

KACM010017932023



**BEFORE THE PRL. DIST. & SESSIONS JUDGE AND
PRESIDING OFFICER, COMMERCIAL COURT AT
CHIKKAMAGALURU**

Dated this the 7th day of March, 2026

:PRESENT:

Smt. Rajeshwari N. Hegde, B.Com., LL.M.
Prl. District & Sessions Judge,
Chikkamagaluru

COMMERCIAL O.S No.95/2023

Plaintiff:

M/s Prasad Traders,
Rep. By its Prop.
Sri. B.S. Raghavendra Prasad.
Age: 45 years
APMC Yard,
Kadur Town & town.
Chikkamagalur Taluk.

(Represented by Sri.K.H.M., Advocate)

- Vs -

Defendant

1 Smt. Radha.
W/o Late. Krishna,
Aged 45years.
Flour Mill,
R/o S.M. Krishna Extn.
Doddapattanagere Road,
Kadur Town.

2 Kum. Roopa.
D/o Late. Krishna
Aged 21year.
R/o S.M. Krishna Extn.
Doddapattanagere Road
Kadur Town.

3 Kum. Ranjitha.
D/o Late. Krishna
Aged 19 years.
R/o S.M. Krishna Extn.
Doddapattanagere Road
Kadur Town.

(Represented by Sri.K.N.C., Advocate)

Date of Institution of Suit: 03.08.2023

Nature of Suit: Recovery of money

Date of which judgment
pronounced: 07.03.2026

Total Duration:	Years	Month/s	Day/s
	02	07	04

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J U D G M E N T

This is a suit for recovery of Rs.8,60,000/- from the defendant with interest at the rate of 24% per annum from the date of transaction till the realization of the amount and also for costs.

2. The brief facts of the plaintiff's case is that:

(a) The plaintiff traders is dealing with groceries under the name and style " M/S.Prasad Traders in APMC Yard, Kadur town, Kadur Taluk, the husband of the defendant No.1 and father of defendant No.2 and 3 was doing raagi business and the plaintiff and the husband of the defendant No.1 and father of the defendants No.2 and 3

by name Krishna are known to each other since more than 25 years; that the said Krishna had taken raagi in APMC yard of plaintiff traders worth on different dates, that on 19.02.2021 – 25,430 Kgs. Vide bill No.189, amounting to Rs.6,86,600/- and on 20.02.2021 – 4,000 Kgs.vide bill No.190, amounting to Rs.1,08,000/- and also 2,400 Kgs.-vide bill No.191 amounting to Rs.65,400/-, in all amounting to Rs.8,60,000/-; and towards repayment of the said amount the husband of the defendant No.1 and father of the defendants No.2 and 3 had issued a cheque drawn on State Bank of India, Kadur Branch, bearing No.029166, in favour of the plaintiff; that he had promised to maintain the amount in his account by 03.05.2021; that on 17.07.2021 when the plaintiff presented the cheque through his banker State Bank of India, K.M.Raod, Kadur, the said cheque returned with a memo “ funds insufficient”;

(b) It is further contended that the said Krishna, who is the husband of the defendant No.1 and father of the defendants No.2 and 3, died due to illness and thereafter the plaintiff approached the defendants seeking to repay the amount, but the defendants have not paid the same and went on postponing on one or the other reason; thereafter, the plaintiff got issued legal notice to the defendants on 10.8.2021 calling upon the defendants to pay the amount , but the defendants given untenable reply.

(c)_ The plaintiff has filed petition before the District Legal Service Authority in PIMS No.19/2022 against the defendants, the defendants failed to appear before DLSA, Chikkamagaluru. Hence, the DLSA has issued a non-starter report on 7.4.2022;

(d) The cause of action to file the suit arose from 3.5.2021 when the plaintiff has issued the legal notice to the defendants on 10.08.2021 and on 7.4.2022 when the DLSA issued non-starter report, within the jurisdiction of this court. Hence, the plaintiff prayed to decree the suit.

3. After service of suit summons, the defendants appeared through their counsel and contested the claim of the plaintiff bank by filing written statement.

4. In the Written statement defendants have denied the entire plaint averments as to purchase of raagi by Late Krishna, the husband of defendant No.1 and father of defendants No.2 and 3, and issuance of cheque in favour of the plaintiff amounting to Rs.8,60,000/- and dishonour of the said cheque when presented for encashment. It is contended that there is no cause of action to file the suit; that during his life time, Krishna was doing fertilizer business and also running "Maruthi Flour Mill"; that at no point of time said Krishna had purchased raagi amounting to Rs.8,60,000/- as alleged, hence, the question of issuance

of cheque for repayment of the said amount to the plaintiff, does not arise at all.

