IN THE COURT OF THE VII ADDITIONAL DISTRICT JUDGE, MADANAPALLE

Present: **Ms.R. Sreelatha**,
VII Additional District Judge,
Madanapalle.

Thursday, the 13th (Thirteenth) day of August, 2026

O.S.No. 36 of 2018

Between:
Sri R.Prasanna Kumar, son of R.Reddeppa, Hindu, aged about 45 years, Hindu, business, residing at D.No.4-4A, Patel Road, Madanapalle Town, Chittoor District.

... Plaintiff

And:
Sri G.Srinivasulu, son of G.Venkataramana Naidu, aged about 45 years, Hindu, business, care of Balaji Traders, Door No.4-5-7-9-A, Narasimha Complex, Siddartha Road, MadanapalleTown, Chittoor District.

... Defendant

This suit is coming on 10.7.2026 for hearing before me in the presence of Sri A.Arun Kumar, Advocate for the plaintiff, Sri A.Ehesanullah, Advocate for the defendant, after perusing the material available on record and having stood over for consideration till this day, this Court delivered the following:-

JUDGMENT

This is a suit filed by the plaintiff for the recovery of Rs.18,89,800/- i.e the suit amount against the defendant based on the foot of the promissory note together with interest on the principal amount and for costs.

2. The case of the plaintiff in brief is that the defendant has borrowed a sum of Rs.11,00,000/- from the plaintiff for his business, family and legal necessities by executing the suit promissory note on 15.7.2015. Further, he has agreed to repay the same with interest at 24% per annum. On repeated demands, the defendant has issued two post dated cheques for Rs.6,00,000/- and Rs.8,00,000/- respectively towards the discharge of the promissory note debt. On the representation of the defendant that there are sufficient funds, the plaintiff presented the cheques for the realization of the Rs.14,00,000/- cash. But the cheques got dishonoured on the ground “account closed”. There upon, the plaintiff got issued legal notice demanding to repay the cheques amount which were issued for discharge of the promissory note debt. Later, he filed complaint pertaining to dishonour of the cheques. Having received the legal notice, the defendant has failed to discharge the due amount and hence, this suit is filed for the realization of the due amount with interest and costs.

3. The written statement is filed by the defendant denying the plaint allegations and further contending that there is no borrowal under the suit promissory note. According to the defendant, in the year 2010, this defendant, T. Krishnama Naidu, Dwarkanath Reddy, B.T. Chalapathy have purchased the land from Papi Reddy and others and laid house plots. The plaintiff being the close friend and the relative of the defendant has approached him for purchasing house plot and paid advance of Rs.6,00,000/-. Then, there occurred delay in executing the registered sale deed as some of the owners were not available. Hence on the insistence of the plaintiff, towards security purpose, the defendant has issued signed empty cheques 5 or 6 and empty promissory note. On 14.12.2010, the defendant and his partners got executed registered sale deed from the land owners vide Doc.No.10584 of 2010 in favour of the plaintiff and the defendant was one of the attestors. Though the defendant insisted for the return of his promissory note and cheques, the plaintiff has postponed the same on several grounds as if it got mixed with other papers. In view of closeness, relationship and business dealings in the liquor shop at Angallu village, the defendant remained quiet. It is contended that to have wrongful gain, the plaintiff fabricated the empty cheques and promissory note as if the defendant has executed them recently. The defendant never executed the promissory note nor the cheques referred in the plaint and due to recent misunderstandings, the promissory note and the cheques are fabricated. The plaintiff is doing finance business and running lodge, wine shop and restaurant and has got vast experience in the banking affairs. Knowing about the merger of Vysya Bank with Kotak Mahindra Bank, the plaintiff should not accept the erstwhile ING vysya Bank cheques when he knows about the merger. The cheques given for security purpose in the year 2010 are fabricated and the merger of the banks is in the year 2015. The defendant's account was closed by that time and the question of issuance of cheques does not arise. The legal notice was got issued with false allegations. Hence, it is prayed to dismiss the suit with costs.

4. Based on the pleadings, the following issues were settled for trial by the then Presiding Officer on **28.4.2018**:-

1)Whether the plaintiff is entitled to recovery the suit amount basing on the suit promissory note dt.17.7.2017 ?

2) Whether the ING Vysya Bank merged with Kotak Mahindra Bank in the year 2015 and the defendant account is closed and issuance of cheque does not arise ?

3) Whether the plaintiff fabricated the empty cheques and promissory notes for the purpose of wrongful gain?

4) To what relief ?

The following additional issue is framed on **1.7.2026.**

“ Whether the defendant has handed over the empty signed promissory note and signed empty cheques to the plaintiff as security during the land transaction in the year 2010 ?”

5. During the course of trial, on behalf of the plaintiff, PWs 1 and 2 are examined and Ex.A1 is marked. On behalf of the defendant, Dws 1 to 3 are examined and Exs.B1 to 13 are marked. **[** Out of Exs.B1 to B13, Ex.B10 is marked through Dw2. Exs.B11 to B13 are marked through PW1 during his cross-examination by confrontation **]** . Exs.X1 to X4 are marked through Dw3.

