff closed her Fixed Term Deposit, a sum of Rs.4,37,233/- was credited into her account on 09.06.2015 and on the same day, the plaintiff's husband has withdrawn Rs.3,00,000/- and that therefore, the above evidence would go to prove that the plaintiff advanced loan amount of Rs.3,00,000/- to Veeramuthu Rajapandian by withdrawing from her joint account. Even assuming for arguments sake that the defendants have pleaded that the plaintiff was not possessed of sufficient means, the plaintiff by producing



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Exs.A.5 and A.6, has substantiated her stand that she lent Rs.3,00,000/- to the deceased.

12. There is no dispute that the sale agreement dated 21.04.2013, marked as Ex.B.1, was exhibited by the plaintiff. However, the defendants contended that since a land dispute existed between the plaintiff and Veeramuthu Rajapandian in the year 2013 in respect of the said sale agreement, there were no cordial terms between them and, therefore, the plaintiff could not have advanced any money to Veeramuthu Rajapandian. As already pointed out, such a plea was not raised at all in the written statement. Moreover, according to the plaintiff, the land transaction is entirely distinct and unconnected with the loan transaction. Even the trial Court has specifically observed that the defendants themselves admitted that the sale transaction was completed and, if that be so, there was no occasion for any dispute to have arisen. It is also not the case of the defendants that there existed any other dispute between the parties apart from the transaction under Ex.B.1.

13. As already pointed out, Ex.C.1, the forensic report, clearly reveals that the signatures found in Ex.A.1 are that of the deceased Veeramuthu Rajapandian. As such, as rightly observed by the learned first appellate Judge, the scientific evidence fully corroborates the oral evidence of P.W.1 and P.W.2. Upon a



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consideration of the evidence available on record, the first appellate Court has rightly come to the conclusion that the plaintiff has proved that Veeramuthu Rajapandian had borrowed a sum of Rs.3,00,000/- from the plaintiff and executed Ex.A.1 promissory note, and on that basis, has correctly reversed the findings of the trial Court. The appellants have not shown that the material evidence available in the case had been ignored by the first appellate Court or that there was no evidence at all. The appellants have also not shown any wrong inference had been drawn by the first appellate Court from the proved facts by applying law erroneously. The appellants have also not canvassed any stand that the first appellate Court has erroneously placed the burden of proof.

14. It is pertinent to note that the first appellate Court on appreciating and re-appreciating evidence available on record, has come to a definite decision that the plaintiff has proved his claim and as such, the decreeing of the suit cannot be faulted.

15. Considering the judgments of the Courts below, this Court is the clear view that no question of law much less Substantial Question of Law is made out. Hence, this Court concludes that since no substantial question of law is made out in the second appeal, the same is liable to be dismissed.



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16. In the result, the Second Appeal is dismissed, confirming the the judgment and decree made in A.S.No.16 of 2023, dated 27.02.2024, on the file of the Additional District and Sessions Court, Periyakulam, reversing the judgment and decree passed in O.S.No.104 of 2018, dated 25.01.2023, on the file of the Subordinate Court, Periyakulam. There shall be no order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

28.01.2026

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

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To:

- 1.The Additional District and Sessions Court, Periyakulam
- 2.The Subordinate Court, Periyakulam
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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**PRE-DELIVERY JUDGMENT MADE IN
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