

KAMS080003452019

**TITLE SHEET FOR JUDGMENTS IN
SUIT****(IN THE COURT OF ADDITIONAL
SMALL CAUSES, AT MYSURU)****PRESENT****Smt. PRATHIBHA D.S.,
B.A., LL.B.****JUDGE, ADDITIONAL COURT OF SMALL
CAUSES, MYSURU****DATED THIS THE 2nd DAY OF APRIL 2026****S.C./98/2019****BETWEEN**

Shivamma W/o Shivanna,
Since dead, R/by legal
representatives,

1(a) Shivanna,
S/o late Basappa,
Aged about 73 years,
R/at Bommenahalli Grama,
Yelawala Hobli,
Mysuru Taluk and District.

1(b) Smt. Gowramma,
D/o late Shivamma,
W/o. Shivaraju,
Aged about 43 years,

R/at Hadakanahallihundi Village,
Chikkaiahnachatra Hobli,
Nanjangud Taluk, Mysuru District.

1(c) Manjula
D/o. late Shiva,
W/o. Mallikarjuna,
Aged about 38 years,
R/at Nagavala Village &Post,
Yelawala Hobli, Mysuru Taluk.

1(d) Dhrakshyini,
D/o late Shivamma,
W/o Sannaswamy,
Aged about 35 years,
R/at Mallahall Village,
Jayapura Hobli, Mysuru Taluk,
Mysuru District.

1(e) Smt. Savithri,
D/o. Late Shivamma,
W/o. Raju,
Aged about 33 years,
R/at Maraiahnahundi Village,
Yelawala Hobli,
Mysuru Taluk and District.

: PLAINTIFFS

(Rptd: by Sri.C.S. AMAR, Advocate)

V/s

AND

1) Malligamma,
W/o. Mahadeva,
Aged about 55 yeas,

2) Mahadeva,
Aged about 57 yeas,

Both are R/at:

Bommenahalli Grama,
Yelawala Hobli,
Mysuru Taluk and District.

: DEFENDANTS

(D1&2 Rptd: by Sri.M.B.Swamy,Advocate)

Date of institution of the Suit	:	15.10.2019
Nature of the Suit	:	SUIT FOR RECOVERY OF MONEY
Date of commencement of recording of evidence	:	21.06.2024
Date on which the Judgment was pronounced	:	02.04.2026
Total Duration	:	Year Months Days 06 05 19

:: J U D G M E N T ::

The present suit is filed by the plaintiff against the defendants for the relief of recovery of a sum of

Rs.85,000/- along with interest at the rate of 2% per month.

2. It is the case of the plaintiffs that, the plaintiff and defendants well known to each other for several years. The defendants have approached the plaintiff for the financial help for personal expenses and legal necessities. On the request of the defendants, the plaintiff has paid a sum of Rs.80,000/- and it is agreed that the rate of interest is 2% per month on the said amount. The defendants have executed on demand pronote on 05.10.2015 in front of the witnesses. The defendants not paid either principal amount or interest till today. Hence the plaintiff got issued legal notice to the defendants. In spite of it, the defendants not paid either principal amount or the interest till today. Hence the plaintiff filed the present suit for recovery of a sum of Rs.85,000/- with interest at the rate of 2% per month. Hence prayed to decree the suit.

3. After service of the suit summons, the defendants appeared through their counsels and filed their written statement jointly.

4. In the written statement the defendants denied the case of the plaintiff as baseless and contended that the defendant No.1 had borrowed a loan of Rs.50,000/- from the husband of the plaintiff namely Sri. Shivanna. At that time Sri. Shivanna had obtained a blank signed cheque and also obtained the signature to the unfilled paper from the defendant No.1 as security for the above said loan amount of Rs.50,000/-.

5. It is further submitted that after borrowing a said amount of Rs.50,000/- the defendant made payment of Rs.30,000/- towards the above said loan to the husband of the plaintiff and defendant is due of Rs.20,000/- to the husband of the plaintiff. The defendants have not borrowed any amount from the plaintiff and have not executed any on demand pronote or any document in favour of the plaintiff. Thus the question of the repaying the alleged loan amount and the alleged interest does not arise.

6. It is further submitted that, the husband of the plaintiff i.e., Sri. Shivanna by misusing the blank signed pronote has got filed the present suit through

his wife i.e., plaintiff herein with a malafide intention to make wrongful gain by him and to cause hardship, injury and loss to the defendants by misusing their innocence and lack of legal knowledge.