6. Arguments are heard. Both the plaintiff and defendant have also filed written arguments with citations.

6(a). The learned counsel for the plaintiff contends that the defendant admits his signatures appearing in Ex.A1 and the cheques. The only defence is that in the year 2010, during real-estate transaction pertaining to house plot, he has given one signed blank promissory note and five to six cheques towards security purpose. After the registration of the sale deed, the plaintiff has failed to return the same and fabricated Ex.A1 and the cheques. It is contended that the plaintiff has proved the due execution of Ex.A1 through direct and documentary evidence. The PW2's evidence corroborates the evidence of PW1 and he is not only an attesting witness, but also the scribe of Ex.A1. PW2 has spoken about the execution of Ex.A1 and the defendant has voluntarily signed the promissory note and hence, he is admitting the execution. The plaintiff seeks to draw the presumption under section 118 of Negotiable Instruments Act and claims that the statutory presumption is unrebutted as the defendant has not raised probable defence. Since the defendant has set up this specific defence, he has to prove the same, but Exs.B7 to B9 does not support the plea of the defendant. There are material improvements made by DW1 by introducing the version of six cheques for Rs.1,00,000/- each being issued and that the registration was expected within two months, further that the plaintiff was authorized to present one cheque every month. The defendant's version is inherently improbable and the conduct of the defendant destroys his defence. It is pointed that the dishonour of the cheques was not on the ground of the cheques becoming invalid due to merger of banks, but on account of the account being closed. The contentions regarding the income-tax are untenable and it is between the assessee and income-tax department if the amount is not shown in his income-tax returns by the plaintiff. The reference to semi herbal medicines by the plaintiff lends assurance to the plaintiff's case and the minor discrepancies do not destroy the plaintiff's case at all. The defence regarding the common attestor for Exs.A1 and X2 is of no consequence and the case of the plaintiff is consistent with ordinary business conduct. He has relied upon several citations in support of his contentions and prayed to decree the suit as prayed for.

6(b). Per contra, the learned counsel for the defendant in his oral arguments as well as the written arguments has submitted that the presumption under section 118 of Negotiable Instruments Act can be accepted only till the contrary is proved. The defendant has not even admitted the execution of promissory note and the mere admission of signatures in Ex.A1 does not amount to execution of document. He contends that the presumptions are rebuttable in nature. There is no legally enforceable debt and he has sought the attention of the court to Ex.B1 reply notice. The plaintiff is a distant relative of the defendant and both did wine shop business in partnership during the year 2010. There is reference to the land deal and it is reiterated that the plaintiff insisted for security due to the delay in registration and therefore, he has given signed promissory note and six empty signed cheques. Though the sale deed was executed on 14.12.2010, the plaintiff did not return the Negotiable Instruments on the ground that they are not traced out and the defendant believed the same as the plaintiff is a partner and his distant relative. The evidence in favour of the defendant is referred to and there are detailed submissions about the evidence of Dws 1 to 3. He has referred to the citations and contended that there is fabrication of promissory note and the amount is not shown in the income-tax returns by the plaintiff. The purpose of loan differs and he has sought to examine the ink and pen used. Since the merger of the banks is a known fact, the plaintiff should not have taken the cheques of the earlier bank if really they were issued in the manner put-forth. Further the discrepancies regarding the interest invalidates the suit promissory note and the presumptions stood rebutted and the reverse onus clause comes into picture. He has sought to dismiss the suit as the defendant has raised the probable defence pertaining to the suit promissory note.

7. **Issues 1, 3 and Additional Issue No.1**:-

Issue No.1: "Whether the plaintiff is entitled to recovery the suit amount basing on the suit promissory note dt.17.7.2017 ?"

Issue No.3: "Whether the plaintiff fabricated the empty cheques and promissory notes for the purpose of wrongful gain?"

Additional issue No.1 framed on 1.7.2026.

"Whether the defendant has handed over the empty signed promissory note and signed empty cheques to the plaintiff as security during the land transaction in the year 2010 ?"

All these issues require common discussion and hence discussed together.

8. In a nutshell, the plaintiff contends that for his business purpose and other necessities, the defendant has borrowed Rs.11,00,000/- from him under Ex.A1 promissory note and to discharge the same, he has later on issued Exs.B3 and B4 cheques for Rs.8,00,000/- and Rs.6,00,000/- respectively which got dishonoured for the reason "account closed". Thereafter, the legal notice was issued and the complaint was filed pertaining to dishonour of cheques before the II Additional Judicial Magistrate of 1st Class, Madanapalle and in this C.C, the defendant got acquitted as can be understood from the material on record. This suit is filed for the realization of the amount due under the suit promissory note ie., Rs.11,00,000/- with interest and costs.

8(a) The specific stand of the defendant is that during the year 2010, he along with Krishnama Naidu, Dwarakanatha Reddy, Chalapathi purchased the land and laid house plots. The plaintiff who is his close friend and relative has approached him to purchase the house plot and paid advance of Rs.6,00,000/-. As there was delay in the execution of the registered sale deed, on the insistence of the plaintiff, he issued empty signed cheques **ie., five or six** and empty promissory note as security. After the sale deed was executed by the land owners, the plaintiff did not return the empty cheques and promissory note on the ground that they got mixed up with other papers and later on filed this case and cheque dishonour case. Infact by then, the bank on which the cheques were issued was merged with Kotak Mahindra Bank and the plaintiff should not have accepted the erstwhile ING vysya Bank cheques knowing about the merger of the banks. So, the plea of the defendant is that the promissory note given towards security purpose was fabricated and this suit is filed by the plaintiff. It is not denied that the defendant has signed in the suit promissory note and also in the cheques.

