

IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL JUDGE'S
COURT: KAKINADA

Present : **Sri N.Vijaya Babu**,
II Additional Senior Civil Judge,Kakinada

Friday, the 26th day of July, 2024
O.S. No. 226/2022

Between:

Sathi Atchutha Rama Reddy, W/o.Surareddy of Konkuduru,
Hindu, Aged 63 years, Business, Resident of D.No.4-183,
Beccavolu Mandal, East Godavari District, Kakinada Senior
Civil Judge's Court Jurisdiction ... Plaintiff

and

Maddukuri Narendra Kumar, S/o.Satyanarayana, Hindu, Business,
Aged 31 years, D.No.1-140, Sammitavarigudem Village, Chinthala-
pudi, Chinthalapudi Mandal, West Godavari District, Eluru Senior
Civil Judge's Court Jurisdiction. ... Defendant

This suit coming on 10.07.2024 for final hearing before me in the
presence of Sri **K.V.S.Lakshmajee Rao**, Advocate for plaintiff and of Sri
G.Vijaya Rao, Advocate for defendant and the matter having stood over
for consideration till this day, this court delivered the following:

J U D G M E N T

This is a suit filed by the plaintiff against the defendant seeking
recovery of amount of Rs.25,07,819/- basing on the suit promissory note
along with subsequent interest and costs.

2. The brief facts of the plaint filed by the plaintiff are that on
15.08.2020, the defendant borrowed an amount of Rs.15,00,000/- from
him for own family expenses and discharge of sundry debts and executed
the suit promissory note agreeing to repay the said amount with interest at
Rs.2/- p.c.p.m yearly compound to him or to his order. In spite of repeated
demands and issuance of registered notice, dated 20.12.2022, the
defendant failed to discharge the said debt and having received the notice,
failed to comply the same. The defendant is not entitled to the benefits of

Act 4 of 38, Act 7 of 77, Act 45 of 87 and Act 2 of 90 as amended from time to time. Hence, this suit.

3. The defendant entered his appearance and filed written statement. The brief facts of the written statement filed by the defendant are that, he denied the borrowing of amount, execution of suit promissory note etc.,. In fact, the plaintiff and one Satti Srinivasa Reddy resident of Chintalapudi are close relatives. He joined as a collection agent in the shop of Satti Srinivasa Reddy, who is running Home Needs Shop, under the name and style of "Sri Sai Vijayalaxmi Home Needs", which is a joint firm in which the plaintiff is the main partner and one M.V.Raghava Reddy is second partner and Satti Srinivasa Reddy is the third partner of the said firm. The said firm was started in the name of wife of 3rd partner viz., Vijaya Lakshmi. When he joined as a collection agent in the above firm, the above three partners, asked him for security bond and obtained empty promissory notes with signatures. One signature is across the Revenue Stamp and obtained thumb impression at the end of his signature underneath the revenue stamp and kept the same with the plaintiff. He joined in the above said firm as collection agent in the year 2012. On 06.05.2022 after collection, while he was returning to the firm, he fell down from his two wheeler on the way near Chintalapudi due to skidding of his vehicle and sustained injuries. He asked Satti Srinivasa Reddy for medical assistance to meet the expenses and also asked him to settle the monthly salaries during the pandemic period i.e., from March, 2019 to 2021. During the said period, through he worked in the plaintiff's firm, the plaintiff and two other partners didn't pay the salary. After receiving the injuries, he admitted in a private hospital i.e., Bhavisya Health Care, R.R.Pet, Eluru and as he was in need of money, then he approached Satti Srinivasa Reddy and demanded for his salary,

but the plaintiff and two partners did not help him while under treatment in the said hospital. After discharge from the hospital, he along with other local elders, approached the said Srinivasa Reddy and demanded for salary due by the firm. Some altercation took place between him and Satti Srinivasa Reddy. When the matter informed to plaintiff by Srinivasa Reddy, the plaintiff hatched a plan, got filled up the blank promissory note bearing his signature and got issued legal notice dated 20.12.2022. He denied having Ac 3.16 cents of land in R.S.No.290 in Chintalapudi Village. In fact, there is a dispute over the said land among the family members and a suit was filed before the Principal Senior Civil Judge's Court, at Eluru of West Godavari District. He is legal heir among other defendants in the said suit and he is not the absolute owner to the said property and the matter is under sub-judice. The plaintiff with a malafide intention tried to involve him in some more court litigations without any proof. The plaintiff without having proper knowledge in respect of the property to be attached alleged that stands in his name and requesting the attachment before this court. He has no share in the said property as his father Maddukuri Satyanarayana and his two paternal uncles are having share in the said property. He is having sufficient proof to show that he worked as collection agent in the firm of plaintiff, Satti Srinivasa Reddy and M.V.Raghava Reddy who are doing Home needs business in the name of Sri Sai Vijayalaxmi Home Needs and Vijayalakshmi is none other than the wife Satti Srinivasa Reddy, who is active partner to the said firm having control over the said firm. The plaintiff and M.V.Raghava Reddy who is shown as 1st witness in the pronote are sleeping partners in the above said firm. These people are used to sell home needs on installment basis and he is collecting installments amounts from the customers. The plaintiff is not

entitled the relief as prayed. There is no cause of action and the cause of action mentioned in the plaint is not true and correct. Hence, prayed to dismiss the suit with costs.

4 Basing on the above pleadings, the following issues are framed for trial:

1. Whether the plaintiff is entitled for the suit amount as prayed for?
2. Whether the suit promissory note brought into existence in the circumstances as contended by the defendant?
3. To what relief?

