

KAMS410005522024



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

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 02ND DAY OF DECEMBER 2024

O.S. No.145/2024

Plaintiff :

Somanna S/o Late. Channegowda,
Aged about 78 years,
R/at Boregowdanakoppalu Village,
Gavadagere Hobli,
Hunsur Taluk, Mysuru District.

(Rep. By Sri. K.V.M., Advocate)

V/s

Defendant:

R.Tammaiah S/o Late. Ramabhovi,
Aged about 65 years,
R/at Kebbekoppalu Village,
Kasaba Hobli,
Hunsur Taluk, Mysuru District.

(Rep. By Sri. R.K.S., Advocate)

ORDERS ON PRELIMINARY ISSUE NO.4

This Court has framed issue No.4 on 15.10.2024 and treated the Issue No.4 as Preliminary Issue. Issue No.4 is as under;

1. Whether the suit is not maintainable for want of cause of action?

2. This is the suit filed by the plaintiff against the defendant for recovery of sum of Rs.2,58,000/- along with interest at the rate of 6% P.A. It is the case of the plaintiff that, defendant on 12.03.2021 has borrowed Rs.1,50,000/- from the plaintiff for discharging his debts and he has agreed to repay the said amount with interest at the rate of 24% P.A. and he has also executed one on demand promissory note along with consideration receipt on the very same day in favour of the plaintiff. But, in spite of the several requests and demands made by the plaintiff, the defendant neither paid the interest nor paid the principal amount which is paid by the plaintiff. The defendant for one or the other pretext, by giving some reasons he is evading to pay the amount which is agreed as per the on demand promissory note.

3. However, in pursuance of the said issuance of summons against the defendant, he appeared before this court and filed his statement. Wherein the defendant has denied all

the averments mentioned in the plaint and also the execution of the pronote in favour of the plaintiff receiving Rs.1,50,000/- and endorsing the said transaction in a document called consideration receipt. Further, according to the defendant, the defendant along with one Devaraju who is the son of the plaintiff herein has taken lease jointly to an extent of 1 acre of land in the year 2020 so as to grow the ginger crop. As per the agreement the entire amount has been paid in favour of the plaintiff and they have grown the crop of ginger in the schedule property. In the year 2021 when the defendant and one Devaraju planed to renew the agreement, thereafter dispute arose between the defendant and one Devaraju son of the plaintiff due to which the plaintiff herein has created one false, frivolous and concocted pronote and he has forged the signature of the defendant without any financial transaction as alleged in the plaint, he has filed the suit to enrich unlawfully and illegally. Further, according to the defendant, the plaintiff has no cause of action to register the suit against the defendant since there

is no financial transaction between the parties and the suit has been registered with false pleadings and creating the documents styled as promissory note. Hence, the plaintiff prays for dismissal of the suit.

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

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

**1. Whether the suit is not maintainable
for want of cause of action?**

6. Findings to the above point is as under:

Point No. 1 : Negative for the following:

REASONS

7. POINT NO.1:

Admittedly it is the case of the plaintiff that, he has lent Rs.1,50,000/- in favour of the defendant on 12.03.2021 towards the said loan amount as security and in discharge of his liability, the defendant has executed on demand promissory note and also the receipt of consideration.

However the defendant failed to stand and to obey the under taking which is given in the way of promissory note. Thereby he failed to repay the amount of loan raised and incubated upon the defendant. Thereafter in the statement, it has been specifically refuted by the defendant and also the specific grounds urged and taken by the defendant that, the plaintiff is not known to the defendant, there is no transaction exists or taken place in between the plaintiff and defendant as per the pleadings of the plaint. Hence there is no cause of action to launch the suit as against the defendant.

8. Upon verifying the pleadings and also the documents tendered before this court, the execution of the promissory note and signature appended by the defendant is under dispute. However further it is only contention of the defendant that, the plaintiff has created and concocted the document styled as promissory note and forged the signature of the defendant as in the lease agreement. Further since the very transaction of loan as contended by the plaintiff is

denied, it is for the plaintiff to prove the said recitals of the plaint leading evidence and also placing the suitable cogent and pivotal evidence before this court.

9. Further the concept of cause of action introduced in Section 20 of the C.P.C. a cause of action is a legal claim that allow a legal party to seek judicial relief from another party. It is the factual consideration that led to a dispute between the parties. Further, the cause of action defence on the basis for the plaintiff to claim certain pleadings and it is the burden again to prove the said pleadings and also the averments affirming in his statement. In the present case on hand, the plaintiff has taken specific plea that, the defendant though he has executed on demand promissory note towards security of debts borrowed by the plaintiff, he failed to pay the amount as undertaken by the defendant. The said aspect and material propositions are disputed by the defendant in his statement of objections. Further the defendant has taken specific contention that the plaintiff has created the

document forging the signature of the defendant and filed this suit without cause of action against the defendant. Further it is according to the plaintiff since the defendant failed to pay the said amount in favour of the plaintiff as under taken through the on demand promissory note and hence it is according to the applicant, the cause of action to launch the suit is arose on 12-03-2021.

10. Further, a cause of action is a set of fact, that gives raise for a legal claim or right to sue. As such the said cause to launch this suit is only to set up action and also the consideration under which leads the applicant to approach the court. However, again it is for the plaintiff alone or the person who approaches this court to produce and lead all sort of evidence in support of the said pleadings and cause of action.

11. Hence, this court is of the opinion that, there is a cause of action which is clearly coated and averred in the pleadings of the plaint it is clear from the very bare and plain reading

of the plaint and in respect of the remaining averments as discussed above are to be dealt in detail during trial. Hence, the additional issue framed by this court is answered in the **Negative** and court proceeds to pass the following:

ORDER

Issue No.4 is answered in the Negative.

Accordingly, the suit is maintainable and the case is posted for plaintiff evidence.

Call on: 16.01.2025

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 02nd day of December 2024)

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