(a) It is further contended that during his life time said Krishna had availed loan from one H.Mallelshappa in the year 2017 and 2018 and towards security of the said amount said Krishna had issued two blank cheques, one cheque bearing No.869111 of Karnataka Bank , Kadur and another cheque No.029166 of State Bank of India , Kadur; that said Krishna had repaid the loan borrowed from H.Malleshappa and demanded him to return the cheques issued for security of the loan , but said Malleshappa did not return the cheques and in this regard there was misunderstanding between Krishna and Malleshappa; that said Malleshappa in order to harass Krishna and to have wrongful gain, misused the blank cheque issued by Krishna, got filled the blank cheque, forged the signature of Krishna, presented the same to the bank and lodged the complaint for the offence punishable under section 138 N.I.Act, in the meanwhile said Krishna died due to Covid 19.

(b) It is further contended that the said H.Malleshappa and the plaintiff are friends and taking undue advantage of the said blank cheque which was in the custody of H.Malleshappa, said H.Malleshappa again forged the signature of H.Krishna on the cheque No.029166 and by creating false story and false transaction, got filed the

present suit for recovery of Rs.8,60,000/- through the plaintiff. It is further contended that the said Krishna was doing fertilizer business and also running flour mill and hence, question of purchase of such huge amount of raagi from the plaintiff does not arise at all, as such the suit of the plaintiff is not maintainable; that the plaintiff has not come to the court with clean hands and hence, the plaintiff is not entitled for any relief, on this ground alone the suit of the plaintiff is liable to be dismissed, hence, it is prayed to dismiss the suit with costs.

5. Based on the above said pleadings, the following issues have been framed:

- (1) Whether the plaintiff proves that deceased Krishna had purchased 25,430kgs.raaggi on 19.02.2021 from APMC Yard of plaintiff's Traders, worth Rs.6,86,600/- as averred in plaint para No.2?
- (2) Whether the plaintiff further proves that the deceased Krishna had purchased 4000kgs. Ragi on 20.02.2021 under Bill No.190 worth Rs.1,08,000/- and also 2400 kgs.ragi on the same day under till NO.191, worth Rs.65,400/- from APMC Yard of plaintiff's Traders as averred in plaint para No.2?
- (3) If so, whether the plaintiff further proves that deceased Krishna had issued cheque NO.029166 dated 03.05.2021 in favour of the plaintiff towards discharge of the

aforesaid total debt of Rs.8,60,000/- which was dishonoured on 17.07.2021?

- (4) Whether the defendants prove that the deceased Krishna had issued unsigned cheque No.029166 drawn on State Bank of India, Kadur, alongwith another cheque as of security for the loan amount availed from H.Malleshappa by deceased Krishna as averred in para No.13 of their written statement?
- (5) Whether the defendants further prove that signature of deceased Krishna on cheque No.029166 has been forged as averred in para No.14 of their written statement?
- (6) Whether the plaintiff is entitled for recovery of Rs.8,60,000/- from defendants together with interest at 24% p.a., from the date of transaction till realisation and Court costs as sought in the plaint?
- (7) What Order or Decree?

6. On behalf of plaintiff-bank, the proprietor of plaintiff-Traders examined as PW.1 and got marked the documents at Exs.P.1 to P.38 and closed its side. On the other hand, the defendants No.1 is examined before the Court as DW.1 and got marked Ex. D.1 to D.5 documents.

7. Heard arguments.

8. The findings on the above said issues are as under:

Issue No.1: In the Affirmative;
Issue No.2: In the Affirmative;
Issue No.3: In the Affirmative;
Issue No.4: In the Negative;
Issue No.5: In the Negative;
Issue No.6: Partly In Affirmative;
Issue No.7: As per final order,
for the following:

REASONS

9. **Issue Nos.1 to 6:-** As the consideration of all these issues are based on the same set of facts and evidence, in order to avoid repetition of discussion, these issues have taken for discussion together.

10. As per the case of the plaintiff, it is running groceries business in APMC Yard, Kadur, and one Krishna, the husband of the defendant No.1 and the father of the defendants No.2 and 3 used to purchase raagi with the plaintiff and on 19.02.2021 – 25,430 Kgs. Vide bill No.189, amounting to Rs.6,86,600/- and on 20.02.2021 – 4,000 Kgs.vide bill No.190, amounting to Rs.1,08,000/- and also 2,400 Kgs.- vide bill No.191 amounting to Rs.65,400/-, in all said Krishna had purchased Rs.8,60,000/- and towards payment of the said raagi transaction the said Krishna had issued a cheque bearing No.029166 in favour of the plaintiff; that when the plaintiff presented the said cheque to the bank on 17.07.2021, the same was returned unpaid with

with an endorsement " funds insufficient". The plaintiff further contended that the said Krishna died due to illness and as such he got issued legal notice to the defendants seeking repayment of the amount due by said Krishna, since the defendants have not repaid the same, he has filed the present suit against the defendants seeking for recovery of amount of Rs.8,60,000/- with interest at the rate of 24% per annum.

11. The plaintiff in support of his case got examined himself as PW.1 and got marked Ex. P.1 to P.38 documents. In his evidence, PW.1 has reiterated the plaint averments and sought for decreeing the suit. During his evidence the plaintiff has also got marked Ex.P.1 to P.38 documents.