7. It is further submitted that, the said Sri. Shivanna by misusing blank signed cheque, has got filed a complaint under Section 200 of Cr.P.C. R/w Section 138 of N.I.Act for the alleged offence under Section 138 of N.I.Act through one unconcerned person namely Byrappa and the said case is numbered as C.C. No.1857/2020 on the file of Hon'ble V Addl. J.M.F.C at Mysuru and the same is pending for adjudication.

8. It is further contended that, the defendants are no liable to pay any amount to the plaintiff since they have not borrowed any amount from the plaintiff. By misusing the blank signed paper, the husband of the plaintiff filed this suit through the plaintiff just to make wrongful gain. The cause of action mentioned in the plaint are created, concocted and invented for the purpose of this suit. The defendants are not liable to pay any amount much less the amount claiming in the

suit. The plaintiff is a stranger to the defendants in respect of the loan of Rs.50,000/- borrowed by the defendant from the husband of the plaintiff. The plaintiff is not entitled for any reliefs. Hence, prays to dismiss the suit.

9. During the pendency of the suit the sole plaintiff expired and her legal heirs were brought on record. The plaintiff No.1(a) i.e., husband of the plaintiff got examined himself as PW-1 and got marked documents at Ex.P1 to 3 and closed their side evidence. The PW.1 was cross examined by the counsel for the defendants at length. On the other hand the defendant No.1 Smt. Malligamma herself got examined as DW-1 and got marked the documents at Ex.D1 to 9 and closed their side evidence. The DW.1 was cross examined by the counsel for the plaintiff.

10. Heard arguments of both side. Perused the materials placed on record.

11. The following points arise for consideration of this court:

P O I N T S

- 1) *Whether the plaintiff proves that the defendants borrowed a sum of Rs.80,000/- with interest at 2% per month ?*
- 2) *Whether the plaintiff is entitled for the recovery of Rs.85,000/- as claimed with interest as sought for?*
- 3) *What Order?*

12. My answers on the above points are as under;

Point No.1: - In the Affirmative.

Point No.2: - Partly in the Affirmative.

Point No.3: - As per the following:

-: R E A S O N S :-

13. **Point No.1:-** This is the suit filed by the plaintiff for the relief of recovery of a sum of Rs.80,000/- being the principal amount, a sum of Rs.4,000/- being the interest amount and a sum of Rs.1,000/- being the miscellaneous expenses totally amounting to a sum of Rs. 85,000/- with interest at the rate of 2% P.M. It is the case of the plaintiff that the defendant No.1 and 2 approached the plaintiff for financial help and the plaintiff lent a sum of Rs.80,000/- for which the defendant No.1 executed on demand promissory

note on 05.10.2015. In spite of the repeated request the defendants not repaid the amount and hence the present suit. The defendants denied the case of the plaintiff and contended that the defendant No.1 borrowed a sum of Rs. 50,000/- from husband of the plaintiff and returned a sum of Rs.30,000/- and she is due of a sum of Rs. 20,000/-. The husband of the plaintiff taken signatures on blank papers and also taken a blank signed cheque and by misusing those documents filed present suit and also complaint under section 138 of NI Act through one Sri. Byrappa.

14. So as to prove the contentions of the plaintiff and defendants the husband of the plaintiff got examined himself as PW.1 and produced the on demand promissory and the consideration receipt at Ex.P1 and 2 and the legal notice at Ex.P3.

15. The PW.1 was fully cross-examined by the counsel for the defendants. On perusal of the cross-examination of the PW.1 nothing as been elicited from PW.1 to prove the contentions of the defendants. Further in the evidence of defendant No.1, she have produced the certified copies of the order sheet,

private complaint and evidence in CC.No.613/2015, 380/2014 and 1857/2020. In the cross-examination the DW.1 deposed that she had borrowed a sum of Rs.50,000/- and repaid the same. She admitted the signatures on Ex.P1 and 2 but deposed that the averments of the Ex.P1 and 2 not know to her. She also denies the suggestions of the counsel for the plaintiff.

