

IN THE COURT OF THE DISTRICT MUNSIF, UDUMALPET

**Present: Selvi. R.Pooja Kanmani, B.B.A., L.L.B, (Hons)
District Munsif, Udumalpet**

(On this the 23rd day of July 2025, Wednesday)

**O.S. No. 165/2023
(CNR. No. TNTI0E-000198-2023)**

P. Rajamudi

...Plaintiff

/Vs/

T. Nithyanathasamy

...Defendant

This suit came up on 23.07.2025 for final hearing before this Court in the presence of Advocate Mrs.S.Srimathi, B.Sc., B.L., the learned counsel for the Plaintiff and Defendant being called absent is set exparte in the original suit. Upon perusing the material records and having stood over consideration till this date, this court delivered the following;

' J U D G M E N T '

The suit is filed by the Plaintiff under Order VII Rule I of CPC, 1908 for the recovery of money to the tune of Rs.65,950/- (Rupees Sixty-Five Thousand and Nine Hundred and Fifty Only) with subsequent interest at the rate of 12% per annum from the date of the plaint to date of realization with the cost of the suit.

2. BRIEF AVERMENT OF THE PLAINT:

2.1. The Plaintiff submits that on 05.12.2020, the Defendant borrowed a sum of Rs.50,000/- (Rupees Fifty Thousand Only) at an interest of 12% per annum, through a Promissory Note dated 05.12.2020, for his family expenses. The Plaintiff further submits that despite repeated demands and requests of the Plaintiff, the Defendant failed and neglected to repay the principal amount

and interest or any part thereof, and therein the Plaintiff sent a registered notice to the Defendant on 13.06.2023, demanding payment of the amount along with principal and interest and the Defendant received the same on 15.06.2023 and remained supine.

2.2. The Plaintiff submits that the Defendant is liable to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) towards the principal amount and a sum of Rs.15,950/- (Rupees Fifteen Thousand and Nine Hundred and Fifty only) towards interest for the period from 05.12.2020 to 01.08.2023, totalling to a sum of Rs.65,950/- (Rupees Sixty-Five Thousand and Nine Hundred and Fifty Only). Hence aggrieved this suit.

3. Whereas, on the other hand, in this case, summon was issued to the Defendant and the same was received by the Defendant and the Defendant has not appeared before this court. Hence the Defendant was set ex-parte by this court on 04.12.2024 and this suit proceeded ex-parte.

4. EXPARTE DOCUMENTS AND EVIDENCE ADDUCED ON THE SIDE OF THE PLAINTIFF:

4.1. The Plaintiff in order to prove his case, examined himself as PW-1 and marked documents Ex.A1 to Ex.A5. Ex.A1 is the Promissory Note executed by Defendant in favour of Plaintiff, Ex.A2 is the Legal Notice issued by the Plaintiff, Ex.A3 is the Postal Receipt, Ex.A4 is the Acknowledgment Card, Ex.A5 is the Aadhaar Card of the Plaintiff.

4.2. The Defendant was set exparte even after serving of summons. Hence no oral and documentary evidence was adduced on the side of the Defendant.

5. POINTS FOR DETERMINATION:

- i. Whether the Defendant is liable to pay a sum of Rs.65,950/- (Rupees Sixty-Five Thousand and Nine Hundred and Fifty Only) together with interest to the Plaintiff?

