

Govt of Karnataka

Form No.9 (Civil)

**Title sheet for
Judgment
in suits
(R.P.91)**

**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
NANJANGUD**

Present : Sri.Ganapathi Prashanth.M, B.A., LL.B.,
Senior Civil Judge & JMFC, Nanjangud

Dated : This the 6th day of February 2020.

O.S.No.56/2019

Plaintiff/s : L.Srinivasa
S/o late. Lakshmipathi
Aged about 46 years
R/at No.2873, 5th cross
R.P.Road, Nanjangud Town.

(Rep. by Sri. K.S.Nagaraj, Adv)

-V/s-

Defendant/s : M.Mahesh
S/o. Kalihundi Mahadevappa
Aged about 50 years,
R/o Behind Hanumthappa Mill
Housing Board Colony
Nanjangud Town.

(Exparte)

Date of institution of the suit	27.04.2019		
Nature of suit	Recovery of money		
Date of commencement of Trial	16.10.2019		
Date on which the judgment was pronounced	06.02.2020		
Duration of suit	Year/s	Months	Days
	00	09	09

J U D G M E N T

The plaintiff has filed this suit against the defendants for recovery of Rs.7,72,000/- from the date of suit till realization.

2. The case of the plaintiff in brief is as follows:-

The defendant for his legal necessities, i.e, for construction of house obtained loan of Rs.5,00,000/- on 28.04.2016 and executed On Demand Pronote and consideration receipt on the same day, by agreeing to repay the same with interest thereon at 1.50% per month. As he has failed to repay the same, this suit.

3. The defendant has not appeared, hence placed exparte on 04.09.2019.

4. The plaintiff adduced evidence by examining himself as PW-1 and got marked documents as per Ex.P.1 to P3 and examined other witnesses as PW2 to 4 and closed his side. The defendant has placed exparte, hence he has neither cross examined the PW1 nor adduced defence evidence.

5. Heard and perused the pleadings, evidence and materials placed on record.

6. The points that arise for consideration are:

1. Whether the plaintiff proves that the defendants are due to the plaintiff the suit claimed amount as alleged?
2. Whether the plaintiff is entitled for the interest at the rate claimed in the suit?
3. Whether the plaintiff is entitled for suit claimed relief?
4. What order or decree?

7. The findings to the above points are as follows:

Points No.1 to 3 : In the Affirmative

Point No.4 : As per the final order

for the following:-

REASONS

8. **Point No.1:** Ex.P.1 is the On demand pronote dated 28.04.2016. The loan obtained therein is Rs.5,00,000/-. The rate of interest agreed therein is at 1.50% per month. The suit is filed on 27.04.2019, well within the period of limitation of 3 years from the date of D.P.Note.

9. The evidence of PW-1 to 4 and the document Ex.P.1 have remained uncontroverted. The amount due being uncontroverted, the suit being within the limitation, the plaintiff is entitled for the recovery of the same.

10. Thus, the plaintiff has proved the amount due as on the date of suit. Accordingly, point No.1 is answered in the affirmative.

11. **Point No.2:** This point pertains to the question of rate of interest for which the plaintiff is entitled to. The claim for interest made by plaintiff is as per the agreement. In view of Section 79 of Negotiable Instruments Act, 1881, the plaintiff is entitled for interest at the agreed rate. Hence, the plaintiff is entitled for interest at the rate claimed. Accordingly, this point is answered in the affirmative.

12. **Point No.3:** In view of the findings on the above points, the plaintiff is entitled for a decree as prayed for. Hence, point No.3 is answered in the affirmative.

13. **Point No.4:** In view of findings on above points, this Court proceeds to pass the following:-

ORDER

The suit of the plaintiff is hereby decreed as prayed for, with costs.

The Defendant is directed to pay forthwith, to the plaintiff, a sum of Rs.5,00,000/- with interest thereon at 18% p.a. from the date of suit till

realization, along with past interest Rs.2,70,000/- and notice charges of Rs.2,000/-, failing which the plaintiff shall be entitled to recover the same through process of Court at the cost of the defendant.

Draw decree accordingly.

(Dictated to the Stenographer on the computer, typed by her corrected, initialed and then pronounced by me in open Court on this the 6th day of February 2020.)

(Ganapathi Prashanth.M)
Senior Civil Judge, Nanjangud

ANNEXURES

List of witnesses examined for the plaintiff/s :-

P.W.1 - L.SRINIVASA
P.W.2 - PRAKASH RAJE URS
P.W.3 - N.SURESHA
P.W.4 - CHANDRASHEKAR

List of documents marked for the plaintiff/s :-

Ex.P.1 - On Demand Pronote
Ex.P.2 - Office copy of the legal notice
Ex.P.3 - Postal acknowledgement

List of witnesses examined for the Defendant/s :-

NIL

List of documents marked for the Defendant/s :-

NIL

**Senior Civil Judge,
Nanjangud**