KA14030076972025

**IN THE COURT OF THE V ADDL. CIVIL JUDGE & JMFC, SHIVAMOGGA.**

Present: **Sri.Prahansingh H.P.**
V Addl. Civil Judge & JMFC.,
Shivamogga.

**DATED THIS 20TH DAY OF JULY, 2026.**

**ORIGINAL SUIT NO.663/2025**

**PLAINTIFF :** Sri.Mookambika Finance(R),
Darga Complex, Tilak Nagara,
Shivamogga,
Represented by its Managing Partner,
N.M.Shivaguru S/o Late Mallari Rao N.
Aged about 45 years.

**(By Sri.M.S.J., Adv.)**

**- V/s -**

**DEFENDANT:** Anil Kumar P.V.
S/o P.S.Vijaya Rao,
Aged about 40 years,
FDA., Office of the B.E.O. Office.,
Bhadravathi,
Shivamogga District.

**( Exparte)**

| | |
|---|---|
| **Date of Institution of the suit** | **06.08.2025** |
| **Nature of the Suit** | **Recovery of Money`** |
| **Date of commencement of** | **19.01.2026** |

| | | | |
|---|---|---|---|
| **recording of Evidence** | | | |
| **Date on which the Judgment was pronounced** | **20.07.2026** | | |
| **Total Duration** | **Year/s** | **Month/s** | **Day/s** |
| | **-** | **11** | **14** |

**(Sri.Prahansingh H.P.)**
**V Addl. Civil Judge & J.M.F.C.**
**Shivamogga.**

## JUDGMENT

The plaintiff partnership firm has filed the suit against the defendant for the relief of recovery of loan amount.

**2. Brief facts of the plaintiff's case is:-**

The plaintiff is the registered partnership firm. The plaintiff partnership firm by receiving application from its members, granting loan as per their needs. The managing partner of the plaintiff institution is having authority to file and contest the cases in court of law.

**3**. The defendant on 21.09.2024, has applied for personal loan, accordingly the loan application was allowed and loan amount of Rs.2,35,000/- is sanctioned to the defendant by way of RTGS vide loan account No.1200333. As per terms of the loan agreement, the defendant is agreed to pay interest @ 16% P.A and default interest at the rate of 2% and agreed to repay the loan amount within 03 months and executed an on demand promissory note and other documents.

**4**. The defendant failed to repay the loan amount within the agreed time. When the plaintiff has asked the defendant to repay the loan amount with interest, the defendant has issued a cheque dated 08.04.2025 bearing No.585866 for Rs.2,57,000/- drawn on State Bank of India, Gopala Layout Branch, Shivamogga. The plaintiff institution has deposited the cheque to the State Bank of India, Shivamogga Branch for enchashment but the cheque got dishonored due to the reason of 'Funds Insufficient' vide endorsement dated 17.04.2025.

**5**. The plaintiff institution has issued a notice to the defendant demanding the loan amount along with interest. The defendant inspite of service of notice dated 19.05.2025 neither complied nor replied. The suit is within limitation. Hence, plaintiff is liable to pay para No.9.

| | | | |
|---|---|---|---|
| a) | Loan amount due from the Defendant as on 07.04.2025 account pass sheet. | : | Rs. 2,57,214.00 |
| b) | Accumulated interest from 08.04.2025 to 01.08.2025 | : | 4,525.00 |
| c) | Legal Notice Charges | : | 3,000.00 |
| d) | Typing, photocopying, stamp and notary and other miscellaneous expenses | : | 699.00 |
| | In Total | : | 2,75,500.00 |

**6.** After registration of the suit, the suit summons was issued to the defendant, inpite of service of summons, the defendant does not appeared before the court, hence defendant placed exparte and case is posted for plaintiff's evidence.

**7.** To prove the case of the plaintiff, the managing partner of the plaintiff partnership firm is examined as PW-1 and got marked Ex.P.1 to Ex.P.11 and closed his side evidence.

**8.** From the above materials, the points that would arise for consideration of the court to dispose the suit are as follows:

*1.* Whether the plaintiff partnership firm proves that, the defendant availed loan of Rs.2,35,000/- from the plaintiff by executing necessary documents and on demand promissory note and defendants failed to repay the said loan?

*2.* Whether the plaintiff is entitled for the interest at the rate of 16% on the principal amount from the date of 21.09.2024 and default interest at the rate of 2% on the principal amount?

*3.* Whether plaintiff is entitled for the relief as sought for?

*4.* What order or decree?

