KAMD710017742020

IN THE COURT OF PRL. SENIOR CIVIL JUDGE AND J.M.F.C., SRIRANGAPATNA

:Present :
Sri. Mohanagowda M.E., B.A.,LL.B.
Prl. Senior Civil Judge & J.M.F.C.,
Srirangapatna

SC.No.72/2020

Dated 23rd day of June 2026

Plaintiff: Chikkaramu,
S/o late Siddegowda,
Aged about 45 years,
R/at Ballekere village,
Arakere Hobli,
Srirangapatna Taluk,
Mandya District.

(By Sri.P.G Advocate)

V/s

Defendant/s: Kempegowda,
S/o late Siddegowda,
aged about 55 years,

R/at Ballekere village,
Arakere Hobli,
Srirangapatna Taluk,
Mandya District.

(By Sri.N.S.C.Advocate)

Date of institution of suit:	23.11.2020
Nature of suit:	Money Suit
Date of commencement of evidence:	22.11.2023
Date of judgment:	23.06.2026
Total duration:	Years 05 Months 07 Days 00

(Mohanagowda M.E.,)
Prl. Senior Civil Judge & J.M.F.C.,
Srirangapatna

JUDGMENT

The Plaintiff has filed the present suit for recovery sum of Rs.68,800/- along with interest from the date of suit till realization.

2. **<u>The brief facts of the case is as follows :</u>**

On 20.11.2017, the defendant availed a loan of ₹40,000/- from the plaintiff for his legal necessities and household purposes and agreed to repay the amount with minimum interest at the rate of 2% per month. In this regard, the defendant executed an On Demand Promissory Note. Hence, the suit.

3. After registration of suit, summons was issued to the defendant, the defendant appeared before the court filed the written statement, but failed to contest the case.

4. The defendant filed written statement, stating that the defendant denies having borrowed ₹40,000/- from the plaintiff on 20-11-2017 or having executed any On-Demand Promissory Note and Consideration Receipt in respect of such loan. The allegations regarding non-payment of the alleged loan amount and interest are false, and the plaintiff is put to strict proof thereof. The defendant is not liable to pay any amount to the plaintiff, and the alleged cause of action is fabricated for the purpose of filing the suit. The defendant submits that the parties were acquainted through chit fund transactions conducted by the plaintiff. As security for such transactions, the

plaintiff used to obtain signed blank promissory notes and consideration receipts from subscribers, including the defendant. After settlement of all chit dues, the defendant requested return of the said documents, but the plaintiff failed to do so. The plaintiff has subsequently misused those blank signed documents by filling up amounts and, in collusion with witnesses, has filed the present false suit with an intention to harass the defendant and make unlawful gain. Hence, the suit is liable to be dismissed with costs.

5. In support of the case of plaintiff, PW1 was examined and Ex.P-1 and Ex.P-2 got marked.

6. Heard the arguments and perused the records.

7. The following points arise for consideration before this Court:-

1) Whether the plaintiff proves that the defendant has availed a sum of Rs.40,000/- on 20.11.2017?

2) Whether the plaintiff further proves that the defendant has not repaid the amount as agreed and he is liable to pay a sum of Rs.68,800/-

along with interest at the rate of 2% per month?

3) Whether the plaintiff is entitled for the relief as sought for?

4) What order or decree?

8. The findings of this court to the above points are as follows:-

Point No.1 :- In the Affirmative

Point No.2 & 3 :- Partly in the Affirmative

Point No.4 :- As per final order for the following:-

:-REASONS :-

Point No 1 to 3:

9. To avoid the repetition of facts and reasoning Point No.1 to 3 are taken up together for common discussion, since they are interconnected under the same set of facts.

10. The case of plaintiff is already narrated at the inception of this judgment hence, without repeating the same, I proceed to appreciate the material evidence on records.

11. In order to substantiate the averments in pleadings, PW1 reiterated the averments made in the plaint during the

examination-in-chief and marked several documents. In support of the plaintiff's case two more witnesses were examined as PW.2 & PW.3. The oral evidence adduced by the petitioner stands corroborated by the documentary evidence on record. In support of the plaintiff's case, Ex.P-1 got marked. Ex.P-1 is On Demand Promissory Note and Ex.P-2 is Consideration receipt.

12. I have carefully perused the documents placed by the plaintiff. On careful perusal of the above-said documents, it appears that the defendant availed a loan and also agreed to repay the amount along with interest.

13. In the present case, the defendant failed to contest the case. As such evidence on record remained unchallenged and stands un-rebutted. There is no contra evidence lead by defendant. The oral evidence coupled with the documentary evidence fully corroborated the version of plaint. The defendant did not challenge the said documents and failed to take specific defence. Hence, there is no ground to disbelieve the version of the plaintiff. Under such circumstances, when absolutely no rebuttal materials from the defendant with regard to the suit, I am inclined to accept the case put forward

by the plaintiff. Hence, I am of the opinion that defendant is liable for the amount due to the plaintiff.

