KAMD720012272022

Presented on : 08.03.2022
Registered on: 08.03.2022
Decided on : 27.04.2026
Duration : 04years 01month 21days

IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,

AT SRIRANGAPATNA

Present : Sri.UMESHA M. P., B.A.L., LL, B.
PRL. CIVIL JUDGE & JMFC,
SRIRANGAPATNA

DATED: ON THIS THE 27th DAY OF APRIL - 2026
ORIGINAL SUIT No. 97 / 2022

PLAINTIFF :: HARISH S S/o SURESH,
Aged about 37 years,
R/o Sabaiahna Manti, Belagola Village,
Belagola Hobli, Srirangapatna Taluk,
Mandya District.
(BY PLEADER SRI.DCG)

-V/s-

DEFENDANT :: VASU S/o Late. BISEGOWDA,
Aged about 46 years,
R/o Sriramamandira Beedi,
K.R.S.Road, Belagola Village,
Srirangapatna Taluk.
(BY PLEADER SRI.SSP)

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Date of institution of suit	08.03.2022
Nature of suit	Suit for Recovery of Money
Date of commencement of recording of the evidence	28.02.2024
Date on which the judgment was pronounced	27.04.2026
Total duration	Year/s 04 Month/s 01 Day/s 21

(UMESHA M.P)
Prl. Civil Judge & JMFC,
SRIRANGAPATNA

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JUDGMENT

The plaintiff has filed the suit against the defendant for recovery of money of Rs.2,25,600/- with interest at the rate of 24% per annum from the date of the suit till realization along with cost of the suit.

2. The case of the plaintiff's, as made out in the plaint, is as follows:-

It is stated that, the defendant had approached the plaintiff and he requested him to pay a sum of Rs.1,30,000/- for his family necessities. It is further stated that, the defendant has availed a loan of Rs.1,30,000/- from the plaintiff on 08.03.2019 and on the same day, the defendant as borrower has executed a On demand Promissory note and consideration receipt and agreed to pay interest at the rate of 2% per month. It is further stated that, in spite of repeated requests and demands and notices, the defendant has not discharged the outstanding liability. It is further stated that, as on the date of filing the suit, the defendant is due to a sum of Rs.2,25,600/- to the plaintiff. Hence, the plaintiff constrained to file the present suit.

3. In response to the summons issued by this court, the defendant has appeared before this court through his counsel and filed his written statement by denying the plaint averment. Per contra, it is contended that, the defendant has not received any amount from the plaintiff by agreeing

to pay interest at the rate of 2% and he has not executed any on demand pronote in favour of the plaintiff and the alleged on demand pronote in question is materially altered and the defendant has not received any notice from the plaintiff and there is no cause of action to file this suit and hence, the suit of the plaintiff is not maintainable in law and is liable to be dismissed. Hence, he prayed for dismissal of the suit of plaintiff with exemplary costs.

4. On the basis of the above pleadings of both the parties, my predecessor in office has framed the following:-

I S S U E S

1. Whether the plaintiff proves that, the defendant for his house hold expenses received Rs.1,30,000/0 as a loan from the plaintiff on 08.03.2019 and further agreed to returned the same on Rs.2% interest per month and in that connection has executed On Demand Pronote and amount consideration receipt?
2. Whether the plaintiff is entitled to the relief as sought for?
4. What order or Decree ?

5. To prove his case and to substantiate his contention, the plaintiff himself examined before the Court as PW-1 and examined 03 witnesses as PW-2 to PW-4. Further, the plaintiff has produced and got marked documents at ExP-1 to ExP-4 documents. On the other hand, the defendant

did not choose to lead any evidence on his behalf and no documents were marked on behalf of the defendant.

6. I have heard the arguments of both parties. Perused the oral and documentary evidence placed on record.

7. By considering the pleadings, oral and documentary evidence and also the arguments canvassed by them, I answer the above issues in the following, because of my below-discussed reasons:

Issue No. 1	:	In the AFFIRMATIVE
Issue No.2	:	In the AFFIRMATIVE
Issue No. 3	:	As per final order for the following:

REASONS

ISSUES No.1 & 2:

8. These two issues are inter-related and inter-connected to each other. The plaintiff has filed this suit against the defendant for recovery of money of Rs.2,25,600/- with interest at the rate of 24% per annum, from the date of the suit till realization along with cost of the suit.

9. Let me first discus the oral and documentary evidence let in before this court. The plaintiff, who was examined before this court as PW-1, has reiterated the plaint averments in his examination-in-chief affidavit and deposed that, the defendant had approached the plaintiff and he requested him to pay a sum of Rs.1,30,000/- for his family necessities. It is further stated that, the defendant has availed a loan of Rs.1,30,000/- from the plaintiff

on 08.03.2019 and on the same day, the defendant as borrower has executed a On demand Promissory note and consideration receipt and agreed to pay interest at the rate of 2% per month. It is further stated that, in spite of repeated requests and demands and notices, the defendant has not discharged the outstanding liability. It is further stated that, as on the date of filing the suit, the defendant is due to a sum of Rs.2,25,600/- to the plaintiff. Hence, the plaintiff constrained to file the present suit. Further, the plaintiff has examined three witnesses as PW-2 to PW-4 and they have supported the case of the plaintiff.