**9.** The court has answer to the above points is as under:-

Point No.1 – Affirmative

Point No.2 – Partly Affirmative

Point No.3 – Partly Affirmative

Point No.4 – As per final order for the following

## REASONS

**10. POINT No. 1:-** To prove the case the Managing partner of the plaintiff filed affidavit in lieu of examination in chief, got examined himself as PW-1, by reiterating the entire plaint averments. In his evidence, he has stated that, the plaintiff institution has sanctioned a loan amount of Rs.2,35,000/- to the defendant by way of RTGS to loan account bearing No.1200333. As per terms of the loan agreement, the defendant has agreed to repay the loan amount along with interest at the rate of 16% P.A., and default interest at the rate 2% PA and agreed to repay the loan amount within three months and executed on demand pro-note and other documents.

**11.** The defendant failed to repay the loan amount within the agreed time. When the plaintiff has asked the defendant to repay the loan amount with interest, the defendant has issued a cheque dated 08.04.2025 bearing No.585866 for Rs.2,57,000/- drawn on State Bank of India, Gopala Layout Branch, Shivamogga. The plaintiff has deposited the cheque to their banker State Bank of India, Shivamogga Branch for enchashment but the cheque got dishonored due to the reason of **'Funds Insufficient'** vide endorsement dated 17.04.2025.

**12**. The plaintiff institution has issued a notice dated 19.05.2025 to the defendant demanding the loan amount along with interest. The defendant inspite of service of notice neither complied nor replied.

**13**. In support of plaintiff's contention, the Managing partner of the plaintiff/PW1 examined by filing affidavit in lieu of examination in chief by reiterating the entire facts as stated in the plaint and got marked 11 documents as per Ex.P1 and Ex.P.11 which are:

| **SL. No.** | **Particulars of documents** | **Ex P series** |
|---|---|---|
| 1 | Loan application Dated: 21.09.2024 | 1 |

| | | |
|---|---|---|
| 2 | On demand promissory-note dated: 21.09.2024 | 2 |
| 3. | Conditions of the load dated 21.09.2024 | 3 |
| 4. | Voucher dated: 21.092024 | 4 |
| 5. | Office copy of legal notice dated: 19.05.2025 | 5 |
| 6. | Postal Receipt dated 19.05.2025 | 6 |
| 7. | Acknowledgment of speed post | 7 |
| 8 | Original cheque bearing No. 585866 Dated: 08.04.2025 | 8 |
| 9. | Bank Endorsement dated: 17.04.2025 having reason: Funds insufficient” | 9. |
| 10 | Certified copy of Form No.D memorandum of Acknowledgment receipt of documents | 10 |
| 11 | Certified copy of reconstitution partnership deed | 11 |

**14.** On perusal of the plaint averments, oral and documentary evidence on record, it appears that, the plaintiff partnership firm is registered as per law. Further, the court is of view that, the defendant has availed loan of Rs.2,35,000/- from the plaintiff. On perusal of the Ex.P1 loan application, the Ex.P2 on demand pro-note and Ex.P3 conditions of the loan shows that, it can be seen that, the plaintiff has availed personal loan of

Rs.2,35,000/- and agreed to repay the loan amount within 03 months with interest at the rate of 16% PA. The receipt at Ex.P4 corroborates plaintiffs contention. On perusal of the Ex.P8 cheque and Ex.P9 endorsement issued by the Bank, it can be seen that, the defendant has drawn the Ex.P8 cheque in favour of the plaintiff and on perusal ffo the Ex.P9 endorsement it can be seen that, the cheque got dishonored due to the reason of funds insufficient. Hence, the court opines that, the Ex.P8 and Ex.P9 documents corroborates the plaintiffs case.

On perusal of the Ex.P5 notice dated 19.05.2025, Ex.P6 postal receipt dated 19.05.2025 and Ex.P7 postal acknowledgment, the court is of view that it further corroborates plaintiff's case.

**15**. It is apposite to refer the Sec.118 and sec.139 of Negotiable Instruments Act, which reads as follows:

> **118. Presumptions as to negotiable instruments.**—Until the contrary is proved, the following presumptions shall be made:—

(a) of consideration:—that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;

(b) as to date:—that every negotiable instrument bearing a date was made or drawn on such date;

(c) as to time of acceptance:—that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;

(d) as to time of transfer:—that every transfer of a negotiable instrument was made before its maturity;

(e) as to order of indorsements:—that the indorsements appearing upon a negotiable instrument were made in the order in which they appear then on;

(f) as to stamp:— that a lost promissory note, bill of exchange or cheque was duly stamped;

(g) that holder is a holder in due course:—that the holder of a negotiable instrument is a holder in due course: provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.

**Sec.139 of N.I.Act.**

Presumption in favour of holder.—It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section138 for the discharge, in whole or in part, of any debt or other liability.