8(b) The plaintiff and defendant are relatives and did some businesses together. Though there is admission of the signatures of the defendant in Ex.A1 promissory note, as he is denying the execution of the same, the plaintiff has to discharge his initial burden for drawing presumption under section 118 of Negotiable Instruments Act that Ex.A1 was drawn on the date reflecting on it and that the consideration shown therein was paid. The contrary has to be proved by the defendant and for drawing the presumptions, provisions under section 118 (a) (b) of Negotiable Instruments act are relevant.

9. To discharge his initial burden, the plaintiff has come into witness box as **PW1** and got marked the suit promissory note**.** He has reiterated the plaint averments and contended that the written statement averments are false and frivolous. This amount of Rs.14,00,000/- for which two cheques were issued is towards the principal and interest in respect of the amount due under Ex.A1. The offence under section 138 of Negotiable Instruments Act involves technicalities and there is no material exhibited pertaining to the disposal of the said CC before the Special Magistrate Court. The said acquittal of the defendant herein in the said case has no bearing for deciding the present suit. The civil court must independently assess the evidence and decide the case based on merits. Even otherwise, this suit is not filed for the recovery of amounts under the dishonoured cheques.

9(a) It is elicited from PW1 by the defendant that he does business under the name and style of S.V.Lodge, S.V. Restaurant, S.V. Wines etc. He is not doing any interest business and he is a business man. There is nothing elicited from PW1 about his lending capacity and considering this material that he is running so many businesses, it can't be inferred that he has no financial capacity to lend Rs.11,00,000/- under the suit promissory note. Infact, there is no such pleading in the written statement also and it can't be held that the complainant had no wherewithal to advance the amount under Ex.A1.

9(b) When it was put to PW1 that the defendant was a partner in his partnership business, he has clarified that he is partner in some other partnerships. He admits that himself, accused Ramana jointly took wine shop at Angallu on lease under partnership. PW2 is the scribe and attestor of Ex.A1, while the other attestor is Prabhakar.

9(c) Regarding the merger of banks, he admits to the extent that the merger took place in the year 2015 and he has clarified that the cheques of the old bank will be accepted till the completion of the cheque book. There is no contra material placed by the defendant on record that once there is merger of ING vysya Bank with the Kotak Mahindra Bank, the cheques of Vysya Bank will not be accepted by Kotak Mahindra Bank. Even otherwise, this aspect pertains to cheque dishonour case. Ofcourse, it is the case of the plaintiff that only towards the discharge of the amount under Ex.A1, these impugned cheques were given ie., Exs.B3 and B4. Nothing prevented the defendant from examining the relevant bank authorities to this effect. It is apt to state here that the alleged cheques were not dishonoured for the reason of the cheques not pertaining to Kotak Mahindra Bank or they being relating to erstwhile ING vysya Bank which got merged with Kotak Mahindra Bank.

9(d) It has come on record that PW1 has not shown his Rs.11,00,000/- in his income tax returns and that he possessed cash on the date of Ex.A1. If at all, the plaintiff has deviated the regulations relating to Income-Tax Act, he would be held liable for the appropriate penalties under that Act and the same *per se* does not lead to the inference that the debt is not legally enforceable debt.

9(e) The reliance is rightly placed by the plaintiff on the citations of the Hon'ble High Court of Madras on **R.Singaravadivelan Vs. Durai Senthil reported 2024(5) LW 733; N. Rama Moorthy Vs M. Mahadevan (died) reported in 2021 (7) MLJ Page 441** and the citation of Hon'ble High Court of Telengana in **Kanuganti Ramu Vs. Samala Praveen Kumar** reported in **2024(6) Andh LD 485**. In this **Singaravadivelan's** case also, the contention of the defendant was that his blank stamp paper was subsequently misused by plaintiff and he has admitted his signatures on promissory note. The contention was that the loan is not reflected in income-tax returns and hence it is illegal money and cannot be recovered. For that, it was observed that the plaintiff is answerable for the violations if any to the concerned authorities who may initiate the proceedings and the defendant cannot take advantage of such violations. In the present case on hand, the plaintiff as PW1 has convincingly spoken about the execution of promissory note and the passing of consideration under Ex.A1. Even the Hon'ble High Court of Telangana in **Kanuganti Ramu's** case has reiterated that it was the responsibility of the Income-tax Department to address such discrepancies and not the trial Court. In **Ramamoorthy's** case, it was clarified that the default committed by the lender may attract penal action from the department, but his right to recover the amount from the borrower cannot be extinguished.

Similar analogy can also be drawn from the recent citation of the Hon'ble Apex Court being relied on by this Court i.e. **Sanjabij Tari Vs. Kishore S. Borcar & ANR (2025 INSC 1158).** In that case, there was violation of Section 269SS / 271D of Income Tax Act, 1961 and it was held that the violation of same would not render the transaction unenforceable or rebut the presumptions under section 118 of Negotiable Instruments Act.