10. The plaintiff has produced the On demand promissory note dated: 08.03.2019 as per ExP-1, ExP-1(a) is the signature of the defendant on ExP-1, ExP-1(b) to (d) are the signatures of the PW-2 to 4 on ExP-1, ExP-2 is the consideration receipt dated:08.03.2019, ExP-2(a) is the signature of the defendant on ExP-2, ExP-2(b) to (d) are the signatures of the PW-2 to 4 on ExP-2, ExP-3 is the Legal notices issued dated:28.02.2022, ExP-4 is the Postal receipt.

11. The plaintiff has produced the ExP-1& 2 to prove his case and the defendant has denied the execution of the same. The provisions of Section 67 and 68 of the Indian Evidence Act, 1972 are very much relevant for the purpose of proof of documents. U/Sec.67 of the Indian Evidence Act, 1972, if a document is alleged to be signed by any person, the signature of the said person

must be proved to be in his handwriting and for proving such a handwriting under sections 45 and 47 of the Indian Evidence Act, 1972 is opinions of the experts and the persons acquainted with the hand writing of the person concerned are made relevant. Further, the provisions of Section 68 deals about the proof of execution of the document required by law to be attested and it provides that such a document shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution. These provisions are mandatory nature and prescribes the requirements and nature of proof which must be satisfied by the party who relies on a document. Mere marking of the document is not sufficient to prove his case. Admittedly, the plaintiff has examined attesting witnesses so as to prove the execution of ExP-1&2 as PW-2 to 4.

12. In this connection it is relevant to extract section 118 of N.I.Act:- Presumption as to negotiable instrument: Until the contrary is proved, the following presumption shall be made:-

(a). **Of consideration:** that every negotiable Instrument was made or drawn for consideration, and that every such instrument, when it has been accepted endorsed, negotiated or transferred for consideration,

(b). **As to date:** That every negotiable Instrument bearing a date was made or drawn on such date, (c). **As to time of acceptance:** that every accepted bill of exchange was accepted with in a reasonable time after its date and before its maturity,

(d). **As to time of transfer:** That every transfer of a negotiable Instrument was made before its maturity,

(e). **As to order of endorsement:** That the endorsements appearing upon a Negotiable Instrument were made in the order in which they appear thereon,

(f). **As to stamps:** That a lost promissory note, bill of exchange or cheque was duly stamped,

(g). **That holder is a holder in due course**: that the holder of a negotiable instrument is a holder in due course-that….. lies upon him.

13. So it is clear from the above provision of law that even negotiable instrument must made or drawn for consideration and the date on which it was drawn. There is no say by the defendant regarding this presumption. There is no explanation by the defendant. Moreover, the defendant did not entered into the witness-box to substantiate his defense and not produced any documents on his behalf.

14. The defendant has taken the defence that the plaintiff has filed this suit by creating the alleged on demand pronote and the defendant has not received any amount from the plaintiff by agreeing to pay interest at the rate of 2% and he has not executed any on demand pronote in favour of the plaintiff and the alleged on demand pronote in question is materially altered and

the defendant has not received any notice from the plaintiff and there is no cause of action to file this suit and the alleged on demand pronote is created document. The defendant had setup the above defense, so the burden of proof is lies on the defendant. Moreover, the defendant did not entered into the witness-box to substantiate his defense and not produced any documents. Added to this the defendant has not chosen to enter into the witness box to prove his case. Therefore, the defendant failed to rebut the initial presumption, which stands in favour of plaintiff. The burden of proof is on the defendant, he has to show the preponderance of the probabilities about the same. If the plaintiff has filed this suit by creating and concocting the sale agreement, the defendant could have lodged a complaint against the plaintiff before the jurisdiction police station or before the S.P, Mandya or before the jurisdiction court and he could have issued any legal notice to the plaintiff in this regard. It is admitted that the defendant had not given any complaint against the plaintiff before the jurisdiction police station or before the S.P. Mandy or before the jurisdiction court and he had not issued any legal notice to the plaintiff in this regard. Therefore, the defense raised by the defendant cannot be acceptable.

15. Even though defendant cross examined PW-1 to PW-3, he failed to bring anything from the cross-examination of PW-1 to 3 to prove his case.Under these circumstances, the initial burden placed upon the plaintiff to prove the transaction between them and payment of money, stands discharged. Therefore based on the oral evidence of PW-1 to PW-4 coupled with

documentary evidence at ExP-1 to 4, it can be safely held that the plaintiff has proved his case. By perusing the evidence on record and overall assessment of the same, I am of the opinion that the plaintiff by way of his pleading and also by issuing ExP-3-pre-suit legal notice to the defendant, the plaintiff has proved his case.