12. As per the case of the plaintiff, the husband of the defendant No.1 and father of the defendants No.2 and 3 by name Krishna had purchased ragi from his shop on credit basis vide credit bills Ex. P.3 to 5. Ex. P.3 credit bill is relating to credit purchase of 25430 kgs.of 502 bags raagi, worth Rs.6,86,610/- from the plaintiff concern. Ex. P.4 is the credit bill relating to credit purchase of 4000 kgs.of ragi, worth Rs.1,08,000/- and Ex.P.5 is the credit bill relating to credit purchase of 2400 kgs. of ragi worth Rs.65,400/-. The plaintiff claims that the husband of defendant No.1 and father of the defendants No.2 and 3 by name Krishna has issued Ex.P.1 cheque in favour of the

plaintiff concern towards payment of the ragi purchased by said Krishna vide Ex. P.3 to 5 credit bills. The plaintiff further claims that when the said cheque was presented before the bank for encashment, the same was returned dishonoured with an endorsement "funds insufficient".

13. PW.1 further deposed that the said Krishna had assured that he will maintain balance in his account and he can present the same before the bank for encashment, but the cheque in question was dishonoured for the reason of insufficient funds in the account of the drawer. He further deposes that thereafter he came to know that said Krishna died due to illness, as such he got issued legal notice to the legal heirs of said Krishna as per Ex.P.7 calling upon them to pay the cheque amount due by late Ex. P.3 credit bill is relating to credit purchase of 25430 kgs.of 502 bags raagi, worth Rs.6,86,610/-; Ex. P.4 is the credit bill relating to credit purchase of 4000 kgs.of ragi, worth Rs.1,08,000/- and Ex.P.5 is the credit bill relating to credit purchase of 2400 kgs. of ragi worth Rs.65,400/-. PW.1 further deposes that the husband of defendant No.1 and father of the defendants No.2 and 3 by name Krishna had issued Ex.P.1 cheque in favour of the plaintiff concern towards payment of the ragi purchased by him vide credit bills Ex. P.3 to 5. PW.1 further deposed that Krishna had promised to maintain sufficient balance in his account, but the cheque Ex. P.1 came to be dishonoured for the reason "funds

insufficient” in the account of said Krishna, that later he came to know that said Krishna died due to illness, as such he got issued legal notice to the legal heirs of said Krishna, who are defendants before the court, since they have not settled the cheque amount, he has filed the present suit for recovery of the amount of the cheque.

14. The plaintiff has referred the matter before the D.LSA, Chikkamagaluru, vide PIMS. No.19/2022 on 28.03.2022 and since the defendants failed to appear before the court, non-starter report has been issued on 07.04.2022.

15. The defendants in support of their defence, got examined defendant No.1 as DW.1, wherein she has reiterated the defence taken in the written statement and in support of her defence, she has got marked Ex. D.1 to D.5 documents.

16. The learned counsel for the plaintiff has argued that there was ragi business transaction between the plaintiff and the deceased Krishna who was none other than the husband of the defendant No.1 and father of the defendants No.2 and 3; that deceased Krishna had purchased ragi worth Rs.8,60,000/- from the plaintiff concern vide three credit bills Ex.P.3 to P.5, and towards payment of the said amount, the said Krishna had issued Ex. P.1 cheque in favour of the plaintiff concerned with an assurance to maintain sufficient balance in his account , but when the plaintiff presented the

said cheque it came to be dishonoured for want of sufficient funds in the account of the said Krishna.

17. The plaintiff's counsel further argued since said Krishna died due to illness, the plaintiff got issued legal notice to the legal heirs of said Krishna, who are the defendants No.1 to 3 herein, but the defendants though succeeded to the estate left behind by late Krishna, have denied the liability of repayment of the said cheque amount, contending that Krishna was not dealing with ragi business and the said cheque was issued to one Malleshappa as a security to the loan amount, which was misused by the plaintiff in connivance with said Malleshappa and as such they are not liable to pay the cheque amount.

18. He further argued that in the Income tax returns filed by the plaintiff concern, there is a clear mention as to the sundry debtors - Krishna as Rs.8,60,000/- during the year 2021 and 2022, as such the plaintiff has shown his statement of accounts while declaring his assets and liabilities, which clearly discloses that the said Krishna was due to pay the suit claim amount, which was due under the ragi transaction.

19. He further argued that the material on record are sufficient to show the credit purchase of raagi by the said Krishna, as per ex. P.3 to P.5 and even DW.1 has admitted change of katha of the property standing in the

name of her husband Krishna into her name , such being the case when the defendants succeeds the estate of the deceased Krishna, they are liable to pay the debt of the deceased, as such they are liable to pay the cheque amount, hence, it is prayed to decree the suit.

