

IN THE COURT OF THE PRINCIPAL SUB JUDGE, KOLLAM

Present : Sri. Arun.M. Kuruvilla, Principal Sub Judge, Kollam

On Thursday, the 10th day of April, 2025/ 20th day of Chaithra, 1947

OS.35/2018

Between

Plaintiff:-

Anil Kumar. S, aged 45 years, S/o Soman,
Sivam Veedu, Kunnath Kavil, Eravipuram,
Kollam.

(By Adv. Sri. B.L. Prasanth)

And

Defendants:-

1

Aswathy. R.B., aged 37 years,
W/o Jayaprakash, Padmavilasam, Koonayil,
Paravoor, Kollam Taluk.

2

Sumathy, aged 58 years,
W/o Padmanabha Pillai, Padmavilasam,
Koonayil, Paravoor, Kollam Taluk.

(Exparte)

This suit is filed under section 26, Order VII, Rule 1 of CPC and coming on for hearing before me on 07-04-2025 and on 10-04-2025 the court delivered the following.

JUDGMENT

Suit for realization of money.

2. The averments contained in the plaint, in brief, are as follows: -

The plaintiff and defendants are known to each other. The 2nd defendant herein is the mother of the deceased Jayaprakash and the 1st defendant was his wife. The aforesaid Jayaprakash borrowed an amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only) from the plaintiff in order to meet his expenses in connection with a family dispute. On 16.01.2018, the aforesaid Jayaprakash executed a promissory note in favour of the plaintiff for an amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only). On 16.01.2018, the plaintiff and the Jayaprakash executed an agreement and thereby Jayaprakash admitted his liability towards the plaintiff. Unfortunately, the aforesaid Jayaprakash met with an accident and he succumbed to the injuries. Thereafter, the plaintiff contacted the 1st and 2nd defendants who are the legal heirs of the deceased Jayaprakash and demanded to pay the money covered by the promissory note. But the amount was not remitted by the defendants. After the demise of Jayaprakash, his right over the property

extending to 13.40 ares lying in resurvey No. 380/11 of Paravoor Village devolved upon the defendants. Hence, the defendants are liable to pay the plaint amount.

3. Defendants entered appearance and filed written statement, The averments contained the written statement, in brief, are as follows:- It is submitted that Jayaprakash died in a motor accident. There was no friendship between the plaintiff and the deceased Jayaprakash. The aforesaid Jayaprakash did not receive any money from the plaintiff. The averments contained in the plaint to the effect that the deceased Jayaprakash borrowed an amount of Rs. 20,00,000/- (Rupees Twenty lakhs only) from the plaintiff for settling his family disputes is not correct. The Jayaprakash did not execute any promissory note in favour of the plaintiff. Hence, the suit is liable to be dismissed.

4. From the above pleadings, the following issues were raised for consideration:-

1. Whether the plaintiff is entitled to realize the plaint amount from the defendants and their assets?
2. What is the rate of interest?
3. What order as to costs?

5. On 18.02.2025, the case is listed for trial to 02.04.2025. On 02.04.2025, the plaintiff is present and filed proof affidavit in lieu of examination in chief. Plaintiff was examined as PW1 and Exts. A1 to A4 are marked. But defendants are called absent and no representation. Hence, the defendants were exparte.

6. **Points No. 1 &2:-** The case of the plaintiff is that the deceased Jayaprakash who was the son of the 2nd defendant and the husband of the 1st defendant borrowed an amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only) from the plaintiff on 16.01.2018. On 16.01.2018, the deceased Jayaprakash executed a promissory note in favour of the plaintiff and the promissory note is marked as Ext.A1. On the very same day, an agreement was executed in between the deceased Jayaprakash and the plaintiff and thereby the deceased Jayaprakash acknowledged his liability to pay Rs. 20,00,000/- (Rupees Twenty Lakhs only) to the plaintiff. The defendants herein are the legal heirs of deceased Jayaprakash.

The unchallenged testimony of the PW1 and the perusal of the Exts. A1 to A4 fortified the case of the plaintiff that an amount of Rs. 20,00,000/- (Rupees Twenty lakhs only) was borrowed by deceased

Jayaprakash and executed Exhibits A1 and A2. The plaintiff is entitled to realize an amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only) together with costs and interest at the rate of 6% per annum to the principal sum of Rs. 20,00,000/- (Rupees Twenty Lakhs only) from the defendants to the extent of the property they inherited from the deceased Jayaprakash.

7. **Issue No.3:-**

In the result, the suit is decreed with costs as follows: -

The plaintiff is entitled to realize an amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only) together with costs and interest at the rate of 6% per annum to the principal sum of Rs. 20,00,000/- (Rupees Twenty Lakhs only) from the defendants to the extent of the property they inherited from the deceased Jayaprakash.

Dictated to the Conf. Asst., transcribed and typed by her, corrected by me and pronounced in open court on this the 10th day of April, 2025.

Sd/-
Arun.M. Kuruvilla
Principal Sub Judge

APPENDIX:

Exhibits for the Plaintiff

A1: 16-01-2018 Promissory note.

A2: 16-01-2018 Agreement.

A3: 20-04-2018 Cheque.

A4: 20-04-2018 Cheque.

Witness for the plaintiff

PW1 : 07-04-2025 Anilkumar. S

Sd/-
Principal Sub Judge

//True copy//

Sd/-
Arun.M. Kuruvilla
Principal Sub Judge

Typed By: Selin.E
Compared By: Vinod.G