

KAMS410001042023



IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR

PRESENT

Sri. Chandan S, B.Com., LL.B
Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF JULY 2025

O.S./35/2023

Plaintiff : Mahadevi S/o Late. B.M.Krishnegowda,
Aged about 47 years,
R/at Badakanakoppalu Village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk, Mysuru District.

(Rep. By Sri. B.K.N., Advocate)

- V/s -

Defendant: Dhananjaya S/o B.K.Srinivasa
Aged about 40 years,
R/at Kappadi Road,
Gandhanahalli Village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk, Mysuru District.

(Rep. By Sri. G.C.S., Advocate)

ORDERS ON PRELIMINARY ISSUE NO.4

This Court has framed issue No.4 on 04.04.2025 and treated the Issue No.4 as Preliminary Issue. Issue No.4 is as under;

1. Whether the court fee paid is insufficient?

2. The plaintiff and defendant are the neighbors having familiarities, acquaintance and they know to each other. Further the defendant for his legal and legitimate necessities, in order to incur the agricultural expenses and to meet his loans raised, on 09.04.2018 executed an agreement in the form of lease deed for a sum of Rs.1,05,000/- and he has obtained and received the said amount in the presence of the witnesses. Thereafter, the schedule property was released and left to the possession of the plaintiff herein. The said mortgage/lease was usufructuary mortgage, where the said period of said lease was fixed for 3 years. After the said lapse, completion and at the end of period of 3 years, the plaintiff expressed his wish and desire to return the property in favour of the defendant and to restore, get back the amount of Rs.1,05,000/- which was paid in favour of the defendants.

3. Further the pleadings of the plaint would evolve, exhibit and narrates that, when the plaintiff requested appealed and sought for the amount of Rs.1,05,000/- the said legitimate request and demand has been negated, declined and refuted by the defendant who intern did not choose to pay or remit the said lease amount of Rs.1,05,000/- even in spite of and despite the notice legally issued on 01.02.2022. Therefore,

according to the plaintiff/applicant, the defendant due and he has the liability and burden to return, repay and to hand over Rs.1,05,000/- which was paid by virtue of the lease deed dated 09.04.2018. Hence, prays for decreeing the suit.

4. On the contrary, conflicting and declining the said pleadings, proposed, described and expressed in the plaint, the defendant through his legal agent, he has presented and submitted his statement of defence. Where in the said written statement, the defendant is explaining and enunciating before this court that, the defendant being known to the plaintiff for the purpose of agricultural operations, he has borrowed Rs.10,000/- from the plaintiff. Further towards the security of the said debt and loan transactions, he has executed one document, wherein on a blank and empty paper, the signature of the defendant has been obtained.

5. Thereafter, the defendant being the borrower of Rs.10,000/- he has already returned and the said amount of Rs.10,000/- had already been repaid towards the plaintiff. However, the plaintiff failed to return and did not choose to hand over the document, where the signature of the defendant has been obtained on a empty paper. Perhaps the plaintiff herein as replied and he has answered stating the said document has been lost and misplaced. Thereafter it

was said that, the said document, paper will be returned soon after the document is found and traced. However, the plaintiff though the amount of Rs.10,000/- which was due towards the plaintiff has been already repaid in her favour, thereafter misappropriating and taking advantage of the document standing in the name of the plaintiff, after the lapse and completion of the 5 years, the suit has been filed brought and registered before this court.

6. Therefore according to the defendant, the very purport, object and intensity behind the suit is filed in order to obtain unlawful gain, profit and in order to defraud the defendant. Therefore as per the statement, the suit is filed with vague, defect, untenable and improper pleadings and the said averments are invented created and concocted only for the purpose of unlawful gain and to plunder, chouse and to cause loss in favour of the defendant. Further the very pivotal and primary defence and the statement of the defendant in his written statement that, the suit of the plaintiff has been registered without there being any proper mandate and requisite court fee which is to be paid before this court. Therefore according to the defendant, the court fee which was paid on the plaint is not sufficient to decide the suit on merit. Hence, prays for dismissal of the suit primarily.