20. On the other hand, the learned counsel for the defendants has vehemently argued that the claim of the plaintiff cannot be accepted, in view of the simple reason that Ex.P.3 to P.5 does not contain the signature of Krishna; and that there is no mention as to cess to APMC, if really there was transaction with regard to purchase and sale of ragi, definitely cess would have been paid, as such no much importance can be given to the said document and the plaintiff cooked up a false story and filed the present suit.

21. It is further argued that Ex. P.12 is pertaining to an individual and not relating to firm; that no audit report has been furnished by the plaintiff in support of his claim, as such the claim of the plaintiff cannot be accepted.

22. It is further argued that the plaintiff has produced the documents relating to the criminal case filed by Malleshappa against said Krishna, it is not explained as to how the plaintiff came to know about Malleshappa is not explained; that in reality the plaintiff and said Malleshappa are friends and they colluded together and filed the present suit against the defendants to have wrongful

gain.

23. It is further argued that Krishna had loan transaction with one Malleshappa and as a security to the loan he had issued two blank cheques, based on one cheque he had filed a criminal case against said Krishna and after the death of said Krishna, the said Malleshappa got filed this suit against the legal heirs of the said Krishna through the plaintiff herein, in order to have wrongful gain; that the said Malleshappa forged the signature on Ex. P.1 cheque, as such the claim of the plaintiff cannot be accepted, hence, it is prayed to dismiss the suit with costs.

24. Perused the records.

25. In this case, six issues were framed and burden lies on the plaintiff to prove issue No.1 to 3.

26. Learned counsel for the plaintiff argued that the plaintiff has discharged his burden to prove issue No.1 to 3 by examining Pw.1 and got marked the documents Ex. P.1 to P.38. Further learned counsel argued that even in the cross-examination of DW.1, certain evidence elicited to support the contention of the plaintiff.

27. In this case, the defendants contention is that there was no transaction between the plaintiff and said Late Krishna, the cheque in question was misused by the plaintiff

which was given to one Malleshappa.

28. Now the question before this court is that whether the plaintiff has proved that the said cheque was issued by late Krishna to the plaintiff in connection with business transaction i.e., purchase of ragi from the plaintiff traders.

29. In order to discharge his burden B.S. Raghavendra Prasad who is proprietor of plaintiff concern, i.e., Prasad Traders, has filed this affidavit evidence, wherein he has reiterated plaint averments. Apart from his oral evidence, he has produced the documents i.e., credit bills which are marked as Ex. P.3 to P.5. As per the contention of the plaintiff, as per Ex. P.3 to 5, certain ragi amounting to Rs.6,86,610/-, Rs.1,08,000/- and Rs.65,400/- were supplied to the said Krishna on credit basis, in all Rs.8,60,010/-. Late Krishna in order to repay the said amount had issued a cheque dated 3.5.2021 as per Ex.P.1 for an amount of Rs.8,60,000/-, which was presented by the plaintiff for encashment, dishonoured as per the bank endorsement "funds insufficient" Ex. P.2.

30. Learned counsel for the plaintiff argued that after the dishonour of the said cheque, as the said Krishna died, the plaintiff got issued notice to these defendants No.1 to 3 who are the legal heirs of late Krishna, as per Ex. P.7. the defendants No.1 to 3 who received the legal notice,

replied to the notice as per Ex.P.8, wherein they have denied the issue of cheque by late Krishna in favour of the plaintiff . That apart, business transaction also denied stating that the plaintiff and said late Krishna were not at all in acquaintance.

31. Further, in the reply notice Ex. P.8, it is mentioned that the impugned cheque was given to one H.L.Malleshappa by late Krishna, said Malleshappa forged the signature of late Krishna and handed over to the plaintiff to file false suit, thereby, the defendants have totally denied the transaction, issuance of cheque to the plaintiff and further the signature of the late Krishna on Ex.P.1 cheque and the same is forged.

32. On perusal of evidence of PW.1, PW.1 has deposed about the business transaction, produced the credit bills Ex.P.3 to P.5, impugned cheque Ex. P.1, issue of legal notice to defendants No.1 to 3 as per Ex. P.7.

33. As the defendants have denied the said transaction, now this court has to go through the cross-examination of PW.1, in order to analyse whether the defendants have elicited any contrary evidence by cross-examining PW.1 in support of their defence.

34. In the cross-examination of PW.1, learned counsel for the defendants mainly attacked PW.1 on the point of imposition of APMC cess on the business transaction

and questioned the PW.1 that in Ex.P.3to P.5 , that there is no mention about payment of APMC cess. To that question, PW.1 has stated that earlier he used to pay cess, but as he directly purchased ragi from the farmers, it was mentioned that there is no need to pay APMC cess, therefore, he has not paid APMC cess.

35. Further, learned counsel for the defendants put suggestion of PW.1 that, on Ex. P.3 to 5 , name of Traders belongs to late Krishna is not mentioned. So far as this question is concerned, PW.1 has answered that as late Krishna had no licence, therefore, in the credit bills Ex. P.3 to P.5, trade name belongs to late Krishna not mentioned. Further PW.1 says that there is adhar number and PAN number belonged to late Krishna were mentioned in the credit bills Ex.P.3 to 5.

