TNDG010012172020

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, DINDIGUL

Present:Thiru.V.Padmanabhan, M.A., M.L., D.H.,
Principal District Judge, Dindigul.

Wednesday, dated the 9th day of September 2026

O.S.No. 48 / 2020

M.Meiyappan ..... Plaintiff

-Vs-

1. S.V.Sethuraman
2. S.Kaleeswari
3. S.Ramprasath ..... Defendants

This suit coming on 24.08.2026 for defendant side argument before this Court in the presence of Thiru.C.Stanly Manoharan, Advocate for the plaintiff and of Thiru. E.Raghuraman, Advocate for the defendants 1 and 2. The 3rd defendant called absent and set exparte and upon hearing the arguments on both sides, perusing entire case records and having stood over for consideration till this date, this Court delivered the following...

JUDGEMENT

The plaintiff has filed the suit to direct the defendants to pay a sum of Rs.19,37,000/- with interest at the rate of 24% on the principal amount of Rs.13,00,000/- from the date of plaint till the date of realization and for costs.

2. **<u>Plaint averments in brief:</u>**

The defendants borrowed a sum of Rs.13,00,000/- from the plaintiff to meet out their family expenses and business and agreeing to repay the said amount with interest at the rate of Rs.2/- per Rs.100/- per month and executed a Promissory note to that effect on 01.03.2018. Thereafter, the defendants did not paid either any amount towards principal or interest in spite of several requests made by the plaintiff directly and through his men. The defendants have running hotel and tea stall opposite to Dindigul North Town P.S. This 2nd defendant owns a house at Balakrishnapuram worth about Rs,30,00,000/- and the 3rd defendant is working as Engineer at Chennai and earning Rs.1,50,000/- per month. The defendants are not entitled to get the relief from the Tamilnadu Debt Relief Act. Hence, this suit.

3. **The brief averments in the written statement filed by the defendants 1 and 2** :

All the allegations in the plaint are denied as false, frivolous and unsustainable in law and the plaintiff is liable to strict proof of the same. The plaintiff is not entitled to get any relief. The plaintiff has not approached the Court with clean hands. The cause of action for the suit is not correct. The plaintiff is a financier and he used to collect exorbitant interest from the borrowers i.e., day interest, weekly interest, jet interest and so on. The 1st defendant had borrowed a sum of Rs.4,00,000/- from the plaintiff to start a business on 01.08.2019. But, the 1st defendant used the amount for his family expenses and not started any business. The 1st defendant had totally repaid a sum of Rs.1,92,000/- to the plaintiff towards the loan from 03.08.2019 to 20.03.2020. For that the plaintiff had made entries in a pocket notebook. The 1st defendant also repaid the balance amount of Rs.2,08,000/- to the plaintiff on 21.03.2020. Thereafter, when the 1st defendant asked to return the unfilled promissory note, the plaintiff replied that he misplaced the same and after tracing it, he would return it. But, the plaintiff in order to grab extra money from the 1st defendant had filed the suit by fraudulently creating the promissory note. The plaintiff has not sent any notice to the defendants. Moreover, the plaintiff had filed a petition for attachment of the property before judgment and the same was allowed. Hence, the defendants pray to dismiss the suit with the cost of the defendants.

4. The brief averments in the reply statement filed by the plaintiff :

All the averments stated in the written statement are false and not correct. The plaintiff is not a financier as alleged by the 1st defendant. In fact, the plaintiff is running a business in the name and style of 'Regal Industries' for past 25 years. It is not true that the 1st defendant had repaid the loan amount of Rs.1,92,000/- from 01.03.2018 to 20.3.2020 and Rs.2,08,000/- on 21.03.2020 towards the loan amount borrowed by him. The plaintiff not received any amount from the defendants and not made any endorsements in the pocket note books as alleged by them. The defendants in order to defeat the suit loan, sold their immovable property mentioned in IA No.90/2020 to one Santhanalakshmi on 24.03.2020. The plaintiff had filed a creditor IP No.13/2020 before Sub Court, Dindigul against the purchaser and the defendants to declare that the sale deed dated 24.03.2020 is null and void, and the same is pending. By suppressing the above matters, the defendants had filed the written statement.

5. On the side of plaintiff, he was examined as PW1 and the witness to the pronote Thiru.Balakrishnan as PW2 and Ex.A1 to Ex. A5 were marked. On the side of defendants, 1st defendant was examined as DW1 and Ex.B1 to Ex.B3 were marked.

6. <u>Based on the above pleadings, the following issues were framed on 08.11.2021 :</u>

1) Whether the suit promissory note is true valid and supported by consideration ?