14. I have carefully perused the materials on record. The defendant failed to file Written statements, as per Order VIII Rule 10 the court can pass judgment against the defendants if they failed to file written statements within stipulated time. In view of the above provision there is no bar to allow the present suit as the defendant impliedly admit the claim of plaintiff by not filing written statements.

15. Further, the suit is within the prescribed period of limitation and hence plaintiff is entitled for the decree as prayed for.

16. Further, it is also significant to note that the document on which case is based is a negotiable instrument and the plaintiff is entitled for the benefit of presumption under Section.118 of Negotiable Instruments Act. Under Sec.118 a presumption shall be raised regarding consideration, date, acceptance, transfer, endorsements and regarding the holder in due course of Negotiable Instruments. These presumptions are mandatory presumptions that are required to be raised in case of Negotiable Instruments. These

presumptions are not conclusive presumptions, but are rebuttable. As these presumptions are mandated by the law they are to be raised in every case affecting Negotiable Instruments. Such being the case it is for the defendants to rebut the presumption under Sec.118 of Negotiable Instruments Act not by mere plausible explanation, but by cogent evidence. Under such circumstances, when absolutely no rebuttal materials from the defendant with regard to the suit loan transaction, I am inclined to accept the case put forward by the plaintiff.

17. It is a settled position of law that on the aspects relating to the preponderance of probabilities, the defendant has to bring on record such facts and such circumstances which may lead the Court to conclude either that the consideration did not exist or that its non-existence was so probable that a prudent man would, under the circumstances of the case, act upon the plea that the consideration did not exist. Though there may not be sufficient negative evidence which could be brought on record by the defendant to discharge the burden, yet mere denial would not fulfill the requirements of rebuttal as envisaged under Section 118 of the Negotiable Instrument Act. After drawing the presumption under Section 118 of the NI Act, the onus is shifted to the

defendant and unless the defendant had discharged the onus by bringing on record such facts and circumstances as to show the preponderance of probabilities tilting in his favor, the court can't doubt the plaintiff case. In the present case, the defendant has not contested the case to rebut the presumptions and there are no sufficient reasons to disbelieve the version of plaintiff.

18. In Canara Bank v. B. Seshagiri Prabhu, (1984) 1 Kant LJ 121 the Hon'ble High court held that the trial court Under Section.34 of C.P.C has the discretion to decide the 'current' or 'pendente-lite interest' and 'further' interest. The transaction is not arising out of commercial transaction, hence considering the same this court deems it proper to award 6% current and future interest.

19. The Hon'ble High Court of Karnataka in The New India Assurance Co.Ltd., vs Shanthi Mascarenhas (2018) 6 Kant LJ 757 held that allowing interest even for the periods covered by the adjournments granted at the instance of the claimants, virtually amounts to unjust enrichment. The Court takes judicial notice that in most of the money recovery cases the plaintiffs do not takes steps, unnecessarily take years together to lead evidence and are not diligent. Though the

above judgment was rendered in MACT case the logical reason behind the said judgment is applicable to other cases also, a party to a suit who is negligent cannot be allowed to claim interest for the adjournments sought by himself, hence, this court deems it proper to follow the principle in the above judgments in its true spirit. In the present case, in view of the above judgment, this Court holds that the petitioner is not entitled to interest for the periods covered by adjournments granted at the instance of the plaintiff, as well as for the adjournments for which the plaintiff himself is responsible. The defendant is not liable to pay for the period shown in below table. The periods for which interest can not be granted is shown in below table:

Adjournments Caused By The Plaintiff

From Date	Till Date
10.08.2022	13.10.2022
03.01.2023	14.06.2023
05.07.2023	24.08.2023
03.04.2024	04.06.2024
29.06.2024	21.08.2024
05.11.2024	14.11.2024
05.03.2025	16.10.2025
13.11.2025	21.01.2025

20. In view of the above reasons this court holds Point No.1 in the Affirmative, Point No.2 and 3 partly in the Affirmative.

Point No.4:-

21. In view of above reasoning and findings on point No.1 to 3, this court proceeds to pass the following: -

ORDER

Suit of the plaintiff is partly decreed with costs.

The defendant is liable to pay a sum of Rs.68,800/- (Rupees Sixty Eight Thousand Eight Hundred Only) together with interest at the rate of 6% p.a. from the date of suit, excluding the period shown in above table, till realization.

Draw decree accordingly.

(Dictated to the stenographer, typed by stenographer directly on computer, after corrections, pronounced in the open Court on 23rd day of June 2026)

(Mohanagowda M.E.,)
Prl. Senior Civil Judge & J.M.F.C.,
Srirangapatna

ANNEXURE

1. List of plaintiff side witnesses:-

PW.1	:	Chikkarama
PW.2	:	Srikanta
PW.3	:	Nataraju

2. List of documents produced by plaintiff:-

Ex.P.1	:	On Demand Promissory Note
Ex.P-2	:	Consideration Receipt

3. List of witnesses examined on defendant side:-

-Nil-

4. List of documents produced by defendant:-

-Nil-

(Mohanagowda M.E.)
Prl. Senior Civil Judge & J.M.F.C.,
Srirangapatna