9(f) Swinging back to the evidence of PW1, pertaining to the major contention that the plaintiff purchased house site from him and others, the defendant could not elicit any material from PW1. Though it is not denied that the plaintiff has purchased house site in the year 2010 under Ex.B7 (Certified copy), the defendant is not one of the vendors as seen from Ex.B7 and in what way, he is concerned with the land sold is not understood. The names referred in the written statement as his partners who purchased the land from Papi Reddy are no doubt relevant persons to speak about this partnership. But no partnership deed is exhibited and what made the defendant to claim as a partner without filing any document is suspicious. When the business involves huge turn overs, it is expected that there should be documentation. It is not even the stand of the defendant that he has acted as a broker for the sale transaction and he claims as if he is the one who laid plots along with others. Furthermore, when there was delay in obtaining the sale deed, the defendant contends that he gave one empty promissory note and six empty cheques towards the security purpose to the plaintiff. It is relevant to state that even in the written statement, the specific number of cheques given is not spelt out and it is put as **five or six**. Giving so many empty signed cheques without filling up the contents may lead to any extreme consequences and it is not as if a man involved in several businesses like the defendant would not be knowing the same. While giving empty unfilled cheques with his signatures, the defendant not even counting the total number of cheques given by him is very improbable. The further stand of the defendant as put to PW1 is that the plaintiff has obtained registered sale deed in the year 2010 from the original owners. The brother-in-law of PW1 also obtaining a sale deed from the original owners for which, the defendant, was an attestor has got nothing to do with the present transaction, that too when the defendant is their relative. In fact, PW1 has stated that he does not even know whether his brother-in-law has obtained any sale deed or not. PW1 has denied the suggestion that basing on the blank promissory note and cheques, he filed false cases.

9(g) Very curiously, nothing is put to PW1 by the defendant regarding the retention of the unfilled promissory note and cheques by him even after obtaining the registered sale deed. If really, so many cheques and promissory note are retained by PW1, why would a prudent man like the defendant remain quiet without seeking for the return of the same remains unanswered even assuming that there were no disputes in between them at that time. If that is so, what precipitated the relationship between the two to the extent that the plaintiff foisted false cases basing on the Negotiable Instruments alleged to have been retained by him is not known. The version of PW1 informing the defendant that the promissory note and cheques are misplaced and that he would trace out them and hand over the same is not even suggested to PW1 by the defendant which is very fatal to the stand of the defendant. Even otherwise, by giving unfilled signed promissory note, the defendant has impliedly authorised the plaintiff to fill the contents. It is scribed by PW2 pertaining to the borrowal as stated by PW1. It is simply suggested to PW1 that due to family disputes, PW1 has fabricated the Negotiable Instruments and filed the cases. PW1 admits that the legal notice under Ex.P11 pertaining to cheque dishonour goes to show that the legal notice was addressed to the defendant, care of Balaji Traders and it was given in connection with semi direct herbal medicines. The case of the plaintiff itself is that he has borrowed the amount under promissory note for his family, business and other legal necessities. One month prior to the issuance of cheques, the defendant came for settlement and it appears that those cheques are post dated cheques. As already pointed out, pertaining to the dishonour of cheques, a private complaint was filed and there need not be in depth analysis of the cheque dishonour case in the present case as the plaintiff only contends that by way of settlement, towards the amount under Ex.A1, those cheques were issued. It is not as if the plaintiff has realized the amounts due under the cheques, due to which, he cannot further initiate action basing on the promissory note. According to PW1, this semi direct herbal medicines is part of Balaji Traders and he has given up an amount of Rs.4,15,000/- and accepted the cheques for Rs.14,00,000/-. Waiving an amount of Rupees Four lakhs and odd is not improbable considering the fact that Dw1 gave two cheques and further, it was the settlement reached in between Pw1 and Dw1 who are the relatives and erstwhile business partners. There are only ignorable peripheral discrepancies brought on record as to when exactly the settlement was reached. He admits that the counter foils of the cheques ie., Ex.B13 are in his hand writing and admits that the cheque dishonour case vide CC.No.33 of 2019 has ended in acquittal. He however contends that he preferred Revision before Hon'ble High Court. By obtaining the cheques from Dw3, PW1 got filed the promissory note case through Sathish Kumar is the suggestion given to PW1 by the defendant and the same is denied. There is no such pleading in the written statement and after examination of Dw3, when PW1 was recalled, as an after thought, this suggestion was given to PW1 and hence, the same has got no much significance.

10. For proving the execution of suit promissory note, the plaintiff has further examined **PW2** who is the scribe as well as first attestor of the suit promissory note. According to PW1, this Venkatadri ie., PW2 earlier worked in his lodge and has later quit the job about three years back. This PW2 has clarified that under Ex.A1 transaction, the defendant has borrowed Rs.11,00,000/- for his legal necessities and that he scribed the promissory note. During his cross-examination, PW2 has stated that since 12 years, he has been working under PW1 and that the plaintiff studied upto degree, while the defendant and himself studied upto intermediate. He has clarified that after the defendant signed, himself and another witness signed. The defendant has shown the address as mentioned in Ex.A1 and the specific contention of the defendant put to Pw2 is that in the year 2015, the defendant was residing at Reddy's colony and since Ex.A1 was fabricated in the year 2018, the address is shown as Prasanth Nagar, Madanapalle. Absolutely, no scrap of material is filed to the effect that during the year 2015, the defendant was not residing at Prasanth Nagar and that he was at Reddy's colony. Except giving suggestions that the promissory note is fabricated in the year 2018, nothing could be elicited from this witness and as pointed out, no material is filed regarding the residence of the defendant at a different place other than the address shown in Ex.A1 during the year 2015.