**16.** The Ex.P2 and Ex.P8 carries statutory presumption provided Sec.118 and Sec.139 of Negotiable Instruments Act. The defendant inspite of service of summons does not appeared before the court. Hence, the plaintiff's case remained unchallenged and plaintiff's evidence remained as proved and not questioned. Hence, the court answers Point no.1 in the ***Affirmative***.

**17. <u>Point No.2</u>**:- The plaintiff partnership firm has sought for interest at the rate of 16% PA on the principal amount and default interest at the rate of 2% PA but on perusal of the Ex.P1 to Ex.P4 documents it can be seen that, the defendant has agreed to repay the loan amount within 03 months at the rate of 16% PA but there is no words about payment of default interest at the rate of 2% PA in the Ex.P1 to Ex.P4 documents. Hence, the court answers point No.2 in the ***Partly in the affirmative***.

**18.** **Point No. 3:-** This court has already come to the conclusion that the plaintiff has proved that the defendant has borrowed a loan of Rs.2,35,000**/-** by executing necessary documents and he has failed to repay the same in spite of several demands and he has issued Ex.P8 cheque in favour of the plaintiff and it got dishonored vide Ex.P9 endorsement due to the reason of 'Funds Insufficient'. Hence, the defendant is liable to pay Rs.2,57,000/- as per Ex.P8. But, so far as the interest is concerned, the plaintiff has prayed to award the interest at the rate of 16 % P.A from 07.04.2025 till realization of the loan amount. The interest pendente lite and future interest at the rate of 16 % P.A. seems to be exorbitant, more so, when the prior interest (i.e. interest till the filing of the suit) has been applied at 16% P.A. Considering these aspects, interest pendentelite and future interest @ 6% P.A. is reasonable. Further, the plaintiff has sought for legal notice expenses at the rate of Rs.3,000/-, the same is corroborate in the Ex.P5 notice. Hence, the court view that, the plaintiff is entitle for notice charges of Rs.3,000/-. Further, the plaintiff has sought for typing, photocopy, stamps and notary charges of Rs.699/- but on perusal of the documents on record there is no evidence with respect to payment of the typing, photocopy, stamps and notary charges of Rs.699/-. Hence, the prayer for expenses as aforesaid is rejected. Accordingly, this point No.3 is answered ***Partly in the Affirmative*.**

**19.** **Point No.4:-** For the foregoing reasons and answer to the above points, this court proceed to pass the following:-

**ORDER**

The suit of the plaintiff is hereby partly decreed with costs.

The defendant is directed to pay the amount as follows to the plaintiff.

i). Rs.2,57,000/- as on 06.08.2025.

ii). Further the defendant is liable to pay interest at the rate of 16% PA from the date i.e. 06.08.2025 till the date of suit.

Iii). Further the defendant is liable to pay interest at the rate of 6% per annum on the amount Rs.2,57,000/- from the date of institution of suit till the date of decree.

iv). Further the defendant is liable to pay future interest at the rate of 6% per annum on the amount Rs.2,57,000/- from the date of decree to till realization of the entire amount.

v). The defendant is liable to pay Rs.3,000/-

towards legal notice charges.

Further the defendant shall bear the cost of suit.

Draw decree accordingly.

(Dictated to Stenographer directly on computer and corrected by me and then pronounced it in open court this the **20th** day of July, 2026)

**(*Sri.Prahansingh H.P.*)**
**V.Addl. Civil Judge & J.M.F.C.**
**Shivamogga.**

## ANNEXURE

Witness examined for the Plaintiff:-

PW-1 : N.M.Shivaguru

Documents marked for the Plaintiff:

| SL. No. | Particulars of documents | Ex P series |
|---|---|---|
| 1 | Loan application Dated: 21.09.2024 | 1 |
| 2 | On demand promissory-note dated: 21.09.2024 | 2 |
| 3. | Conditions of the load dated 21.09.2024 | 3 |
| 4. | Voucher dated: 21.092024 | 4 |
| 5. | Office copy of legal notice dated: 19.05.2025 | 5 |
| 6. | Postal Receipt dated 19.05.2025 | 6 |
| 7. | Acknowledgment of speed post | 7 |

| | | |
|---|---|---|
| 8 | Original cheque bearing No. 585866 Dated: 08.04.2025 | 8 |
| 9. | Bank Endorsement dated: 17.04.2025 having reason: Funds insufficient” | 9. |
| 10 | Certified copy of Form No.D memorandum of Acknowledgment receipt of documents | 10 |
| 11 | Certified copy of reconstitution partnership deed | 11 |

Witnesses examined for Defendants:

Nil

Documents marked for the Defendants:

Nil

**(Sri.Prahansingh H.P.)**
**V Addl. Civil Judge &J.M.F.C.**
**Shivamogga.**