16. It is borne out from the pleadings, oral and documentary evidence of the plaintiff that the defendant had borrowed the loan of Rs.1,30,000/- from the plaintiff on 08.03.2019. The defendant had agreed to repay the said loan amount with interest at the rate of 2% pm. When the defendant failed to repay the said loan amount, the plaintiff issued notice, for which he has not responded, which made the plaintiff file the present suit.

17. The documents at ExP-1 & 2 being the loan documents raises the presumptive value under the provisions of Sec.118 of Negotiable Instrument Act in respect of passing of consideration as to the date and etc.,. The defendant have not placed any materials to rebut the statutory presumption attached to these documents at ExP-1 to ExP-4. In the absence of such materials on record, there are no reasons to disbelieve or to discard the oral evidence of PW-1 to 4 and documentary evidence at ExP-1 to ExP-4. Therefore based on the oral evidence of PW-1 to PW-4 coupled with documentary evidence at ExP-1 to ExP-4, it can be safely held that, the defendant had borrowed a loan of Rs.1,30,000/- from the plaintiff on 08.03.2019, agreeing to repay the loan with interest at the rate of 2% pm and executed necessary loan documents vide ExP-

1 & 2. The plaintiff has sought for recovery of money of Rs.2,25,600/- with interest at the rate of 24% from 08.03.2022 till its realization. According to plaintiff, the defendant had agreed to repay the loan amount with interest at the rate of 2% pm. Under these circumstances, the defendant is liable to pay the agreed rate of interest to the plaintiff and the cannot escape from that liability. However, considering the nature of loan transaction between the plaintiff and the defendant and also regard being had to the facts and circumstances of the case, this Court is of the considered view that award of future interest at the rate of 9% PA would meet the ends of justice. The defendant had executed the ExP-1 & ExP-2 and thereby acknowledged the debt towards the plaintiff. Under these circumstances, the suit filed by the plaintiff in the year 2022 before the Court is well within the time. The plaintiff in all probabilities has proved the loan transaction and execution of ExP-1 & 2 documents. Under these circumstances, the plaintiff is entitled to relief as sought for in the plaint. Hence I hold that, the plaintiff has proved the loan transaction between plaintiff and defendant as stated in the plaint. Accordingly, the plaintiff is entitled to recover the suit amount of Rs.2,25,600/- from the defendant. Under all these circumstances, I hold that, the plaintiff is entitle for decree for recovery of the suit claim. Accordingly, I answer Issue No.1&2 in the Affirmative.

ISSUE NO.3:

18. In view of my findings on the above issues, the suit filed by the plaintiff deserve to be decreed with costs. Accordingly, I proceed to pass the following order:

O R D E R

The suit of the plaintiff is hereby decreed for Rs.2,25,600/-with cost.

The defendant is liable to repay an amount of Rs.2,25,600/- to the plaintiff within a month from the date of this judgment.

Further, the plaintiff is entitled for the future interest at the rate of 9% pa from the date of suit till realization.

Draw decree accordingly.

(Dictated to Stenographer directly on computer, typed by him, script corrected by me, signed and then pronounced in open court on this the 27th day of APRIL – 2026, at Srirangapatna)

(UMESHA M.P)
PRL. CIVIL JUDGE & JMFC,
SRIRANGAPATNA

ANNEXURE TO THE JUDGMENT

List of witnesses examined on behalf of plaintiff:

PW-1 : HARISHA S S/O SURESHA
PW-2 : KRISHNA S/O LATE JAVAREGOWDA
PW-3 : PARAMESHA S/O LATE SOMEGOWDA
PW-4 : H.P.VISHWANATH S/O H.P.PAPEGOWDA

List of documents on behalf of plaintiff :

ExP-1 : On demand promissory note dated:08.03.2019

ExP-1(a) : Signature of defendant on ExP-1,

ExP-1(b) : Signature of PW-3 on ExP-1,

ExP-1(c) : Signature of PW-2 on ExP-1,

ExP-1(d) : Signature of PW-4 on ExP-1,

ExP-2 : Consideration receipt dated: 08.03.2019,

ExP-2(a) : Signature of defendant on ExP-1,

ExP-2(b) : Signature of PW-3 on ExP-1,

ExP-2(c) : Signature of PW-2 on ExP-1,

ExP-3(d) : Signature of PW-4 on ExP-1,

ExP-3 : Legal notice dated:28.02.2022,

ExP-4 : Postal receipt.

List of witnesses examined on behalf of defendant:

-NIL-

List of documents on behalf of defendant:

-NIL-

(UMESHA M.P)
Prl. Civil Judge, & JMFC,
Srirangapatna