Date of Disposal : 11.11.2025 O.S.1503/2022 V ACJ (JD)

APVS020020882022

//FAIR//

IN THE COURT OF V ADDITIONAL CIVIL JUDGE (JUNIOR DIVISION) AT VISAKHAPATNAM.

Present: Smt. Sindhu Gurram
V Additional Civil Judge (Junior Division)
Visakhapatnam.

Tuesday, this the 11th day of November, 2025

O.S.No. 1503/2022

Between :

M/s. Richtimes Financial Consultants, A Partnership Firm, having its Office at 49-49-13, Flat No.3, Amrutha Apartments, Shantipuram, Visakhapatnam, represented by its Managing Partner V. Rajanikanth, S/o. V.S. Anjaneyulu, aged 56 years, R/o. Visakhapatnam.

… Plaintiff.

And :

1) Kotipatruni Mahesh Kumar, S/o. K. Kondayya, aged 42 years, R/o. D.No.9-129/1, Pedamadaka Post, Shivalayam Road, Aganampudi, Gajuwaka, Visakhapatnam-530 046.
2) Gobburu Krishna Prasad, S/o. Suryanarayana, aged 49 years, R/o. D.No.40-1-33/C, Kasturi Nagar, Kailasapuram, Visakhapatnam-530 024.
3) Golagani Satyanarayana, S/o. Appanna, aged 46 years, R/o. D.No.3-62, Kothagangubudi, Gangubudi Post, near Sri Krishna Temple, Kothavalasa, L. Kota (M), Vizianagaram-535 183.

…Defendants.

This suit has come before me on 04.11.2025 for final hearing in the presence of **Sri B. Madhu,** Advocate for the Plaintiff and of **Sri. A.**

Nagabhusana Rao, Advocate for Defendants, upon hearing the counsel for plaintiff and the matter having stood over for consideration till this day, this Court delivered the following:

J U D G M E N T

1. This suit is filed by plaintiff for recovery of **Rs.7,16,666/**-(Rupees Seven Lakhs, Sixteen thousand, Six hundred and sixty six only) from the defendants along with subsequent interest at rate of 30% p.a. and for costs of the suit basing on suit promissory note dated 18.07.2018.

2. The brief averments of plaint are as follows:-

i) The Plaintiff pleads that the Plaintiff is a registered Partnership Firm doing finance business. During course of its business, at the request of defendants, plaintiff advanced an amount of Rs.6,00,000/- on 18.07.2018 by way of cheque bearing No.000018 drawn on HDFC Bank, Dwaraka Nagar Branch, Visakhapatnam with interest @ 30% p.a., the defendants jointly executed demand promissory note in favour of plaintiff on the even date, thereby agreeing to repay the same to the plaintiff or its order on demand together with accrued interest.

ii) It is further pleaded that the defendants paid Rs.1,00,000/- on 21.10.2019 towards principal which was endorsed by the defendants on the reverse of the promissory note and defendants paid interest till April, 2021, thereafter failed to pay either principal or interest to the plaintiff and postponing the same on one pretext or the other.

iii) It is further pleaded that ultimately on 18.10.2021 D1 issued a cheque to the plaintiff bearing No.519459 drawn on Indusind Bank, Kothavalasa Branch, Vizianagaram for an amount of Rs.5,75,000/- towards payment of principal and interest due by the defendants. When the plaintiff presented the above cheque for collection through its Banker the same was returned unpaid by endorsing the same as "Funds Insufficient" vide cheque return memo dt.19.10.2021. Thereafter the plaintiff sent statutory legal notice dt.18.11.2021 to defendants calling upon them to pay the amount. Though the defendants received the notice, they neither paid the amount due nor responded to the notice. As such the plaintiff having left with no other option, he filed the above suit for recovery of suit amount from the defendants. Hence the suit.

3. The defendants made their appearance through their counsel, D2 filed written statement and D1 & D3 filed memo adopting the written statement of D2 by denying all the material allegations made against them in the plaint except which are specifically admitted. The defendants strictly denied the above allegations, since the suit is barred by limitation and other averments of the plaint are not at all maintainable and that the plaintiff does not have any legs to stand on their contents and the said transaction is all created. The defendants are no way connected or concerned with the so called loan said to have obtained by them and as such the suit is liable to be dismissed. The defendants pleads that absolutely there is no cause of action against this defendant for filing the present suit and the cause of action upon which the suit has been filed is a myth and imaginary and as such the suit is liable to be dismissed on this ground. Hence it is submitted to dismiss the suit with exemplary costs.