5. In order to prove the respective contentions, plaintiff examined himself as P.W.1 and P.W.2/Nallamilli Ammireddy and got marked Exs.A1 to A3. The defendant did not produce oral or documentary evidence on his behalf in spite of several opportunities and as such, this court was constrained to close his evidence by treating it as 'nil'.

6. Heard the counsel for plaintiff. Defendant called absent. No representation, treated as heard. Perused the record.

7. P.W.1 in his chief affidavit filed in lieu of chief examination reiterated the averments of the plaint.

ii. P.W.2 in his chief affidavit filed in lieu of chief examination and supported the suit transaction in toto and further stated that in his presence the defendant received the consideration of Rs.15,00,000/- from the plaintiff and put signature as well as thumb impression on the suit promissory note, that at the time of transaction, himself, plaintiff, defendant and M.V.Raghava Reddy, who signed as 1st attestor and one K.Subbaraju who was the scribe of the suit pronote were present.

b. As the defendant didn't choose to produce any evidence on his side inspite of giving several opportunities there is no defense evidence.

c. As can be seen from the record, as per the evidence of P.Ws.1 and 2 and Exs. A1 to A3, on 15.08.2020, the defendant borrowed an amount of Rs.15,00,000/- from the plaintiff and executed Ex.A1 suit promissory note agreeing to repay the same with interest 2/- p.c.p.m. yearly compound, that in spite of repeated demands and issuance of legal notice vide Ex.A2, served vide Ex.A3/track consignment status, the defendant failed to repay the same. P.Ws. 1 and 2 in their chief affidavit supported the suit transaction in toto. P.Ws. 1 and 2 were cross-examined by the defendant.

ii. P.W.1 in cross stated that the defendant used to collect the paddy amount in the village and used to handover to them, that the defendant was appointed to collect the paddy amount only, but, not for Vijaya Lakshmi Home Needs. Nothing was elicited in the cross of P.Ws. 1 and 2 with regard to partnership firm viz., Vijayalaxmi Home Needs etc., and the defendant did not produce any evidence in support of his contention and even did not enter into the witness box to support his own contention. Further, the defendant in written statement admitted issuance of Ex.A.2 legal notice, but, didn't give any reply notice. Nothing was brought on record by the defendant to overthrow the evidence of P.Ws.1 & 2 or to show that no consideration was passed under the suit promissory note.

iii. The plaintiff relied on the principle laid by the Hon'ble Supreme Court of India made in **Iswar Bhai C Patel alias Bachu Bhai Patel Vs. Harihar Behera and another**, reported in **AIR 1999 Supreme Court 1341**, to the effect that "applying the principles stated above to the instant case, it would be found that in the instant case also the appellant had abstained from the witness box and had made no any statement on oath in support of his pleading set out in the written statement. An adverse

inference has, therefore, to be drawn against him.” In the case on hand also, the defendant admitted the execution of Ex.A.1 suit promissory note and claimed to have given blank signed promissory note at the time of joining as collection agent in the firm of the plaintiff and two others and stated that no consideration was passed to him. Once the execution of a negotiable instrument is admitted/proved the presumption under Section 118 (a) of Negotiable Instruments Act applies to the effect that the same was executed for due consideration only. As such, the burden lies on the defendant to prove that no consideration was passed to him under the suit promissory note. The defendant didn't even choose to enter into the witness box and nothing was elicited in the cross of P.Ws.1 & 2 to overthrow the said presumption. The plaintiff by examining P.Ws.1 & 2 supported the suit transaction. The defendant without any reason did not choose to enter into witness box to support his own contention stated in the written statement. Nothing material was produced by the defendant even to show that the plaintiff has anything to do with Sri Sai Vijaya Lakshmi Home Needs. As such, adverse inference has to be drawn against the defendant. For similar principle, the plaintiff relied on the decision made in **Vidhyadhar Vs. Mankikrao and another** reported in **AIR 1999 SUPREME COURT 1441**. Under these circumstances, this court is of the opinion that the plaintiff proved that he is entitled to recover the suit amount and the suit promissory note is true, valid and did not bring into existence in the circumstances stated by the defendant.

In view of the aforementioned discussion, the issue Nos. 1 & 2 are decided in favor of the plaintiff.

8. Issue No.3:- To what relief?

In the result, the suit is decreed in favour of plaintiff with costs. The principle sum adjudged is Rs.15,00,000/-. The defendant is directed to pay an amount of Rs.25,07,819/- to the plaintiff along with interest on the principle sum adjudged @ 12% per annum from the date of suit to the date of decree and @ 6% per annum from the date of decree till realization.

Dictated to the Stenographer, corrected and pronounced by me in the open Court, this the 26th day of July, 2024.

sd/- N.Vijaya Babu
II Addl. Senior Civil Judge,
Kakinada.

APPENDIX OF EVIDENCE WITNESSES EXAMINED

For Plaintiff:

P.W.1 : Satti Atchutha Rama Reddy

P.W.2 : Nallamilli Ammireddy

For Defendant:

None

DOCUMENTS MARKED

For Plaintiff:

Ex.A1/15.08.2020 : Promissory note executed by the defendant

Ex.A2/20.12.2022 : Office copy of the legal notice with postal receipt

Ex.A3/ : Tracking report.

For Defendant : Nil.

Sd/- N.Vijaya Babu
II Addl. Senior Civil Judge,
Kakinada.