11. In the light of the above evidence of PW1 and PW2, it is apparently evident that their testimonies remained convincing and cogent about the borrowal of the amount under Ex.A1 by the defendant. At the cost of repetition, the defendant is not denying his signatures in Ex.A1 and even in Exs.B3 and B4 cheques and nothing is brought on record that the defendant is in the usual habit of filling the

Negotiable Instruments in his own hand writing. As observed by Hon'ble Apex Court in **Kundanlal Rallaram Vs. Custodian, Evacuee Property reported in AIR 1961 Supreme Court 1316,** Section 118 of Negotiable Instruments Act lays down a special rule of evidence applicable to Negotiable Instruments and the presumption is one of law. There-under, the court shall presume that the Negotiable Instrument was made for consideration and it throws the burden of proof of failure of consideration on the maker of the promissory note. As pointed out, the plaintiff in this case on hand has also successfully proved the execution of the promissory note. It is apt to point out that there are no material discrepancies brought on record in the evidence of PWs 1 and 2 that really go down to the root of the matter. Hence, this court draws the presumption under section 118 of Negotiable Instruments Act. Now the question is whether the presumption has been successfully rebutted by the defendant herein

12. The defendant as **DW1** has deposed that the plaintiff has no capacity to lend such a huge amount and that the plaintiff is an income-tax assessee. There is no denial that the plaintiff is an income-tax assessee. But there is no pleading in the written statement that the plaintiff has no capacity to lend such a huge amount. So, this is an improvement from the pleading and hence has to be rejected. Even otherwise, it is observed supra that the lending capacity of the plaintiff cannot be doubted for the material elicited by the defendant himself during the cross-examination of PW1.

Dw1 has further deposed that if the plaintiff produces the audit report, the truth will come out and he never agreed to pay Rs.14,00,000/- to the plaintiff and never issued cheques. For the legal notice dt.6.4.2018, he got issued reply. It is reiterated that in the year 2010, the plaintiff, Hari, Ramana, Raju and himself took two wine shops under sub-lease and in the year 2010, himself, Krishnama Naidu, Dwarakanadh Reddy, Chalapathi and Janardhan did real estate business, prepared layout and the plaintiff approached to purchase plot No.87. Also he paid Rs.6,00,000/- towards advance and entered into an agreement of sale. As there was delay in execution of sale deed, the plaintiff demanded to cancel the same and return his amount. Then they came to an understanding with the plaintiff and this Dw1 issued one signed empty promissory note and six empty signed cheque leaves to present if they fail to get the sale deed within two months.

12(a) Here a genuine doubt would arise as to why the defendant did not issue the post dated cheques by putting post date of two months or thereafter if the understanding was that within two months, a sale deed would be executed. Above all, when one cheque is sufficient to fill as much amount as required, why did he issue 6 (six) blank unfilled signed cheques is another doubtful circumstance. At the risk of repetition, it has to be mentioned here that in the written statement, it is mentioned as five or six empty cheques. Therefore, this version becomes further doubtful. Dw1 has deposed as if he has asked the plaintiff to en-cash the advance amount in six instalments filling each cheque for Rs.1,00,000/- every month. If that it is so, in all the cheques, an amount of Rs.1,00,000/- each should have been filled by the defendant himself while issuing them. So for the advance sale consideration amount of Rs.6,00,000/-, the defendant who is no way concerned with that land issuing one promissory note and six cheques, that too unfilled is very unbelievable and improbable. Above all, Dw1 has deposed that even when these Negotiable Instruments were not returned to him after the execution of sale deed, he has not collected the same in view of his friendship and relationship.

12(b). Remaining silent for 8 living years by leaving the Negotiable Instruments with the plaintiff is suspicious and when the differences arose in between them is not on record. This is also not believable and if they were so close friends, the plaintiff should not have received the promissory note and cheques towards security purpose from the defendant at all.

12(c). The Dw1 simply states that then differences arose in between the families. What are the differences which are serious to the extent that the plaintiff has fabricated the unfilled Negotiable Instruments is not known. In fact, there is no material filed by the defendant to the effect that the cheques in the series of Exs.B3 and B4 were issued in the year 2010 itself. As already mentioned, the possibility of Kotak Mahindra Bank not accepting the cheques of ING vysya Bank which got merged with it is not brought on record by examining the concerned Kotak Bank authorities. Also, nothing is elicited from Pws1 and 2 that PW2 was not working under the plaintiff during the year 2015. Even the said Vijay whose name is spoken by Dw1 as the person working in S.V. Lodge as Manager during the year 2015 is not summoned by the defendant to fortify the version of fabrication of Ex.A1.