4. During the course of trial, the plaintiff himself is examined as PW.1 and got marked Ex.A.1 original demand promissory note dt.18.07.2018, Ex.A2 original acknowledgment by defendants on reverse of promissory note dt.21.10.2019 along with signatures of D1 to D3, Ex.A3 office copy of notice issued by plaintiff to defendants dt.18.11.2021 and Ex.A4 Original Form-A

Registrar of Firms dt.13.04.2022. On behalf of defendants, no oral or documentary evidence is adduced.

5. Basing on the above pleadings, the following issues are settled for trial:

1. “Whether the suit promissory note is true, valid and binding on defendant ?
2. Whether the plaintiff is entitled for recovery of suit sum as claimed ?
3. To what relief” ?

6. **Issue No.1 :-**

i) As seen from the record this suit is filed by the plaintiff/PW.1 against defendants for recovery of suit amount basing on Ex.A1 in which the defence of defendants are that of total denial of transaction under Ex.A1, promissory note and that the defendants are no way connected or concerned with the so called loan said to have obtained by them and the said transaction is all created.

ii) Under this issue the initial burden of proof lies on the plaintiff to establish his case that Ex.A1 is duly executed and binding on the defendants. Once the plaintiff could discharge his initial burden the presumption under section 118 of Negotiable Instruments Act, 1881 shall be drawn in favor of plaintiff/PW.1 and burden of proof shifts upon the defendants to establish their defence and rebut the presumption.

iii) To substantiate the case of the plaintiff, the plaintiff himself was examined as PW.1 who filed his chief affidavit by reiterating the averments of plaint. To prove the ocular evidence of PW1 that the defendants have borrowed a sum of Rs.6,00,000/- on 18.07.2018 from plaintiff, the plaintiff exhibited Ex.A1 which is Original promissory note dated 18.07.2018 executed by the defendants 1 to 3 in favour of plaintiff/PW.1. Later the defendant did not repay the same, except on 21.10.2019 which is for Rs.1,00,000/- and endorsed on back of Ex.A1 marked as Ex.A2. The plaintiff issued Ex.A3 legal notice to the defendants on 18.11.2021 for repayment of remaining balance amount. Thereafter, the defendants failed to cross examine plaintiff/PW.1 inspite of several opportunities given by the Court, the defendants 1 to 3 did not turn up to attend the Court and cross-examine the P.W.1 and elicit facts. Hence the cross examination of PW1 by defendants was finally treated NIL by this Court on 08-10-2025.

iv) The oral testimony of plaintiff/PW.1 remained unchallenged as the defendants 1 to 3 failed to cross examine plaintiff/PW.1 inspite of several opportunities given to them by the Court. In **Rasiklal Manikchand Dhariwal And Another v. M.S.S Food Products 2012 AIR SC 1101** the Supreme Court has held as follows

"….The defendant did not cross- examine the plaintiff's witnesses despite opportunity having been granted to them. There could have been some merit in the submissions, had the defendant cross-examined the plaintiff's witnesses on these aspects. But, unfortunately, they did not avail of that opportunity. In the circumstances, if the trial court and the High Court accepted the plaintiff's evidence which remained unrebutted and unchallenged and also relied upon the documents produced by the plaintiff, it cannot be said that any illegality has been committed by the trial court in decreeing the plaintiff's suit or any illegality has been committed by the High Court in dismissing the first appeal".

v) On considering the unchallenged oral and documentary evidence available on record and in light of above mentioned judgment of Hon'ble Supreme Court of India in **Rasiklal Manikchand Dhariwal And Another** (*Supra*), the plaintiff/PW.1 could establish his case that the defendants 1 to 3 jointly borrowed an amount of Rs.6,00,000/- and executed Ex.A1 in favour of plaintiff/ P.W.1 on 12.08.2019, agreed to repay the same with interest at rate of 30% p.a. and further endorsed Ex.A2 acknowledging debt. Thus, the presumptions under section 118 of Negotiable Instruments Act, 1881 are drawn in favor of plaintiff/ PW.1.

