

KABI020030092022



**IN THE COURT OF I-ADDL.SENIOR CIVIL JUDGE AT
BALLARI**

RESENT:- Smt. Aparna., B.A.L, L.L.B. (HON'S)
I Addl. Senior Civil Judge, Ballari

Dated on this the 6th day of February, 2023

S.C.No.111/2022

PLAINTIFFS:

1. B.Gadilingappa, S/o. Anjinappa, aged about 50 years,
2. Durgamma, W/o. B.Gadilingappa, aged about 45 years,

Both are resident of W.No.16, 4th Cross,
Indira Nagar, Near Govt, Guest House,
Ballari

(By Shri.K.S.R, Adv.,)

Vs.

DEFENDANTS:

1. Smt. Parveen Banu, W/o. Khajamainuddin, aged about 35 years, 4th cross, Indira Nagar, Near Govt, Guest House, Ballari
- 2.Smt. Saleema, W/o. Ajim Sab, aged about 45 years, R/o. W.No.16, 2nd Cross,

Indira Nagar, Near Govt. Guest House,
Ballari

(Exparte)

Date of Institution of the suit	:	17.10.2022
Nature of the suit	:	Money Suit
Date of commencement of recording evidence	:	10.01.2023
Date of Pronouncing Judgment	:	06.02.2023
Duration of the suit	:	Years Months Days
		00 03 19

I Addl.Sr.Civil Judge, Ballari

J U D G M E N T

The plaintiffs have filed suit for recovery of money against the defendants.

- At the out set, it is the specific case of that the plaintiff and defendants are well known to each other and the defendants have approached the plaintiffs for financial necessities for the purpose of domestic and family necessities. The defendants have borrowed a sum of Rs.50,000/- on 27.07.2020 from the plaintiff in cash and in consideration of the said borrowing the defendants have executed on demand promissory note in favour of the plaintiffs on the same day in the presence of the

witnesses and agreed to repay the said borrowed amount with interest @ 24% p.a on demand. The defendant have failed to repay the said borrowed amount, in spite of several requests and demand made by the plaintiffs, the defendants went on postponing the repayment on one or the other pretext, the reason best known to them, finally the plaintiffs got issued a legal notice to the defendants through his counsel by RPAD on 19.09.2022. Though the defendants acknowledged the receipt of the said legal notice, either to pay amount or reply the said notice. All efforts made by the plaintiffs to recover the due amount under the above said promissory note from the defendants went in vain. The plaintiffs have no other alternate way except to approach this Honourable court to seek the appropriate remedy against the defendants and filed suit for recovery of money against the defendants based on pro-note. Hence, prayed to decree the suit.

3. In spite of service of summons, the defendants did not appeared before this court, hence, they were placed exparte.
4. In order to substantiate their case, the plaintiff No.1 himself examined as PW.1 and produced 6 documents at

Ex.P.1 to P.6 and in support of their case two witness examined as PW-2 & 3.

5. Heard the arguments of learned counsel for plaintiff.
6. The points that would arises for consideration of this court are:
 1. Whether the plaintiff is entitled for the relief as claimed?.
 2. What order or decree?
7. My findings on the above points are as under:

Point No.1: In the Partly Affirmative.

Point No.2: As per final order for the following :

REASONS

- 8. Point No.1:-** In order to substantiate the above fact, the plaintiff No.1 examined himself as PW.1, in his chief examination reiterated the averments of the plaint and relied on Ex.P.1/Promissory note, Ex.P.1(a & b)/Signatures of defendants, Ex.P.2/Legal notice, Ex.P.3 & 4/Postal receipts, Ex.P.5 & 6/Postal acknowledgements. In support of their case examined two witness as PW-2 & 3.
9. PW-2 & 3/ in their chief affidavits deposed that the defendants availed loan of Rs.50,000/- from the plaintiffs

and executed on demand promissory note in their presence. They identified their signatures on Ex.P.1 which are marked as Ex.P.1(c & d). They also identified the signature of the defendants which are marked as Ex.P.1 (a and b)

10. It is evident from Ex.P.1/Promissory note that the defendants have executed on demand promissory note dated 27.07.2020 for a sum of Rs.50,000/- in favour of the plaintiffs. It is evident from the Ex.P.2/Legal notice that the plaintiffs have issued legal notice to the defendants calling upon them to pay the loan amount, but the defendants neither replied to the said notice nor paid the loan amount. The oral and documentary evidence of PW-1 is corroborated with the evidence of PW2 & 3 the attesting witnesses and these evidence remained unchallenged, PW-1 by producing above documents, by preponderance of probability has established that the defendants have borrowed loan of Rs.50,000/- with interest 24% p.a from the plaintiff and executed on demand promissory note dated 27.07.2020 in favour of the plaintiffs. There is no any ground to disbelieve the oral as well as documentary evidence adduced on record.
11. As far as future interest is concerned, Section 34 of CPC, empowers the civil court to determine the rate of interest

depending upon the nature of the suit transaction. Admittedly the present transactions is not a commercial transaction. Under such circumstances, awarding future interest @ 6% p.a would be just and reasonable. In view of the same, the plaintiff is entitle to recover Rs.79,000/- from the defendants with future interest at the rate of 6% per annum from the date of suit till realization. **Accordingly, point No.1 is answered partly Affirmative.**

12. **Point No.2:-** In view of the above discussion, the following:

ORDER

The suit filed by the plaintiff is hereby partly decreed with cost.

The plaintiffs are entitle to recover Rs.79,000/- from the defendants with future interest at the rate of 6% p.a from the date of suit till its realization.

The defendants are liable to pay the aforesaid amount to the plaintiff within six months period from the date of this order.

Draw decree accordingly.

(Dictated to the stenographer, directly on computer, corrected, signed and then pronounced by me in the open court on this 6th day of February, 2023).

(Smt. Aparna)
I-Addl.Senior Civil Judge, Ballari.

ANNEXURE

List of witnesses examined for the petitioner side :-

PW.1 : B.Gadilingappa

PW-2 : Virupakshi

PW-3 : B.Bhupathi

of the documents marked for the petitioner side :-

Ex.P.1 : Promissory note,

Ex.P.1(a & b): Signatures,

Ex.P.2 : Legal notice,

Ex.P.3 & 4: Postal receipts,

Ex.P.5 & 6: Postal acknowledgments.

List of witnesses examined for the respondent side :-

-Nil-

List of the documents marked for the respondent side :-

-Nil-

(Smt.Aparna)
I Addl.Senior Civil Judge, Ballari.