12(d). During his cross-examination, Dw1 admits that the plaintiff is having lodge, shopping complex near Mallikarjuna Theatre, shopping complex and lodge at Kadiri Road, that he does liquor business and he is running lodges and shopping complexes. Dw1 admits that one money suit was filed against him on the file of Kadiri Court and two cheque dishonour cases at Madanapalle Court and that he issued cheques drawn on ING vysya Bank in favour of Subramanaym, but again contended that they are drawn on Mysore bank. He admits that the house sites does not stand in his name and he is not even the attestor of Ex.B7. In fact, his cross-examination reveals that he has purchased unfinished sites 15 in number under Ex.B9. So, he is also one of the purchasers. Ex.B10 filed is only an unauthorized layout and is not of use to the defendant. He admits that he did not issue any rejoinder to the reply of the plaintiff. Dw1 admits that he did not mention the specific date or month on which he issued blank cheques or blank promissory notes. He admits that as on the date of Exs.B5 and B6, the business name is mentioned as Herbals, but not Semi Herbals. Ex.B5 and B6 reflects the name of the Enterprises as M/s Balaji Enterprises standing in the name of wife of Dw1. The R.C. Approval date is 30.9.2015 and first tax was paid on 1.9.2015 itself as evident from Ex.B6 and so, the business was existing by then. Admittedly, he did not issue any notice for the return of the blank promissory note and cheques and this is not the expected conduct of any prudent man. Atleast after the disputes arose, being a person engaged in business, having business acumen, he should have taken steps for the return of his Negotiable Instruments. Dw1 has no idea whether he took plea in his written statement and reply notice about the financial capacity of plaintiff or not. As noted above, this a vague plea taken during the evidence of Dw1 and Dw1 could not throw any light regarding the pleas raised in order to discharge the burden of rebutting the presumptions.

13. **Dw2** is one Krishnappa Naidu who claims to be one of the business partners of the defendant in real-estate business. He reiterates that they wanted to sell the house sites in Sy.No.510/2 of Bandamidakammapalle and prepared layout. The plaintiff gave advance of Rs.6,00,000/- for purchase of plot No.87 and due to delay in the registration, towards security, the defendant issued one promissory note and six unsigned empty cheques to the plaintiff to present them if a regular sale deed is not executed within two months, that too by filling Rs.1,00,000/- in each cheque.

He has deposed to the extent that they got executed registered sale deed and the defendant also got sale deed in respect of unsold corner bits. He admits during his cross-examination that Exs.B7 to B9 ie., the sale deeds executed by Dw2 and others does not contain the name of the defendant as a partner. **The alleged agreement reflecting the name of defendant as one of the partners is not even filed into court**. He admits that himself, Mallikarjuna Naidu and defendant are close friends. It is the stand of the plaintiff that he has deposed in OS.No.56 of 2012 against this Mallikarjuna Naidu and therefore Dw2 is giving false evidence in this case. Surprisingly, Dw2 pleads ignorance about the total blank promissory notes and cheques of the defendant. Without any document, doing partnership business, that too relating to plots is not believable and the defendant himself has purchased several house sites in the same layout under Ex.B9. This throws serious doubts regarding the stand of the defendant.

13(a). Moving on to the evidence of **Dw3** who is one Harikrishna, he claims that he is friend of plaintiff and that they did garment business under partnership for seven years. According to him, later the plaintiff has withdrawn from the business and there were several money transactions in between them. He left several signed promissory notes and cheques with the plaintiff which the plaintiff did not return when he has relinquished the partnership business. It appears this witness did business jointly with the plaintiff and as well as the defendant pertaining to wine shops. However, he is not concerned with the real-estate business commenced in the year 2010. He reiterates the version of the defendant also being engaged in that business, plaintiff purchasing one plot by paying advance and thereafter, when the sale deed could not be executed in time, the defendant giving empty promissory note and six signed cheques to the plaintiff. Further, the plaintiff was asked to withdraw Rs.1,00,000/- every month with each cheque by filling it. He is one of the purchasers of the house sites and his sale deed is Ex.X1. His specific stand is that one Satish Kumar who is presently working under the plaintiff has issued legal notice as if he (Dw3) has borrowed Rs.6,00,000/- and this Dw3 contends that the plaintiff has conspired with Satish Kumar and fabricated the promissory note and made false claim by filing OS.No.523 of 2022 through his worker. It appears the attestors are same for this Exs.A1 and Ex.X2 ie., the promissory note alleged to have been executed by Dw3. This could also be on account of the fact that the PW1 and Dw3 were earlier partners and they would be having acquaintance with similar persons in their field. The certified copies of the plaint and written statement of that suit are filed. Also Dw3 contends that one of his cheque leaves was handed over to Venkataramana by the plaintiff herein. It appears Dw3 is facing several cheque dishonour complaints and he attributes that the plaintiff is behind all these cheque dishonours. No further comments are warranted regarding the Exs.X1 to X4 in this suit and even in the sale deed of this Dw3, the defendant is not the vendor or one of the vendors and the chief-examination of Dw3 itself shows that he is now on enemical terms with the plaintiff. It is elicited during his cross-examination that the plaintiff and Dw3 did cloth business at Tirupathi and denies that he never issued blank cheques and promissory notes in favour of the plaintiff. He pleads ignorance if there is any partition deed in between the defendant, Krishnama Naidu, Dwarkanatha Reddy, B.T. Chalapathi and Janardhan. He admits that the defendant is only an attestor for Ex.X1. He admits that his residential address is at Tirupathi.