vi) Now the burden of proof lies upon the defendants to rebut the presumption drawn in favour of plaintiff/PW.1 as per section 118 of Negotiable Instruments Act, 1881. But the defendants took up a plea of defence that they neither borrowed any amount nor executed Ex.A.1 in favour of plaintiff/PW.1 and that the defendants are no way connected or concerned with the so called loan said to have obtained by them. The defendants 1 to 3 except filing for their written statement did not come forward to examine themselves and adduce evidence. The defendants in order to rebut presumption under section 118 of Negotiable Instruments Act, 1881 can either rely upon the circumstances of case of plaintiff or by adducing their own evidence. In the instant case PW1 was neither cross examined nor did the defendants adduced any evidence.

vii) When a party to the suit does not appear in the witness-box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct is so observed and reiterated by Hon’ble Supreme Court of India in ***Vidhyadhar V. Manikrao And Another AIR* 1999 SC 1441.** Thus, the defendants by not examining themselves or by not adducing any evidence on his behalf failed to rebut the presumptions drawn in favor of plaintiff/ PW.1 under section 118 of Negotiable Instruments Act, 1881 and also failed to establish their case.

viii) In light of above mentioned reasons and discussion this Court is of opinion that plaintiff/PW.1 succeeded in establishing his case that defendants 1 to 3 borrowed a sum of Rs.6,00,000/- on 18.07.2018 by duly proving execution of Ex.A1. As the execution of Ex.A1 is duly proved, the plaintiff is entitled for presumptions under Section 118 (a) of Negotiable Instruments Act and as the defendants failed to rebut the said presumptions the plaintiff could successfully establish his case. Thus the entire evidence on record goes to show that the defendants have borrowed a sum of Rs.6,00,000/- from the plaintiff on 18.07.2018 and executed Ex.A1 in his favour and Ex.A1 is true, valid and binding on the defendants 1 to 3. Thereafter an amount of Rs.1,00,000/- is also paid as part payment under Ex.A2. Accordingly, the issues No.1 is answered in favour of the plaintiff/ PW.1 and against the defendants.

7. **I S S U E No.2** :-

In view of discussion and findings on issues No.1, wherein it is held that the suit promissory note, Ex.A1, Ex.A2 are true, valid and binding on the defendant, the plaintiff is entitled for suit debt with future interest and suit costs. Accordingly, this issue No.2 is also answered in favour of the plaintiff and against the defendants.

8. I S S U E No.3 :-

The plaintiff claimed interest @30% p.a. which is exorbitant and excessive and plaintiff did not submit any justification for claiming such high interest. Hence this Court inclined to grant interest @12% p.a. from the date of suit till the date of decree and @6% p.a. from the date of decree till realization on principal sum adjudged of Rs.5,00,000/-. Accordingly, the suit is decreed with costs in favour of plaintiff and against defendants 1 to 3 jointly and severally for a sum of **Rs.7,16,666/-**-(Rupees Seven Lakhs, Sixteen thousand, Six hundred and sixty six only) with interest at rate of 12 % p.a from the date of filing of suit till the date of decree and at rate of 6% p.a from the date of decree till the date of realization on principal sum adjudged of Rs.5,00,000/-.

9. In the result, the suit is decreed with costs in favour of plaintiff and against defendants 1 to 3 jointly and severally for a sum of **Rs.7,16,666/**- (Rupees Seven Lakhs, Sixteen thousand, Six hundred and sixty six only) with interest at rate of 12 % p.a from the date of filing of suit till the date of decree and at rate of 6% p.a from the date of decree till the date of realization on principal sum adjudged of Rs.5,00,000/-.

Typed to my dictation by Stenographer Gr.II of V Additional Civil Judge (Jr. Div), Visakhapatnam in computer, corrected, signed and pronounced by me in open court, this the 11th day of November, 2025.

Sd/- x x Sindhu Gurram x x

V Additional Civil Judge (Junior Division),
Visakhapatnam.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED FOR

Plaintiff	**Defendants**
PW.1: V. Rajanikanth, Managing Partner of Plaintiff firm	-None-

Exhibits marked for Plaintiff:-

Ex.A1	Original Promissory note executed by the defendants 1 to 3 in favour of Plaintiff for an amount of Rs.6,00,000/- on 18.07.2018.
Ex.A2	Original acknowledgment by defendants on reverse of promissory note dt.21.10.2019 along with signatures of D1 to D3,
Ex.A3	Office copy of notice issued by plaintiff to defendants dt.18.11.2021
Ex.A4	Original Form-A Registrar of Firms dt.13.04.2022

Exhibits marked for Defendants : Nil.

Sd/- x x Sindhu Gurram x x

V Additional Civil Judge (Junior Division),
Visakhapatnam.