IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), PUNALUR

Present:- Sri. Biju.T.V, Civil Judge (Senior Division)
Thursday, the 14th day of November, 2024 (23rd day of Karthika, 1946)
Original Suit No. 27/2023

(filed on 05-08-2023)

Between
Plaintiff:-

Sreelal, aged 52, S/o K. Raveendran, residing at Thiruvathira, Kokkadu, Chakkuvaraykal Village, Kottarakkara Taluk, Now residing at Thiruvathia, Tholicodu, Punalur, Punalur Village, Punalur Taluk.

(By Adv. Anees.T &
Adv. Muhammed Shafi)

And
Defendant:-

Sumesh.S. aged about 45, S/o K.V. Sadhasivan, residing at Sumesh Bhavan, Edamon, Edamon Village, Punalur Taluk.

(By Adv. S.R. Amrit)
(Exparte)

This original suit is filed under Section 26 Order 7 Rule 1 of the code of Civil Procedure for realisation of money.

This suit came up for hearing before me on the 8th day of November 2024 and stood over for consideration on the 14th day of November 2024 and on the same day the court delivered the following.

JUDGMENT

Suit for realisation of money.

2. Plaint averments in brief are as follows:- Plaintiff has been doing business in Gulf for 26 years and the defendant is an ex military officer and now working as security in Indian railway. They are having acquaintance with each other. Defendant approached the plaintiff on 28.07.2021 and asked for a loan of Rs.15 lakhs for starting a business in Bangalore. Plaintiff asked 2 days time for arranging the amount and it was given through bank transfer on 30.07.2021. Defendant executed a promissory note in favour of the plaintiff on the same date. Despite the several demands made by the plaintiff, the defendant did not repay the amount as agreed to and hence a notice was sent to him on 22.08.2022 through the plaintiff's counsel. The notice returned with endorsement "not known". Thereafter, the defendant came to the plaintiff's house and he had undertaken to repay the amount within one month and that was also not done. On further demand made by the plaintiff, the defendant executed a cheque for the loan amount and issued to the plaintiff which on presentation got dishonoured due to insufficient funds. Plaintiff is entitled to realise an amount of Rs.15 lakhs with 18% interest from the defendant and his assets for which the present suit came to be filed.

3. Though summons was duly served on the defendant, he did not enter appearance and hence he was set ex parte.

4. Plaintiff filed affidavit in lieu of examination in chief where all the plaint averments have been re-affirmed. Exts.A1 to A7 were marked. The promissory note executed by the defendant was marked as Ext.A1. A2 is the copy of the notice sent to the defendant and A3 is the postal receipt. The notice returned unserved and the returned envelope was marked as Ext.A4. A5 is the pay in slip showing the bank transfer and A6 is the original cheque. The dishonour memo is marked as Ext.A7.

5. The uncontroverted averments in the plaint and the facts sworn in the affidavit show that the defendant borrowed an amount of Rs.15 lakhs from the plaintiff and issued A6 cheque towards discharge of the debt. The cheque got dishonoured for want of funds. Plaintiff by producing the cheque and the bank documents had discharged the legal burden cast upon him to prove the transaction and the execution of cheque. In the absence of evidence to contrary, the case predicated by the plaintiff stands proved. He has sought for interest at the rate of 18%, which is found to be exorbitant in the absence of any contract between the parties. The date of transaction was on 30.07.2021 and the suit was filed on 04.08.2023. Awarding pendente lite interest at the rate of 9% and post-decree interest @ 6% till realisation is found suffice to meet the ends of justice in the given fact situation. The

suit is decreed subject to the above modification in terms of the interest payable.

6. In the result, the suit is decreed as follows:-

(a) Plaintiff is found entitled to realise an amount of Rs.15 lakhs from the defendant and his assets with 9% interest from the date of suit till the date of decree.

(b) Plaintiff is entitled to realise further interest @ 6% on the principal amount of Rs.15 lakhs from the defendant.

(c) Plaintiff is also entitled to realise the costs of the proceedings from the defendant and his assets.

Dictated to the confdl.asst. transcribed and typed by him, corrected and pronounced by me in the open court on this the 14th day of November 2024.

Sd/-

Civil Judge (Senior Division).

Appendix : -

Witness examined for the Plaintiff :-

PW1	02-03-2024	Sreelal

Exhibits marked for the Plaintiff:-

A1	30-07-2021	Promissory Note .

A2	22-08-2022	Lawyers Notice.
A3	22-08-2022	Postal receipt.
A4	26-08-2022	Returned postal cover with A/D Card.
A5	30-07-2021	Deposit/ Pay in Slip for Rs. 15,00,000/- of SBI, Punalur Branch.
A6	02-07-2023	Cheque No. 259150 for Rs. 15,00,000/- issued from SBI, Punalur Branch.
A7	11-09-2023	Cheque return reason memo issued from SBI, Karavaloor Branch.

<u>Witness examined for Defendant:- </u>Nil.

<u>Exhibits marked for the Defendant:-</u>Nil.

Id/-

Civil Judge (Senior Division)

//True Copy//

Typed by : Bindu.R
Compd by : Manjusha.P.S.

Civil Judge (Senior Division)