

**IN THE COURT OF SENIOR CIVIL JUDGE AND J.M.F.C.,
HAGARIBOMMANAHALLI.**

Dated: this the 23rd day of January 2023

PRESENT: SMT. ANUPAMA D., B.COM., LL.B.
Senior Civil Judge & J.M.F.C.,
Hagaribommanahalli.

O.S. NO.83/2023

Plaintiff:

Raddi Kotramma
W/o Gavisiddappa Reddy,
Aged about 45 years,
R/o No.351, Varlahalli Village,
H.B.Halli Taluk, Vijayangara Dist.

(By Smt. Katharaki Sujatha, Adv)

V/s

Defendant:

Vijaya Kumar S/o Gnyana Sundaram
Aged about 50 years,
R/o In front of Anjaneya temple,
Neharu Nagara, H.B.Halli town and
taluk, Vijayanagara dist.

(Exparte)

Date of institution of suit	:	14-09-2023
Nature of suit	:	Recovery of money
Date of commencement of recording of evidence	:	04-01-2024
Date on which Judgment was pronounced	:	23-01-2024
Total duration	:	Year/s Month/s Day/s 00 04 09

(ANUPAMA D)

Senior Civil Judge and J.M.F.C.,
Hagaribommanahalli.

:- J U D G M E N T :-

The plaintiff has filed this suit against the defendant for recovery of money in a sum of Rs.9,33,242/- with interest at the rate of 24% p.a. from the date of filing the suit till its realization.

2. Brief facts of the case of the plaintiff are that, the defendant had approached the plaintiff and borrowed a loan of Rs.6,00,000/- from the plaintiff for the purpose of his domestic expenses and to discharge the sundry debts and executed a promissory note for the said sum on 20.05.2021 by promising to repay the same together with interest at 2% p.m i.e., 24% p.a. He has signed on the pro-note by admitting his liability in discharging the same. In spite of repeated demands and requests made by the plaintiff and issuance of lawyer notice on 17.08.2023, the defendant has not settled the suit claim and committed default and not complied the said notice nor replied the same. Hence this suit is for recovery of loan amount of Rs.9,33,242/- with interest from the defendant.

3. In spite of receipt of summons the defendant did not appear before the court, hence he placed exparte.

4. In order to prove the claim, the plaintiff herself has examined as PW1 and 4 documents have been produced and marked as Ex.P1 to 4. Three witnesses of the promissory note have been examined as PW2 to 4.

5. Heard the arguments of counsel for plaintiff. Perused the case papers.

6. On the basis of the above, the following points arise for my consideration:

POINTS

1. Whether the plaintiff proves that the defendant has availed the loan of Rs.6,00,000/- on 20.05.2021 by agreeing to repay the same with interest at the rate of 24% p.a and executed the promissory note in favour of the plaintiff, but he failed to repay the loan and liable to repay the same?

2. What order or decree?

7. My answers to the above points are as follows:

Point No.1 : In negative,

Point No.2 : As per final order
for the following:

:-REASONS:-

8. **Point No.1**: According to the plaintiff, the defendant has availed loan of Rs.6,00,000/-, but he failed to repay the same as agreed by him and now he is liable to pay the amount of Rs.9,33,242/- with agreed interest. In order to prove the claim the plaintiff herself has examined as PW1 and he has reiterated the plaint averments in her affidavit. Apart from the oral evidence, Ex.P1 is the promissory note dated: 20.05.2021 executed by the defendant in favour of the plaintiff and it disclosing that the defendant has borrowed the hand loan of

Rs.6,00,000/- from the plaintiff in order to meet out his domestic expenses and further agreed to repay the said loan amount with interest at 2% p.m and by agreeing to the said conditions he has executed the said promissory note before the witnesses in favour of plaintiff. Ex.P2 is the copy of legal notice dated: 17.08.2023 calling upon the defendant to repay the loan amount with agreed interest. Ex.P3 is the postal receipt and Ex.P4 is the unclaimed postal cover.

9. PW2 to 4 are the witnesses for the promissory note and they have deposed in consonance with the evidence of PW1 and they further deposed, the defendant has borrowed the loan from the plaintiff and agreed to repay the loan with interest. Since the defendant has placed exparte, the evidence of PW1 to 4 remained unchallenged.

10. Though the PW1 to 4 have deposed about borrowing of loan by the defendant, it is significant to look over the materials produced by the plaintiff. The plaintiff has identified her signature in Ex.P1 which got marked as Ex.P1(a). On perusal of the signatures of plaintiff in the vakalath, Ex.P2 copy of legal notice and deposition of PW1 are one and the same. But the signature of PW1 i.e., Ex.P1(a) which she identified as her signature on Ex.P1 is totally different with her signatures appears in the vakalath, Ex.P2 copy of legal notice and deposition of PW1. Hence, the materials produced by the plaintiff with respect to the loan availed by the defendant from

her, are very much doubtful to believe the same. Accordingly, on the basis of the said evidence, the plaintiff has utterly failed to prove the case. Further, since the plaintiff is an independent person, it is difficult to believe that she deals in money lending business and the defendant has borrowed the loan from her for domestic purpose. Hence this court declined to grant claim of the plaintiff and the suit is liable to be dismissed. Hence, I answered point No.1 in the negative.

11. **Point No.2:** In view of the above discussion, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby
dismissed with cost.

(Dictated to the typist, on computer and corrected by me then pronounced in the open court on this the 23rd day of January 2024)

(ANUPAMA D)

Senior Civil Judge and J.M.F.C.,
Hagaribommanahalli.

ANNEXURES

List of witnesses examined for the plaintiff/s:

PW1 : Smt. RaddiKotramma
PW2 : C Veeranna
PW3 : Shanthappa
PW4 : M. Mallappa

List of documents got marked for the plaintiff/s:

Ex.P1 : Promissory note

Ex.P2 : Copy of legal notice
Ex.P3 : Postal receipt
Ex.P4 : Unclaimed postal cover

List of witnesses examined for the defendant/s:

-NIL-

List of documents marked for the defendant/s:

-NIL-

(ANUPAMA D)
Senior Civil Judge and J.M.F.C.,
Hagaribommanahalli.