36. At this stage, I have gone through Ex.P.3 to 5. In all these documents, Adhar number and PAN numbers were mentioned. According to the plaintiff the said Adhar number and PAN number belonged to late Krishna, which is not denied by the defendants. So, if at all the said credit bills not issued by the plaintiff to late Krishna and the said transactions were created transaction, then how could adhar number and PAN numbers be mentioned in the said credits bills Ex.P .3 to 5. As the defendants have never denied that the said Adhar number and PAN number are

not that of late Krishna, and no evidence is placed by the defendants those Adhar number and PAN Numbers misused by the plaintiff mentioning in the said credit bills. Therefore, on going through credit bills Ex.P.3 to P.5 and as it bears the adhar number and PAN number of the said late Krishna, then the contention of the defendants that there was no transaction between the plaintiff and said late Krishna, cannot be accepted. So, Ex.P.3 to P.5 are the materiel documents placed by the plaintiff to establish that there was business transaction between the plaintiff and said Krishna.

37. So far as these credit bills are concerned, the learned counsel for the defendants argued that these credit bills are created by the plaintiff and it cannot be accepted as true documents. In this regard the learned counsel has drawn the attention of this court about the evidence elicited from the cross-examination of PW.1 the plaintiff. The learned counsel argued that if at all the plaintiff issued credit bills to late Krishna, then he should have paid cess to the APMC, but in the document, there is no mention about the payment of cess. Therefore, it is argued that those bills cannot be considered.

38. However, it is the contention of the plaintiff that though it is true that cess not paid, as per the gazette notification which is enclosed with Ex.P.38 i.e., letter of Secretary APMC, Kadur, and in the enclosed gazette, it is

published that: " where a farmer and trader enjoy the freedom of choice relating to sale and purchase of farmer's produced which facilitate remunerative prizes through competitive alternative trading channels"

39. The learned counsel for the plaintiff argued that in this case, the plaintiff directly purchased the ragi from the farmers and therefore, the plaintiff need not pay cess to APMC.

40. On going through the credit bills Ex.P.3 to P.5, and ex.P.38 , as there was no cess mentioned in the said credit bills, only for that reason, the transaction of the plaintiff with said Krishna cannot be denied.

41. Further, in this case, learned counsel for the defendant argued that in the credit bills Ex. P.3 to P.5, that there are no signatures of said Krishna. In this regard, the learned counsel for the plaintiff argued that the products were handed over to driver of the truck on which the products were loaded, the signatures of the truck driver were taken on Ex.P.3 to P.5. I have gone through Ex. P.3 to P.5. Wherein the vehicle number, driver name are mentioned and there is a signature of driver on the said bills. Thereby the arguments addressed by the learned counsel for the defendants that as there was no signature of late Krishna on Ex. P.3 to 5, only for that reason, it cannot be said that Ex. P.3 to 5 are not genuine documents.

42. Further, it is the argument of the learned counsel for the defendants that the plaintiff in this case has filed the documents given to Malleshappa and the plaintiff has not explained how the plaintiff came to know about Malleshappa.

43. On perusal of the documents filed by the plaintiff, the plaintiff has produced copy of the complaint filed against Krishna before the Prl.Civil Judge, JMFC., Kadur, for the offences punishable under section 138 of N.I.Act, which was registered as CC.No.190/2019, which is marked as Ex. P.21 and in addition to same case CC.No.190/2019, Ex. P.22 to Ex.P.24.

44. In this regard the learned counsel for the plaintiff has argued that how he came to know about Malleshappa is concerned, when the plaintiff issued legal notice as per Ex.P.7, the defendants replied to the legal notice as per Ex.P .8. In the Ex.P.8 reply notice, name of Malleshappa and Cheque No.869111 and another SBI Kadur branch cheque No.029166 mentioned by the defendants themselves, and the plaintiff verified about the said cheque, of Karnataka Bank, and came to know that the said H.Malleshappa filed criminal case before the Kadur Court against late Krishna. Therefore, it is the contention of the plaintiff that he does not know H.Malleshappa and only on the basis of reply notice he came to know about H.Malleshappa.

45. Further learned counsel for the plaintiff brought to the notice of this court that H.Malleshappa had also filed another similar complaint before the Kadur Court against the same person Late Krishna for the offences punishable under section 138 N.I.Act in respect to the cheque bearing No.869112 and 869113, drawn on Karnataka Bank Ltd., and the same is marked as Ex. P.25 and bank endorsement marked as Ex. P.26. And said Malleshappa had also issued legal notice to late Krishna through his advocate about the dishonour of cheque which is marked as Ex.P.27, acknowledgment as per Ex.P.28.

46. Further the other documents Ex.P.29 to 31 which are all related to CC. No.190/2019. And further learned counsel for the plaintiff also brought to the notice of the court that H.Malleshappa filed another complaint in CC.No.37/2019 with regard to cheque No.869111 as mentioned in reply notice Ex.P.8 and the documents pertaining to said CC.No.37/2019 are marked as Ex.P.32 to 37.

