IN THE COURT OF ADDITIONAL DISTRICT JUDGE, DINDIGUL

Present: Thiru. Swarnam J. Rajagopalan, B.A.B.L.,(Hons.)

Additional District Judge, Dindigul.

Tuesday, dated this the 18th day of August, 2026

Original Suit No.332/2022

CNR No.TNDG01-004426-2022

P.Govindaraj ....Plaintiff

Vs.

G.Venkatesan ....Defendant

This suit came up for final hearing on 10.08.2026 before this Court in the presence of Mr. R.V. Panchatcharam, learned counsel for the plaintiff, and Mr. R. Murugesh, learned counsel for the defendant and upon hearing the both sides arguments and upon perusing entire case records and having stood over for consideration till this date, this Court delivers the following ...

//JUDGMENT//

This is a suit for recovery of money, directing the defendant to pay a sum of Rs.11,01,333/- together with interest at the rate of 12% from the date of the suit till the date of realization and for cost of the suit.

1. Brief averments of the plaint:

i. The plaintiff has instituted the present suit seeking recovery of a sum of Rs.11,01,333/-, being the principal amount of Rs.10,00,000/- together with interest at the rate of 12% per annum, and for subsequent interest at the same rate from the date of suit till realization, besides costs.

ii. The case of the plaintiff is that, reposing confidence in the defendant and at his request, the plaintiff lent a sum of Rs.10,00,000/- to the defendant on 02.10.2021 for the purpose of discharging his urgent financial commitments. Towards repayment of the said amount, the defendant issued a cheque bearing No.391437 dated 21.10.2021 for Rs.10,00,000/-, drawn on the State Bank of India, Salai Road, Dindigul.

iii. The plaintiff presented the said cheque for collection through his banker. The cheque was returned unpaid on 22.10.2021 with the endorsement "Funds Insufficient". Thereafter, the plaintiff caused a legal notice dated 23.11.2021 to be issued to the defendant demanding payment of the cheque amount. The said notice was received by the defendant on 25.11.2021. According to the plaintiff, despite receipt of the notice, the defendant neither paid the amount nor sent any reply.

iv. The plaintiff contends that the defendant is liable to pay the cheque amount together with interest at 12% per annum. Though the plaintiff had a right to initiate proceedings under Section 138 of the Negotiable Instruments Act, the present suit has been instituted for recovery of the amount due.

v. The plaintiff therefore seeks a decree directing the defendant to pay the suit claim with subsequent interest at 12% per annum and costs.

2. **Brief averments of the written statement**

i. The defendant denies the alleged loan transaction and specifically denies having borrowed Rs.10,00,000/- from the plaintiff on 02.10.2021. He admits his signature in the suit cheque but contends that the cheque was not issued towards discharge of any loan or legally enforceable debt.

ii. According to the defendant, the actual transaction between the parties relates to the sale of an immovable property belonging to the plaintiff's wife, Jeevamani, in favour of the defendant's wife, Gayathri. The defendant contends that the property measuring about 1330 sq.ft. was agreed to be sold for a total consideration of about Rs.23,00,000/- and that several payments were made towards the said transaction.

iii. The defendant further contends that, in connection with the said property transaction, certain signed blank cheques and promissory notes were handed over as security. According to him, the suit cheque was one such cheque and was not issued towards any independent loan transaction.

iv. The defendant relies upon the registered document executed in favour of his wife and the bank transactions to contend that the consideration relating to the property transaction had been paid. According to him, after completion of the transaction, he requested the plaintiff to return the cheque, but the plaintiff retained the same and subsequently filled it up for Rs.10,00,000/- and presented it for collection.

v. The defendant therefore contends that there was no legally enforceable debt of Rs.10,00,000/- due from him to the plaintiff and that the present suit has been filed by misusing the cheque which had been given in connection with the earlier property transaction.

3. Issues

On consideration of the pleadings, the following issues were framed:

1. Whether the defendant had borrowed a sum of Rs.10,00,000/- from the plaintiff on 02.10.2021?

2. Whether the defendant had issued the suit cheque to discharge the legally enforceable debt?

3. Whether the plaintiff is entitled to the suit amount with interest?

4. To what relief?

4. EVIDENCE OF THE PARTIES

Evidence of P.W.1 and documents

In support of his case, the plaintiff examined himself as P.W.1. Through P.W.1, the following documents were marked :

i. Ex.A1 – Original cheque bearing No.391437 dated 21.10.2021 for Rs.10,00,000/-.

ii. Ex.A2 – Bank return memo showing dishonour of the cheque for insufficiency of funds.

iii. Ex.A3 – Office copy of the legal notice dated 23.11.2021.

iv. Ex.A4 – Postal acknowledgment relating to receipt of the notice by the defendant.