16. She further deposed that,

ನಿಡಿ-1 ರಲ್ಲಿ ಕಾಣಿಸುತ್ತಿರುವ ಬೈರಪ್ಪ ಮತ್ತು ವೆಂಕಟೇಶ್ ಯಾರು ಎಂದರೆ ಸಾಕ್ಷಿಯು ಅವರು ಹಾಗೂ ನಾವು ಸೇರಿ ಹಣ ಪಡೆದಿದ್ದು ಅದನ್ನು ಹಿಂದಿರುಗಿಸಿರುತ್ತೇವೆ ಎನ್ನುತ್ತಾರೆ. ಆಗ ವೆಂಕಟೇಶ್ ಎನ್ನುವವರು ಇದ್ದರು. ಹಣ ಹಿಂದಿರುಗಿಸಿದ ಬಗ್ಗೆ ವೆಂಕಟೇಶ್ ರವರನ್ನು ವಿಚಾರಣೆ ಮಾಡಿಸಿಕೊಳ್ಳಲು ತೊಂದರೆ ಇಲ್ಲ.

17. However the defendants have not got examined said Sri. Venkatesh, Brother-in-law of the defendant No.1 to prove their contentions. Such being the case there was no impediment to believe the case of the plaintiff and it is probable that the transaction is taken place as stated in the plaint. It is the case of the plaintiff that she had paid a sum of Rs.80,000/- as hand loan to the defendants and it is the case of the defendants that they borrowed a sum of Rs. 50,000/-

from husband of the plaintiff and the husband of the plaintiff had misused the Papers and the cheque signed by the defendants. Therefore it is clear that there was a transaction between the plaintiff and the defendants. So also with the brother-in-law of the defendant No.1 Sri.Venkatesh. To prove the contentions of the defendants they have not produced any evidence either oral or documentary. The Ex.D1 to D9 are the criminal proceedings between one Sri.Byrappa and Sri. Venkatesh and also between Sri.Byrappa and Smt.Malligamma and not between plaintiff herein and the defendants. Such being the case contentions of the defendants cannot taken into consideration without there being any proof. On the other hand by plaintiff by producing the original document i.e., on demand promissory note and consideration receipt which is also admitted by the DW.1, the plaintiffs proved their case. **Hence point No.1 answered in the affirmative.**

18. **Point No.2:-** As discussed on Point No.1 the transaction between the plaintiff and the defendants are proved by the plaintiff.

19. Now so far as claiming of interest is concerned, plaintiff sought for interest @ 2 % PM. It is relevant to note that payment of interest on any such amount which is held to be due to a person is purely a matter of discretion of the court, except in cases where a statutory rate of interest is prescribed. Even if no interest is provided under the statute, the court having regard to the provisions of Interest Act, 1978, under Sec.34 of Civil Procedure Code, he is entitled to grant interest in its discretion. Admittedly here in a case the defendants are due of Rs.80,000/-. So when any amount is due to plaintiff and the same is not paid by the defendants over a certain period, when the plaintiff is deprived of the use of the said amount for the period during which the amount remains unpaid for which he is entitled to be compensated by way of payment of interest. Therefore, I am of the considered view that it is just to award interest at rate of 6% p.a. on the principal amount of Rs.80,000/-, as it is reasonable. **Hence point No.2 answered partly in affirmative.**

20. **Point No.3** :- In view of my finding on point No.1 and 2, I proceed to pass the following:-

ORDER

The suit of the plaintiff is partly decreed with cost.

Defendants are directed to pay a sum of Rs.80,000/- with interest at the rate of 6% p.a. from the date of filing suit till realization of amount to the plaintiffs in one lumpsum within one month from the date of this judgment.

Draw Decree accordingly.

(Dictated to the Stenographer directly on the Computer, transcribed by him, corrected by me and pronounced in the open Court on 2nd day of April, 2026).

-Sd/-
(PRATHIBHA D.S.)
Judge, Addl. Court of
Small Causes, Mysuru

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

PW1 : Sri. Shivanna

List of documents marked for the plaintiff:

Ex.P1 On Demand Pronote
Ex.P2 Consideration receipt
Ex.P3 Notice
Ex.P3(a&b) Postal receipts

List of Witnesses examined for the defendants:

DW1 : Smt. Malligamma

List of documents marked for the defendants:

Ex.D1 Order sheet in O.S. No.613/2015
Ex.D2 Complaint filed Under Section 200
 of Cr.P.C R/w Sec 138 of NI act.
Ex.D3 Sworn statement of the complaint
 by way of affidavit
Ex.D.4 Complaint filed Under Section 200
 of Cr.P.C R/w Sec 138 of NI act.
Ex.D5&6 Declaration affidavit
Ex.D7 Objection filed by the accused to
 the application filed by the GPA
 Holder of the IRs of the complaint
Ex.D8 Application for appointment of GPA
 Holder
Ex.D9 Amended complaint

-Sd/-

(PRATHIBHA D.S.)
Judge, Addl. Court of
Small Causes, Mysuru.