47. The present cheque in question is drawn on State Bank of India and bearing No.029166. Therefore, the argument of the learned counsel for the plaintiff that the defence taken by the defendant as mentioned in P.8 reply notice that late Krishna issued two blank cheques to the said H.Malleshappa which was misused by this plaintiff, is

absolutely false and untenable.

48. I have gone through the documents Ex.P.21 to P.37 and noticed that as rightly argued by the learned counsel for the plaintiff, H.Malleshappa filed two criminal cases against said Krishna for the offences punishable under section 138 of N.I.Act which were registered as CC.No.190/2019 and CC.No.37/2019. Thereby the contention of the defendants that the two cheques which were issued by late Krishna was misused by this plaintiff in collusion with H.Malleshappa, cannot be accepted and the documents Ex.P.21 to P.37 falsify the very contention of the defendants that blank cheque issued to Malleshappa was misused by the plaintiff.

49. On perusal of Ex. P.3 credit bill, it is relating to credit purchase of 25430 kgs.of 502 bags raagi, worth Rs.6,86,610/- from the plaintiff concern. Ex. P.4 is the credit bill relating to credit purchase of 4000 kgs.of ragi, worth Rs.1,08,000/- and Ex.P.5 is the credit bill relating to credit purchase of 2400 kgs. of ragi worth Rs.65,400/-. As per the case of the plaintiff Krishna had issued Ex.P.1 cheque in favour of the plaintiff concern towards payment of the ragi purchased by said Krishna vide Ex. P.3 to 5 credit bills.

50. As noted above, after issuance of legal notice, calling upon them to pay the cheque amount, the defendants

have got issued reply notice to the plaintiff by denying the alleged transaction of purchase of ragi by late Krishna from the plaintiff concern on credit basis and issuance of cheque.

51. It is pertinent to note here itself that, the present suit is filed after the death of the original borrower. Since the suit transaction is contractual, the plaintiff has filed the present suit against the defendants, who are the wife and children of original debtor late Krishna. It is not in dispute that original debtor is expired. The defendants have not denied the death of Krishna. They have also not disputed their relationship with the said Krishna. They have also not specifically disputed inheritance of estate of late Krishna by them. They have denied only the alleged credit transaction of ragi by late Krishna and their liability to pay the cheque amount.

52. In this case, the defendants themselves have produced the death certificate of Late Krishna and got marked the same as Ex. D.5. The materials on record discloses that on dishonour of the cheque Ex.P.1, said to have been issued by late Krishna, the plaintiff got issued legal notice dated 18.8.2021 to the defendants herein, vide Ex.P.7, calling upon them to pay the cheque amount due by late Krishna stating that they being the legal heirs of late Krishna are bound to repay the debt due by the

deceased Krishna.

53. It is to be noted here itself that in the reply notice sent by the defendants as per Ex. P.8, they have not denied their relationship with the deceased Krishna. They have only denied the liability to pay the cheque amount alleging that the said cheque was issued to one H.Malleshappa as a security to the loan borrowed by late Krishna; that inspite of clearance of loan the said Malleshappa did not return two cheques issued as security to the loan amount; later said Malleshappa with an intention to have wrongful gain, forged the signature of Krishna on the blank cheque issued by him, got filed the present suit through the plaintiff. It is further alleged in the reply notice that if the cheque in the hands of the plaintiff herein is not returned to the legal heirs of Krishna, a complaint under sections 465, 468, 415, 420 of IPC will be filed against said Malleshappa and the plaintiff herein.

54. As noted above, in the reply notice though the counsel for the defendants have made allegations of forgery of the signature of late Krishna, admittedly, no steps have been taken by the defendants herein to substantiate their claim by sending the disputed signature of late Krishna on Ex. P.1 alongwith the admitted signatures for the purpose of examination and report. The party who pleads allegation of forgery, is bound to establish the same. Unless and until,

the presumption as provided under section 118 and 139 of N.I.Act, shall be drawn in favour of the drawee, in whose possession the cheque is with. The defendants have not come up with any oral or documentary evidence to show that the signature found on Ex.P.1 is not that of late Krishna. On the other hand, the cheque in question is dishonoured with an endorsement "funds insufficient" in the account of the drawer and not for the reason that "signature differs". The defendants not even summoned the manager of the bank seeking to produce the specimen signature of late Krishna to substantiate their claim. In the absence of any such contrary evidence, there is no option, except to hold that the signature found on Ex.P.1 is that of late Krishna and the said cheque was issued by late Krishna towards legally enforceable debt.