2) To what relief ?

Additional issue framed on 13.07.2026 :

(a) Whether the defendants borrowed a sum of Rs.13,00,000/- on 01.03.2018 and agreed to repay it with interest at the rate of 24% and executed the suit promissory note ?

7. Answer to Issue No.(1) and Additional issue No.(1) :

The plaintiff's case is that on 01.03.2018 the defendants have borrowed a sum of Rs.13,00,000/- as a loan from the plaintiff and agreed to repay the said loan with interest at the rate of 12% and they also executed Ex.A1 suit promissory note. Thereafter, despite repeated demands, the defendants failed to repay the principal as well as the interest.

8. On the other hand, the defendants denying the execution of suit promissory note as alleged by the plaintiff and taken a specific contention that they borrowed a sum of Rs.4,00,000/- as a loan on 01.08.2019. The

plaintiff is a financier and he used to collect exorbitant interest from the borrowers and as such he collected daily amount from 03.08.2019 till 20.03.2020 and thereby the defendants totally paid Rs.1,92,000/-. In this regard, the plaintiff made relevant entries in the pocket notebook and after paying the entire balance amount of Rs.2,08,000/- on 21.03.2020, when the 1st defendant demanded the promissory note, which was signed by the defendants in unfilled form, the plaintiff replied that he misplaced the same and he will return after traced it out. On the side of plaintiff, he examined himself as PW1 and one attesting witness to the suit promissory note as PW2.

9. Before going to discuss the merits of the case, this Court wants to refer latest decision of our Hon'ble Supreme Court in respect of presumption under 138 of N.I. Act. In the judgment reported in ***Ajitsinh Chehuji Rathod vs The State Of Gujarat and another [SLP (Crl) No(s),16641 of 2023]***

> *""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 thereon;*
>
> ***(f) as to stamps:** 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."*

14. Section 118 sub-clause (e) of the NI Act provides a clear presumption regarding indorsements made on the negotiable instrument being in order in which they appear thereupon. Thus, the presumption of the indorsements on the cheque being genuine operates in favour of the holder in due course of the cheque in question which would be the complainant herein. In case, the accused intends to rebut such presumption, he would be required to lead evidence to this effect."

In the light of the principle laid down by the Hon'ble Apex Court, the Court has to consider the case on merits.

10. The PW1 in his evidence has categorically spoken about the manner in which the Ex.A1 came into executed by defendants. Similarly, the PW2 one of the attesting witness who was present at the time of execution

of promissory note has also examined to prove the execution of promissory note by defendants. The evidence of both PW1 and PW2 in respect of advancement of suit loan to the defendants and execution of Ex.A1 by them is believable and trust worthy. It is also not disputed that the signatures found in suit promissory note belong to the defendants.

11. When the Plaintiff has complied with the legal requirement in proving the execution, the legal presumption available under Section 118 of the Negotiable Instruments Act, squarely attracts to Ex.Al. Of course, such statutory presumption can be rebutted. To rebut such presumption, there need not be direct evidence. Even circumstances, even admission from the parties can be taken note of to rebut the presumption. On a careful perusal of entire evidence of PW1 and PW2, no circumstances, whatsoever brought in their evidence to show any of the circumstances, which lead to rebut the legal presumption attached to Ex.A1.

12. It is further to be noted that the initial onus always lies on the Plaintiff to prove the execution of the Promissory Note. Once, the Plaintiff discharged his initial onus in proving the execution, the burden automatically shifts on to the Defendant to disprove the factum of execution, proved by the Plaintiff. Similarly, once, the execution of the

Promissory Note is proved in the manner known to law, the Statutory presumption available under Section 118 of the Negotiable Instruments Act attracts to the Negotiable Instrument, not only as to the date but also time, consideration, etc.

13. Coming to the defence version, according to the defendants, they borrowed only Rs.4,00,000/- on 01.08.2019 for which they paid interest of Rs.1,92,000/- from 03.08.2019 to 20.03.2020 and thereafter, they closed the loan amount on 21.03.2020 by paying Rs.2,08,000/- and in this regard, the plaintiff made a necessary entries in the Ex.B1 to Ex.B3 pocket note books and when defendants asked to return the unfilled promissory note, he failed to return it. To substantiate this version, no any legally acceptable material is produced on defendants side. It is the specific stand of the defendants, that the plaintiff made necessary entries while the defendants paid the loan amount. On perusal of PW1's evidence, it reveals that the said Ex.B1 to Ex.B3 pocket note books were never shown to him. Furhter, in this regard, no question or suggestion was put forth before him. Moreover, according to them, they borrowed a sum of Rs.4,00,000/- as loan from the plaintiff on 01.08.2019. Whereas in Ex.B1, it is mentioned that the loan amount was Rs.3,00,000/- dated 03.08.2019. Moreover, the

total amount entered in the pocket note book is not tallied with the amount mentioned in the written statement.