As far as the present transaction is concerned, Dw3 could not throw much light and even if he has given any such blank unfilled promissory notes and cheques to the plaintiff, it cannot be presumed that the defendant has also given such unfilled Negotiable Instruments.

13(b) Therefore, in the above discussion, the defendant has miserably failed to rebut the presumptions flown for Ex.A1 under section 118 of Negotiable Instruments Act.

14. Regarding the presumptions under section 118 of Negotiable Instruments Act, the learned counsel for the plaintiff has rightly relied on **[1]** T.K. Kulandaivelu Vs K.P. Nallusamy reported in 2021 (4) MLJ 583 of Hon'ble High Court of Madras, **[2]** R.SingaravadivelanVs.Durai Senthil reported in 2024(5) LW 733 of Hon'ble High Court of Madras, **[3]** Kanuganti Ramu Vs. Samala Praveen Kumar reported in 2024(6) Andh LD 485 of Hon'ble High Court of Telengana, **[4]** G.Sanjeeva Vs M. Vishnu Kumar reported in 2023 AIR CC 2348 of Hon'ble Telengana High Court, **[5]** Koduri Siva Rama Prasada Rao Vs Nooli Kanaka Rao reported in 2024(3) NIJ 639 of Hon'ble High Court of Andhra Pradesh **and [6]** V.Thangaraj Vs. Sankaran Financiers reported in 2007 AIR (Madras) 284.

Mere creation of doubt or surmises and conjectures alone may not be sufficient to dispel the presumption as seen from the synthesis of the above citations. The evidence for rebutting the presumption must be acceptable. Further, in the present case on hand, the failure on the part of the defendant to take steps for return of his signed Negotiable Instruments even after the registration of the house site in favour of the plaintiff is definitely suspicious and hence the version of Ex.A1 being given as security for erstwhile land transaction is not acceptable. Mere denial of receipt of consideration is insufficient and the defendant must raise preponderance of probabilities to counter the presumptions. In the present case on hand, the defendant has failed to place any cogent and convincing evidence to show that he has given Ex.A1 in blank with his signature though he did not receive any consideration and that later, the plaintiff has fabricated the same. When there is no documentation evidencing that the defendant is one of the partners pertaining to laying of house plots ie., in the real-estate business, why the defendant was made to sign in one blank promissory note and six cheques is very suspicious and it has to be deemed implausible, since the defendant is a prudent business man. In the above referred **Kanuganti Ramu's** case of Hon'ble High Court of Telengana also, the defendant was a business man and similar stand taken by him was rejected.

15. Now taking up the citations of the defendant, by relying on **Bharat Barrel and Drum Manufacturing Company Vs Amin Chand Payarelal** of Hon'ble Apex Court **2023 APHC 37289**, the learned counsel for the defendant has contended that it is open to the defendant to prove that the case set-up by the plaintiff is not true and to rebut the presumptions by showing preponderance of probabilities in his favour pertaining to Section 118 of Negotiable Instruments Act. This preposition cannot be doubted at all and it is needless to state that even the defendant need not lead any evidence and he can draw favourable material from the cross-examination of the plaintiff side witnesses also. The evidential burden placed on the defendant by virtue of section 118 of Negotiable Instruments Act is not rebutted by the defendant in this case on hand by showing preponderance of probabilities in his favour.

(b) In **Veena Singh (dead) Through Lr Vs The District Registrar/ Additional Collector (F/R)** of Hon'ble Supreme Court in Civil Appeal No.2929 of 2022 decided on 10.5.2022, it is explained as to what amounts to execution of a document. No doubt, mere admission of the signatures by the defendant does not amount to execution of promissory note and in this case as the plaintiff has discharged his initial burden, this court has drawn the presumptions under section 118 of Negotiable Instruments Act.

(c) Mohd. Ibrahim Vs. Munni alias Zainab Bee reported inn 2007 2 ALD 393;. This case relates to Specific Relief Act and it was observed that when the chief-examination is not disputed in the cross-examination, it should be deemed to have been admitted

(d) K. Saraswathi Vs G. Munilakshmamma of Hon'ble High Court of Andhra Pradesh reported in 2024 :APHC : 2999 (in Appeal suit No.660 of 2008) decided on 30.1.2024, our Hon'ble High Court has referred to Bharat Barrel's case regarding the standard of proof and the drawing of presumptions under section 118 of Negotiable Instruments Act.

(e) In **Konganti Ratna Babu Rao Vs Barma Ram Prasad** of Hon'ble High Court of Andhra Pradesh reported in 2023 : APHC: 37289 in Appeal Suit No.585 of 2015 decided on 11.10.2023, the trial court has not adequately appreciated the cross-examination of PW1 and the defendant in that case could establish that the plaintiff had no financial capacity. A specific plea was taken to this effect in the written statement and material was elicited in the cross-examination of PW1. In the present case on hand, already findings are given regarding the financial capacity of the plaintiff by referring to the pleading and material elicited by the defendant himself during cross-examination of PW1.

16. For the above discussion, the plaintiff could establish that the suit promissory note is supported by consideration and is binding on the defendant. The presumptions flown under section 118 of Negotiable Instruments Act stood unrebutted. The defendant could not raise preponderance of probabilities in his favour pertaining to the stand taken by him and hence the above issues 1, 3 and additional issue No.1 are held in favour of the plaintiff.