7. Heard both sides, perused the documents available on record.

8. The points that would arise for consideration of the Court is:

1. Whether the court fee paid is insufficient?

9. Findings to the above point is as under:

Point No. 1 : Negative for the following:

REASONS

10. POINT NO.1:

Upon perusal, disquisition and referral of the pleadings of the plaintiff and the statement and the material documents which are submitted placed before this court, the suit has been instituted and it has been set up as against the defendant so to claim the amount of Rs.1,05,000/- along with interest. Where the stand perpetration and propagation of the plaintiff in registering the suit that, the defendant being known and having knowledge with the plaintiff, he had borrowed Rs.1,05,000/- in order to meet, incur and to bear his agricultural and other hand loan. Thereafter, in turn and to secure the amount being paid, the defendant executed lease deed in favour of the plaintiff for Rs.1,05,000/- on 09.05.2018. The said lease deed was for a period of 3 years and the said lease was usufructuary lease. Where the property was left to the custody of the plaintiff.

11. Further after the completion and at the end of lease period of 3 years, when the plaintiff approached and expressed her desire to redeem the lease and to get back the lease amount of Rs.1,05,000/-, the defendant failed to repay the said amount even after the legal notice has been issued on 01.02.2022. However according to the defendant, he has borrowed and obtained loan of Rs.10,000/- which has already been repaid in favour of the plaintiff. Hence, he has no dues or out standing amount which is to be paid in favour of the plaintiff. Further as per the statement of the defendant, the court fee is improper, invalid and it is not sufficient to adjudicate the suit. Therefore, this court has recorded the issues on the court fee and it has considered the said issue of court fee as preliminary issue and taken up the said particular issue for the purpose of adjudication before deciding and adjudicating the other remaining issues based upon the evidence which would be laid during subsequent proceedings of the suit.

12. Therefore in order to ascertain, determine and to find out whether the court fee which is paid and incurred by the plaintiff is sufficient, holds good or it has been deficit or it is not insufficient is concern, it is very just, necessary required and essential to go through the provision which are

specifically contemplates, postulates and deals with the court fee pertaining to the money recovery suits.

13. As per Sec. 21 of the Karnataka Court Fees and suit valuation Act, where it specifically held that, in a suit for recovery of money including a suit for damages, compensation or arrears of maintenance, or other sums payable periodically, the court fee shall be computed on the amount claimed. Therefore as per the specific provision Sec. 21 as discussed above, in a suit which was registered for recovery of money, the court fee has to be remitted, paid and borne by the plaintiff on the amount claimed by the plaintiff in the suit. Further by virtue of the said provision, if we compute, determine and calculate the court fee for Rs.1,05,000/- as per the schedule one advalorem fees, the court fee for Rs.1,05,000/- is Rs.6,975/-. The descriptions and explanations is given below:

For Rs.75,000/- court fee is Rs.4,875/-.

For the remaining Rs.30,000/- 7% which will be Rs.2,100/- (Rs. 30,000X7/100).

14. Therefore, for total amount of Rs.1,05,000/- the court fee is Rs.6,975/- (2,100/- + 4,875). Therefore, looking into the court fee remitted and paid by the plaintiff on the suit, the court fee which is actually paid and remitted to the court is Rs.7,010/-, and it has been incurred by the plaintiff on

the plaint. Therefore, the court fee which has been paid deposited and remitted on the plaint is very sufficient and it is certainly holds correct, good and there is no deficit or insufficiency in the amount which is to be paid towards court fee. Therefore as per the observations, reasons, contemplation and deliberations made supra, the court fee of Rs.7,010/- which is paid is sufficient, correct and valid. Hence, the additional issue framed by this court is liable to be answered in the **negative** and court proceeds to pass the following:

ORDER

Issue No.4 is answered in the negative.

The suit is maintainable and it can be proceeded further so to decide the remaining issues.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 01st day of July 2025)

(Chandan.S)
Prl. Civil Judge and JMFC,
K.R.Nagara.