6. DISCUSSIONS & REASONING:

- 6.1. The learned counsel for the Plaintiff avers that the Defendant had borrowed a sum of Rs.50,000/- (Rupees Fifty Thousand only) for the purpose of family expense from the Plaintiff and had failed to repay the same. In support of the case of the Plaintiff, the Plaintiff had filed proof affidavit in lieu of chief examination and was examined as PW1. The proof affidavit filed by the Plaintiff in lieu of chief examination reiterated the averments stated in the plaint. To substantiate the same, documentary evidence namely, Ex.A1 to Ex.A5 were marked through PW1.
- 6.2. Ex.A1 dated 05.12.2020 is the Promissory executed by the Defendant in favour of the Plaintiff. Ex.A2 is the Legal Notice issued to the 1st Defendant dated 13.06.2023. Ex.A3 is the Postal Receipt. Ex.A4 is the Acknowledgement Card and Ex.A5 is Aadhar Card of the Plaintiff.
- 6.3. The documentary evidence filed on the side of the Plaintiff perused. On perusal of Ex.A1, it can be seen that the Defendant has borrowed a sum Rs.50,000/- (Rupees Fifty Thousand only) at the rate of 12% interest per annum. The averments pleaded in the plaint regarding the name of the borrower; sum borrowed; its date and rate of interest are proved by the Plaintiff through Ex.A1.
- 6.4. The Defendant was set-exparte on 04.12.2024 for his non-appearance even after the issuance of suit summon. Hence, with regard to the non-appearance of the Defendant, this court draws an adverse inference against the Defendant on the basis of principles contained in illustration (g) of Section 114 of the Evidence Act, for not contesting the case to defend himself against the claim of the Plaintiff. The Ex.A1 to Ex.A2 clearly probabalizes the case of the Plaintiff. The Plaintiff has discharged the burden by letting in documentary evidence, which stands unrebutted by the

Defendant till this date. So, this court is of the opinion that the Plaintiff has proved his case by placing cogent and satisfactory evidence.

- 6.5. At this juncture, the burden of proof shifts onto the Defendant, but the Defendant, despite having knowledge about the pendency of the present suit proceedings has failed to contest the same and discharge the onus placed on him. The evidence adduced by the Plaintiff was neither rebutted nor disproved on the side of the Defendant.
- 6.6. The learned counsel appearing for the Plaintiff contented that the Plaintiff is entitled to recover the subsequent interest at the rate 12% per annum on the principal amount from the date of the institution of the suit till the date of realization. At this juncture it is pertinent to look into Section 34 of the Code of Civil Procedure, wherein it has been clearly stated that the interest shall not exceed 6% per annum, unless the transaction is of commercial nature. Therein based on the aforesaid observations this Court is of the considered opinion that the court ought to award reasonable interest from the date of institution of the suit until realization, in consonance with the provisions of Section 34 of the Code of Civil Procedure, 1908.
- 6.7. This court upon considering perusal of oral and documentary evidence produced by the Plaintiff bank comes to the conclusion that the Plaintiff has established his case. Hence, this court inclines to pass the following order in favour of the Plaintiff. On considering the facts and circumstances of this case and the from the above discussion, this court is inclined to grant 6% interest per annum only, for the principal amount from the date of institution of the suit till the date of realization. Therefore, the Plaintiff is entitled to recover the interest at the rate of 6% per annum on the principal amount from the date of institution of the suit till the date of realization from the Defendant.

In the result,

the suit is decreed with cost as follows,

- i. The Plaintiff is entitled to recover the sum of Rs.65,950/- (Rupees Sixty-Five Thousand and Nine Hundred and Fifty Only).
- ii. The Plaintiff is entitled to recover the interest at the rate of 6% per annum on the principal amount from the date of institution of the suit till the date of realization from the Defendant.
- iii. No cost.

Judgment directly dictated to the Steno and computerized error checked and pronounced in the open court on 23rd day of July 2025.

**District Munsif,
Udumalpet.**

PLAINTIFF SIDE WITNESSES:

PW1: Rajamudi (Plaintiff)

PLAINTIFF SIDE DOCUMENTS:

S. No.	Date	Particulars	Nature
Ex A1	05.12.2020	Promissory note executed by defendant in favour of plaintiff	Original
Ex A2	13.06.2023	Legal Notice issued by the plaintiff	Office Copy
Ex A3	13.06.2023	Postal Receipt	Original
Ex A4	15.06.2023	Acknowledgment Card	Original
Ex A5	-	Aadhaar card of the plaintiff (Compared with Original)	Xerox

DEFENDANT SIDE EVIDENCE: ... NIL ...

DEFENDANT SIDE DOCUMENTS: ... NIL ..

**District Munsif,
Udumalpet.**