

IN THE COURT OF THE SUBORDINATE JUDGE OF POLLACHI**PRESENT: TMT. P.MOHANAVALLI, B.A., M.L.,**

Subordinate Judge, Pollachi

Monday, the 15th day of July 2024(2055, Thiruvalluvar Andu, Krothi Varudam, Aani Thingal 31st day)**O.S. No: 43/2023****TNCB-11000272-2023**

K.Thirumalaisamy

... Plaintiff

/Versus/

1.Arumugham

2.Smt.Mahalakshmi

... Defendants

This suit coming up for final hearing on 15.06.2024 before this Court in the presence of Thiru.M.Moorthi, Counsel for Plaintiff and defendants were called absent set exparte and upon hearing the arguments of the plaintiff side and perusing the records, having stood over for consideration till this date, this Court delivered the following...

JUDGMENT

1) Suit for directing the defendants to pay the amounts of Rs.2,39,000/- along with the subsequent interest at the rate of 12% per annum for Rs.2,00,000/- from the date of the suit till the realization and pay the costs of the suit.

2) The averments made in the plaint is as follows:-

On 03.06.2021 the defendants have executed a promissory note for a sum of Rs.2,00,000/- agreeing to repay the said sum with interest at the rate of 12% per annum on demand or order at the residence of the plaintiff in the presence of witnesses. In spite of repeated demands made by the plaintiff the defendants has not chosen to repay any amount either towards principle or interest. On 28.12.2022 the

Plaintiff issued legal notice. After receipt of the notice the defendants neither repaid or replied. The suit promissory note was executed by the defendant on 03.06.2021. Hence the suit is in time and not barred the defendant.

3) On issue of summon to the defendants from this court, the defendants received the same. While the defendants were called in open court, the defendants were called absent and set exparte.

4) Heard plaintiff side argument.

5) In this case, the plaintiff herself examined as PW1 and Ex.A1 to Ex.A4 were marked. PW2 was examined and Ex.A5 marked.

6) a) The case of the plaintiff is that the defendant borrowed a sum of Rs.2,00,000/- from the plaintiff on 03.06.2021 and on the same day, defendants have executed a Demand Promissory note for the value received. As per the Demand Promissory note, the defendants agreed to repay said amount whenever the plaintiff demands for the same. The defendants also agreed to pay interest at the rate of 12% per annum. In spite of the plaintiff repeated demands the defendants have not paid any amount either towards principal or interest. The suit is filed within 3 years from the date of the demand promissory note.

b) To prove the case, plaintiff has examined herself as PW1 and through her the Ex.A1 Demand Promissory note was marked and witness namely Haribalakrishnan was examined as PW2 and defendants have corroborated the plaintiff that the defendant borrowed a sum of Rs.2,00,000/- from the plaintiff on 03.06.2021.

c) From the evidence of PW1 and PW2 and the documents produced before the court, it is evident that the defendant borrowed loan from plaintiff and failed to repay the same. To deny the contention, the defendant not turned before the court either to file the written statement or contest the case and failed to prove the same neither let in

oral evidence nor through documentary evidence. It is settled preposition, that in the absence any contra evidence, it has to be presumed that the plaintiff proved their case. Accordingly, the point is answered in favour of the plaintiff.

7) As a result, the suit is decreed as follows:

- i) that the defendant be and is hereby directed to pay a sum of Rs.2,39,000/- with subsequent interest of 9% per annum from the date of plaint till date of decree thereafter at 6% per annum till its realization,
- ii) that the defendant be and is hereby directed to pay the cost of the suit.

Dictated to the typist directly, typed by her and corrected and pronounced by me in the open court, this the 15th day of July 2024.

Subordinate Judge,
Pollachi

Plaintiff side Witness:

PW1 - Thirumalaisamy
PW2 - Haribalakrishnan

Plaintiff side Exhibits:

Ex.A1	03.06.2021	Promissory Note by the defendant	Original
Ex.A2	28.12.2022	Legal notice	Office copy
Ex.A3	31.12.2022	Acknowledgement card by the 1 st Defendant	Original
Ex.A4	29.12.2022	Acknowledgement card by the 2 nd Defendant	Original
Ex.A5	-	Adhar card of PW2	Xerox (Compared with original)

Defendants side Witness and Exhibit: Nil

Subordinate Judge
Pollachi

Fair/Draft Judgment

OS No.43/2023

Date:15.07.2024