55. As noted above, the plaintiff has come up with three credit bills as per Ex. P.3 to 5 in support of its claim. Ex. P.3 credit bill is relating to credit purchase of 25430 kgs.of 502 bags raagi, worth Rs.6,86,610/- from the plaintiff concern. Ex. P.4 is the credit bill relating to credit purchase of 4000 kgs.of ragi, worth Rs.1,08,000/- and Ex.P.5 is the credit bill relating to credit purchase of 2400 kgs. of ragi worth Rs.65,400/-. The plaintiff claims that the husband of defendant No.1 and father of the defendants No.2 and 3 by name Krishna has issued

Ex.P.1 cheque in favour of the plaintiff concern towards payment of the ragi purchased by said Krishna vide Ex. P.3 to 5 credit bills. Absolutely, there is no material on record to discard the claim of the plaintiff that vide Ex. P.3 to P.5 credit bills Late Krishna had purchased in all 31830 kgs. of ragi, worth Rs.8,60,000/- on credit basis from the plaintiff concern. The defendants, except denying the suit credit transaction, they have not come up with any rebuttal evidence to disprove the case of the plaintiff concern. Hence, this court is of the considered opinion that the plaintiff has proved the said credit transaction of ragi by late Krishna.

56. In this case, the first defendant examined herself as DW.1. In her evidence, she deposed as per her statement made in the written statement denying the transaction of Late Krishna with the plaintiff.

57. Apart from the evidence of DW.1, she has produced the documents Ex. D.1 to D.5. On going through Ex. D.1 to D.5, D.1 to D.3 are pertaining to document issued by officer of Right to Information, wherein the defendant herein called for issue of audit report pertaining to M/S.Prasad Traders, the plaintiff herein.

58. In so far as the audit report is concerned,

the learned counsel for the plaintiff submitted that the plaintiff has filed the I.T. returns as per Ex. P.12. It is the argument of learned counsel for the defendants that Ex.P.12 is not pertains to plaintiff firm , but it pertains to personal I.T. returns. However, on going through the documents Ex,. P.12, it is filed under the capacity of proprietor, M/S.Prasad Traders. Therefore, the contention of the defendants that the plaintiff has not filed the tax returns pertaining to M/S.Prasad Traders, cannot be accepted.

59. Further, the other documents produced by the defendants i.e., Ex. D.4 is the reply notice, which is also produced the plaintiff as Ex.P.8. Ex. D.5 is the death certificate of late Krishna, which is not denied by the plaintiff.

60. DW.1 was cross-examined by the plaintiff's counsel and in the cross-examination, the learned counsel for the plaintiff tried to elicit that the cheques which were issued to Malleshappa was different and the present cheque issued to the plaintiff is different and that there was transaction between the plaintiff and her husband late Krishna, but DW.1 denied all the said suggestion put to her. Though in the cross-examination of DW.1 no specific admission is elicited, however, as discussed in the preceding paragraphs,

this Court has come to the conclusion that the plaintiff has established that there was ragi business transaction between the plaintiff and late Krishna and in order to repayment of the said credit bills i.e., purchase of ragi, said Krishna had issued impugned cheque in question. Therefore, though the defendants in order to establish their defence examined the DW.,1, her evidence is not sufficient to discard the claim of the plaintiff.

61. It is the claim of the plaintiff that since the defendants are the legal representatives of late Krishna, and they have succeeded the estate of late Krishna, they are bound to repay the debt due by the deceased Krishna. Admittedly, the defendants have not specifically denied their relationship with the deceased. Further, in the reply notice got issued through their counsel, it is clearly mentioned that "the cheque was issued in favour of one Malleshappa as a security to the loan borrowed by the husband of defendant No.1 and father of defendants No.2 and 3 herein". So, the fact that the defendants are the successors of the estate of late Krishna, as claimed by the plaintiff, cannot be ruled out.

62. The plaintiff has also come up RTC extracts to show that the defendant No.1 being the wife of deceased Krishna, katha has been mutated in her name in respect of 1 acre of land in Sy.No.134 of Ullinaguru of Birur Hobli. The

plaintiff has also produced RTC Extract as per Ex. P.17 to show that 2.22 acres of land in Sy.No.134 of Ulliganaru village of Birur Hobli, as standing in the name of Krishna, S/O.Late Govindappa. Ex. P.18 is the M.R. Extract which clearly discloses that land measuring 2.22 acres of land in Sy.No.134/8 of Ullinaguru village, Birur Hobli, standing in the name of Krishna has been mutated in the name of the defendant No.1 herein. Further ex.P.19 mutation register extract also discloses that 1 acre of land in Sy.No.134/6 of Ullinaguru village, Birur Hobli, standing in the name of Krishna has been mutated in the name of the defendant No.1 herein. Since the defendant No.1 being the wife of deceased borrower Krishna, who is the head of the family of the defendants, since the liability is not personal in nature, suit for recovery of loan amount survives against the estate of the deceased. Though the defendants have denied the liability under the cheque Ex.P.1, they have not taken any contention that they have not inherited any estate of the deceased, as such they are not liable to pay the debt liability of late Krishna. On the other hand, the materials placed on record clearly discloses that the defendants being the legal heirs of late Krishna, they have succeeded the estate of the deceased. As such there is a pious obligation on the part of the defendants to pay the debt liability of late Krishna, who was none other than the husband of the first defendant and father of the defendants No.2 and 3. Under the doctrine of pious obligation, legal

heirs has a moral and religious duty to pay the debts, even if they did not personally borrow the money and this liability existed even if they were not parties to the said borrowing. However, if the debts were incurred for illegal or immoral purpose, then the legal heirs are not liable.