14. Admittedly, the defendants did not take any legal action to get back the alleged unfilled promissory note said to have been executed by them. In this regard, no acceptable explanation or reason is stated on defendants side. In view of the discussions made above, this Court is of the considered view that the defendants have failed to rebut the statutory presumption drawn in favour of the plaintiff under the Negotiable Instrument Act.

15. During argument hearing, the learned counsel for the defendants put forth a defence that plaintiff has no means to lend Rs.13,00,000/- as a loan. This argument has no force at all. In the written statement itself, the defendants have specifically stated that the plaintiff is doing financial business and he is collecting exorbitant interest from the borrowers. Further, the defendants also admitted that in earlier occasion, they borrowed Rs.4,00,000/- as a loan from the plaintiff. At this juncture, it is relevant to refer the decision reported in ***Anbarasu Vs. Mukunchand Bothra (deceased) and other [2019 (4) CTC page 871]*** case, wherein our Hon’ble Court held as follows:-

> “***Insistence on the compainant to prove the source of income, albeit section 139 of the Negotiable Instruments Act would arise in a case where the court finds that the accused has, by preponderance of probability, discharged the burden under Sec.139 of the Negotiable Instruments Act***”.

The principle laid down by our Hon’ble High Court is applicable to the facts and circumstances of the case. As already indicated, the plaintiff is a financially sound person. Hence, the said argument is not acceptable one.

16. As discussed above the plaintiff proved his initial burden cast upon him. Further, the execution of suit promisory note and lending of loan amount to the defendants is proved by the plaintiff through meaningful evidece. As already pinpointed, the plaintiff has source to lent money. Considering the above discussions and in the interest of justice, it is held that the defendants have borrowed the sum of Rs.13,00,000/- on 01.03.2018 and executed the suit promissory note and thus these issues are answered accordingly.

17. **Issue No.2 :**

In view of the decision taken for issue No.1 and Additional Issue No.1, that the plaintiff is entitled to the suit claim and the defendants are directed to pay the suit claim of Rs.19,37,000/- with interest at the rate of 9% p.a on the Principal amount of Rs.13,00,000/- from the date of plaint to the date of decree and thereafter at 6% p.a from the date of decree till the date of realization with cost and the plaintiff is not entitled for any other relief and this issue is answered accordingly.

In the result, this suit is decreed with cost directing the defendants to pay the suit claim of Rs.19,37,000/- to the plaintiff with interest at the rate of 9% p.a on the Principal amount of Rs.13,00,000/- from the date of plaint (18.03.2020) to the date of decree (09.09.2026) and thereafter at the rate of 6% p.a from the date of decree till the date of realization.

Dictated to stenographer Gr.I, transcribed and typed by her in the computer, corrected and pronounced by me in Open Court on this the 9th day of September 2026.

PADMANABAN VENKATASAMY

Digitally signed by PADMANABAN VENKATASAMY
Date: 2026.09.09 18:06:13 +0530

Principal District Judge,
Dindigul.

Annexure :

List of witnesses on the side of plaintiff:

P.W.1 : Mr. Meiyappan (Plaintiff)
P.W.2 : Mr. Balakrishnan

List of documents on the side of plaintiff:

Ex.A.1	01.03.2018	Promissory Note (Original)
Ex.A.2	25.04.2011	Form -D, Certificate of Registration issued by Commercial Taxes Department.
Ex.A.3	24.03.2020	Sale deed executed in favour of one Santhanalakshmi by the defendants 1 and 2. (Certified download copy)
Ex.A.4	--	Petition in IP No.13/2020 (Office Copy)
Ex.A.5	01.03.2018	Signature of PW2 in promissory note.

List of witness on the side of Defendants :

D.W.1 : Mr. Sethuraman (1st defendant)

List of documents on the side of Defendant :

Ex.B.1	03.08.2019	Pocket note book with entries (Original)
Ex.B2	25.11.2019	Pocket note book with entries (Original)
Ex.B3	16.09.2019	Pocket note book with entries (Original)

PADMANABAN VENKATASAMY

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Date: 2026.09.09 18:06:26 +0530

Principal District Judge,
Dindigul.

Principal District Court,
Dindigul

OS.No.48 / 2020

Draft / Fair Judgement

Date : 09.09.2026