

IN THE COURT OF THE MUNSIF, KANJIRAPPALLY.

Present : Smt. Sherin K. George, Munsiff

Monday 31st October 2022
9th Karthika 1944.

O.S 239/2019

Plaintiff:-

K.S. Sajimon, Aged 49 Years,
S/o. Sukumaran, Puthuvelil House,
Koorali P.O., PIN:686522.
Koorali Kara, Elangulam Village,
Kanjirappally Taluk.

By Adv. Bilu.G.

Defendant:-

Biju A.K., Aged 46 Years,
S/o. Kuttappan, Alackal House, Ponkunnam P O,
Pin.686506, Vadakkumbhagam Kara ,
Chirakkadavu Village, Kanjirappally Taluk.

Exparte

This suit having been heard on 21.10.2022 and the court on 31.10.2022 delivered the following:-

J U D G M E N T

Suit is one for realization of money.

2. **The plaint averments in brief, are as, follows:-** The defendant is the brother-in-law of the plaintiff for the purpose of repayment of his loan transaction. On 30.8.2018, the defendant borrowed an amount of Rs.1,75,000/- and on several occasion thereafter amount to 1.75,000/- and thus total an amount of Rs.3,50,000/- from the plaintiff. When the amount was demanded

back for discharging the said debt the defendant executed and issued a cheque bearing No.300200 dated 14.03.2019 drawn on Syndicate Bank, Ponkunnam branch for Rs.3,50,000/-. The cheque was issued by the defendant to the plaintiff at the residence of the plaintiff at Elangulam. This cheque was presented for encashment to the Ponkunnam Service Co-operative Bank, Ponkunnam branch which was in turn send for collection. The cheque was returned due to the reason funds insufficient and a dishonour memo dated 29.3.2019. A legal notice was issued to the defendant on 04.04.2019 in his correct address stating the fact of dishonour of the cheque was given accepted by the defendant. The defendant has not paid the amount so far. Hence the suit is filed .

3. Though the defendant entered appearance, he failed to file written statement within the time allowed by the court and hence the defendant is set exparte. Thereafter, the plaintiff filed proof affidavit in lieu of examination in chief and marked Exts.A1 to A5 documents.

4. Now the only point arises for consideration is:-

Whether the plaintiff is entitled to realize the amount ?

5. **The point:-** The evidence of the plaintiff coupled with Exts.A1 to A5 documents would prove that the defendant has borrowed an amount of Rs.3,50,000/- from the plaintiff on 30.8.2018. Ext.A1 is the cheque issued by the defendant to the plaintiff for an amount of Rs.3,50,000/- (Rupees Three Lakhs Fifty housand only). Exts.A2 and A3 would go to show that Ext.A1 was dishonoured for insufficiency of fund in the account of the defendant. Affidavit of the plaintiff coupled with the documents would prove that the defendant has executed Ext.A1

cheque in favour of the plaintiff and on presentation the said cheque was dishonoured for insufficiency of funds. Ext.A5 acknowledgment card evidence is that Ext.A4 legal notice was sent to the defendant intimating the fact of dishonour of Ext.A1 cheque and demanding repayment of the amount borrowed by the defendant. Hence, I am satisfied that the plaintiff is entitled to a decree for the realization of Rs.3,50,000/- (Rupees three lakhs fifty thousand only) with interest thereon from the defendant. On the other hand, plaintiff filed I.A.01/2021 under O.33 Rule 1 to declare as indigent was allowed by this court and permitted to proceed as indigent. Since the plaintiff succeeds in the suit, the court fee which is liable to paid is recoverable by the State Government from the plaintiff and shall have charge on the subject matter of the suit for an amount of Rs.31,320/- (Rupees thirty one thousand three hundred and twenty only) which is B.C.F. and Rs.3,275/- (Three thousand two hundred and seventy five only) which is B.L.B.F. The point is answered accordingly.

In view of findings on the above issue, the suit is to be decreed:-

1. The plaintiff is entitled to realize Rs.3,50,000/- (Rupees three lakhs fifty thousand only) with interest at the rate of 9% per annum from the date of suit till the date of decree and thereafter at the rate of 6% per annum from the date of decree till realization from the defendant and his assets.

2. Since the plaintiff succeeds in the suit, he is liable to pay the court fee Rs.31,320/- (Rupees thirty one thousand three hundred and twenty only) and B.L.B.F. Rs.3,275/- (Rupees three thousand two hundred and seventy five only) and such amount is recoverable by the State Government, office is directed to forwarded copy of decree to the Collector under O.33 Rule 14 of C.P.C.
2. The plaintiff is also entitled to realize the costs of the suit from the defendant and his assets.

Dictated to the Confidential Assistant transcribed and typed by her corrected by me and pronounced in open court on this the 31st day of October, 2022.

Sd/-
SHERIN K. GEORGE
MUNSIFF

APPENDIX :

Exhibits Marked for the plaintiff

A1	14.03.2019	-	Certified Copy of a Cheque No.3002001 for ₹3,50,000/-
A2	26.03.2019	-	Certified Copy of Dishonour Memo
A3	29.03.2019	-	Certified Copy of Intimation from the Ponkunnam Service Co-operative Bank Ltd;
A4	04.04.2019	-	Certified Copy of Lawyers Notice prepared by Advocate P. Geeraj
A5	NIL	-	Certified Copy of Acknowledgement card

Exhibits marked for the defendant:

NIL

Court Exhibits:

NIL

Third Party Exhibits :

NIL

Witness examined for the Plaintiff:

PW1 21.10.2022 - K.S. Sajimon

Witness examined for the defendant

NIL

Id/-
MUNSIFF

//True copy//

Typed By : Lucykutty Thomas

Compd. By : Nidhimol M.S.

MUNSIFF

**COPY OF JUDGMENT IN
O.S.239/2019
Dated 31/10/2022.**