63. In this case, it is not the defence of the defendants that late Krishna had issued the Ex.P.1 cheque for any immoral or illegal purpose. Hence, the defendants are liable to pay the cheque amount to the plaintiff.

64. On perusal of the oral and documentary evidence, this court is of the considered opinion that the plaintiff has placed sufficient material on record, which establish the transaction and the outstanding amount. When the cheque is drawn in favour of the drawer and the said cheque is in possession of the drawer, a clear presumption is available to hold that the said cheque is issued to the drawer towards legally recoverable debt. The defendants have not rebutted the said presumption.

65. In civil cases, the standard of proof is preponderance of probabilities. On careful appreciation of the oral and documentary evidence, this court is of the considered opinion that the plaintiff has successfully proved the credit transaction, whereas the defendants have failed to rebut the same. Hence, I hold that the defendant is liable to pay the suit claim

amount. Accordingly, I answer Issue Nos.1, 2 and 3 in the affirmative and Issue No.3 and 4 in the negative.

66. **ISSUE NO.6:** In this case, the plaintiff has sought for interest at the rate of 24% per annum. Though it is true that the suit transaction is a commercial transaction i.e., purchase of raga by late Krishna, who is the husband of defendant No.1 and father of defendants No.2 and 3, on credit basis. These defendants being legal heirs, are held to be liable to pay the amount due by the said Krishna. However, having regard to the facts and circumstances of the case, and also having regard to the fact that there is no contract between the parties to pay any interest in case of default, the plaintiff is not entitled to claim interest at rate of 24% per annum as sought in the plaint. However, since the defendants have withheld the plaintiff from utilising such a huge amount in not paying the amount due by late Krishna, in the interest of justice and equity, this court is of the considered opinion that the plaintiff is entitled for simple interest at the rate of 12% per annum on the suit claim. Accordingly, this issue No.6 is answered partly in affirmative.

67. **Issue No.7:-** In view of findings on Issue Nos.1 to 6, this Court proceed to pass the following:

ORDER

Suit of the plaintiff is decreed with costs.

Plaintiff is entitled for recovery a sum of Rs.8,60,000/- from the defendants, with simple interest at the rate of 12% p.a. from the date of suit till date of realization.

Draw decree accordingly.

(Typed to my dictation by Stenographer Grade-III directly on computer, corrected, signed and then pronounced by me in the open Court on this the 7th day of March, 2026)

sd

(RAJESHWARI N. HEGDE)

Principal District & Sessions Judge,
Chikkamagaluru.

ANNEXURE**List of witnesses examined for plaintiff:**

PW.1 B.S.Raghavendra Prasad

List of witnesses examined for defendant:

DW.1 Radha

List of documents marked for plaintiff:

Ex.P1	Cheque
Ex.P2	Endorsement
Ex.P3 to 5	Credit bills
Ex.P.6	Receipt
Ex.P.7	Legal notice copy
Ex.P.8	Reply notice
Ex. P.9	Prasad Traders Licence
Ex.P.10	GST particulars
Ex.P.11	Non-starter report
Ex.P.12	Income tax details
Ex.P.13	Certificate
Ex.P.14 & 15	Photos
Ex.P.16 & 17	RTC extracts
Ex.P.18 & 19	M.R.Extracts
Ex.P.20	Encumbrance certificate
Ex.P.21	CC of order sheet in CC.No.190/2019
Ex.P.22	CC of compromise petition in CC.No.190/2019
Ex. P,.23	CC of complaint in CC.No.190/2019
Ex.P.24	CC of evidence in CC.No.190/2019
Ex.P .25	CC cheques
Ex. P.26	CC of Endorsements
Ex.P.27	CC of legal notice in CC.No.190/2019
Ex.P.28	CC of RPAD

Ex.P.29	CC of plea in CC.No.190/2019
Ex.P.30	CC of vakalath in CC.No.190/2019
Ex.P.31	CC of arrest warrant
Ex.P.32	CC of order sheet in CC.No.37/2019
Ex.P.33	CC of complaint in CC.No.37/2019
Ex.P.34	CC of cheque in CC.No.37/2019
Ex.P.35	CC of bank endorsement
Ex.P.36	CC of legal notice
Ex.P.37	CC of bank endorsement
Ex.P.38	Letter to APMC, Kadur

List of documents marked for defendant:

Ex. D.1	Letter of STO, Tarikere
Ex. D.2& 3	Letter of APMC Kadur
Ex. D.4	Legal notice
Ex. D.5	Death certificate.

sd

(RAJESHWARI N.HEGDE)
Principal District & Sessions Judge,
Chikkamagaluru.

*mvp/-