17. Issue No.2:- "Whether the ING Vysya Bank got merged with Kotak Mahindra Bank in the year 2015 and the defendant account is closed and issuance of cheque does not arise ?"

In the present case, it is not denied that ING vysya Bank has merged with Kotak Mahindra Bank, but there is no material that this has happened on a particular date in the year 2015. The merger is not the ground to disbelieve the plaintiff's case and the defendant contends that in view of this merger, there is no question of issuance of the cheques of ING vysya Bank after merger and that Kotak Mahindra Bank will not accept the same. As pointed out, no bank official is examined to this effect and even if the erstwhile ING vysya Bank got merged with the Kotak Mahindra Bank, there is no scrap of material that the cheques of ING Vysya Bank would not be accepted. Infact, the impugned cheques under Exs.B3 and B4 were not dishonoured on that ground and the ground of the dishonour of the cheques is the account being closed. The defendant did not choose to file any material as to when exactly he closed his account and failed to establish that he was no longer using the cheques of erstwhile ING vysya Bank after the merger of the banks. Hence, this issue is decided accordingly by holding that the banks are merged. However, it cannot be held that the issuance of Exs.B3 and B4 cheques by the defendant does not arise in view of the merger of the banks.

18. <u>Issue No.4:</u> "To what relief ?"

For the above discussion made supra, the suit of the plaintiff is liable to be decreed and accordingly decreed. However, the interest claimed is restricted.

In the result, the suit of the plaintiff is decreed with costs for Rs.18,89,800/- (Eighteen lakhs eighty nine thousand and eight hundred only) and with interest at 12% P.A from the date of suit till the date of decree, at 6% P.A from the date of decree till realization on the principal amount of Rs.11,00,000/- (Eleven lakhs only).

Dictated to the Stenographer, after his transcription, corrected and pronounced by me in the open court on this the 13th day of August, 2026.

Sd/- Ms. R.Sreelatha
VII Additional District Judge,
Madanapalle.

APPENDIX OF EVIDENCE
Witnesses Examined:

For plaintiff:

PW1: Sri R.Prasanna Kumar,
PW2: Sri M.Venkatadri.

For defendants:

DW1: Sri G.Srinivasulu Naidu,
DW2: Sri T.Krishnappa Naidu,
DW3: Sri K.Harikrishna.

Exhibits marked on behalf of the plaintiff:-

Ex.A1: Suit promissory note dated 15-07-2015 executed by the defendant in favour of the plaintiff for Rs.11,00,000/-

Exhibits marked on behalf of defendants:

Ex.B1: Reply notice dated 10-04-2018 issued on behalf of the defendant, along with the postal receipt.

Ex.B2: Rejoinder notice issued on behalf of the plaintiff dated 25-06-2018.

Ex.B3: Served copy of the cheque bearing No.026715, dated 26-03-2018, for Rs.8,00,000/-.

Ex.B4: Served copy of the cheque bearing No.026716, dated 29-03-2018, for Rs.6,00,000/-.

Ex.B5: Certificate of registration issued by the Commercial Tax Department to the defendant, dated 10-06-2016.

Ex.B6: RC approval for Balaji Traders. dated 30-09-2016.

Ex.B7: Certified Copy of Registered Sale Deed dated 14-12-2010 standing in the name of the plaintiff.

Ex.B8: Certified Copy of Registered Sale Deed dated 27-08-2010 standing in the name of A.Sreenivasa Rao.

Ex.B9:Certified Copy of Registered Sale Deed dated 27-12-2010 standing in the defendant's name for several parts in Sy.No.510/2 of Bandameedakammapalle village.

Ex.B10: Photostat copy of an unauthorized Layout Plan for Sy.No.510/2 for an extent of Ac.4.07 cents (marked through Dw2).

Ex.B11: Legal notice dated 06-04-2018 addressed to S.Sreenivasulu, C/o. Balaji Traders, Narasimha Complex (marked through PW1 by confrontation).

Ex.B12: Document pertaining to the cheque dishonour case vide C.C.No.33/2019 on the file of Special Magistrate Court, Madanapalle (marked through PW1 by confrontation).

Ex.B13: Counter foil presented at Kotak Mahindra Bank in C.C.No.33/2019 containing the handwriting of PW1 (marked through PW1 by confrontation).

<u>The following documents are marked through Dw3 in ‘X’ series:-</u>

Ex.X1: Certified Copy of Registered Sale Deed dated 27-08-2010 in favour of K. Harikrishna for plot No. 56 in Sy.No.510/2 of B K Palli revenue village.

Ex.X2: Certified Copy of the promissory note in O.S.No.523/2022 dated 26-06-2019 on the file of the Principal Junior Civil Judge, Madanapalle,

Ex.X3: Certified Copy of the plaint in O.S.No.523/2022 on the file of Principal Junior Civil Judge, Madanapalle.

Ex.X4: Certified Copy of the written statement in O.S.No.523/2022 on the file of Principal Junior Civil Judge, Madanapalle.

Sd/- Ms. R.Sreelatha

VII Additional District Judge,
Madanapalle.