5. Evidence of D.W.1 and documents

The defendant examined himself as D.W.1. Through D.W.1, the following documents were marked:

i. Ex.B1 – General Power of Attorney dated 18.05.2020 executed by Jeevamani, wife of the Plaintiff, in favour of Gokulakrishnan.

ii. Ex.B2 – Sale Deed dated 19.09.2020 executed by Gokulakrishnan in favour of Gayathri, wife of the Defendant

iii. Ex.B3 – Bank account statement relating to the relevant period from 01.09.2020 to 31.08.2021.

The defendant examined his wife as D.W.2-Gayathri. The defendant examined D.W.3, Pandiyarajan, who was examined to support the defence regarding the property transaction.

6. **Arguments on behalf of the plaintiff:**

i. The learned counsel for the plaintiff submitted that the defendant has admitted his signature in Ex.A1, the suit cheque. The cheque was presented within its validity period and was dishonoured for insufficiency of funds, as evidenced by Ex.A2. The plaintiff thereafter issued the statutory notice under Ex.A3 and the same was received by the defendant under Ex.A4. It was therefore contended that the execution of the cheque and the liability covered by the cheque stand were established.

ii. It was further submitted that once the defendant admits the signature in the cheque, the statutory presumptions under Sections 118(a) and 139 of the Negotiable Instruments Act operate in favour of the plaintiff. The burden therefore shifts upon the defendant to establish a probable defence.

iii. According to the learned counsel, the defence version regarding the alleged property transaction does not satisfactorily explain why the defendant issued a cheque for exactly Rs.10,00,000/-, nor does it establish that Ex.A1 was handed over as a security cheque. It was further argued that none of the documents produced by the defendant establishes any independent liability of the plaintiff towards the defendant or proves that Ex.A1 was issued for a purpose other than repayment of the loan.

iv. The learned counsel also relied upon the fact that the defendant received the legal notice but did not issue any reply immediately disputing the alleged loan transaction. It was therefore contended that the subsequent defence is an afterthought.

v. The plaintiff has also filed written arguments. The same have been perused and considered along with the oral submissions and the entire evidence available on record.

7. Arguments on behalf of the Defendant:

i. Per contra, the learned counsel for the defendant submitted that the plaintiff has completely failed to establish the alleged loan transaction of 02.10.2021. No promissory note, receipt, acknowledgment, account entry, bank withdrawal or other contemporaneous document has been produced to establish payment of Rs.10,00,000/-.

ii. It was contended that the defendant's signature alone cannot establish the circumstances in which the cheque was issued. The defendant has consistently maintained that the cheque was given in connection with the earlier property transaction and not towards any loan.

iii. The learned counsel further submitted that the defendant has produced documentary evidence in the form of Exs.B1 to B3, supported by the evidence of D.Ws.1 to 3, demonstrating the existence of the property transaction between the plaintiff's wife and the defendant's wife and the payments made in connection therewith.

iv. According to the defendant, the plaintiff himself admitted in cross-examination that the property belonged to his wife. The plaintiff's denial of the details of the transaction cannot displace the documentary evidence produced by the defendant.

v. It was therefore contended that the defendant has successfully raised a probable defence and rebutted the statutory presumption. Once the presumption is rebutted on the touchstone of preponderance of probabilities, the burden shifts back to the plaintiff to establish the alleged loan transaction by independent evidence. According to the defendant, the plaintiff has failed to discharge that burden.

8. Discussion on the Issues 1 and 2:

Whether the defendant had borrowed Rs.10,00,000/- from the plaintiff on 02.10.2021 and whether Ex.A1 was issued towards discharge of a legally enforceable debt?

Since Issue Nos.1 and 2 are interrelated and arise out of the same transaction, they are taken up together.

There is no dispute with regard to the identity of the cheque or its signature. The defendant, while entering the witness box as D.W.1, has admitted the signature appearing in Ex.A1. Therefore, the execution of the cheque to the extent of the defendant's admitted signature stands established.

9. Once the signature of the defendant in the cheque is admitted, the statutory presumption under Section 139 of the Negotiable Instruments Act comes into operation. Section 139 requires the Court to presume, unless the contrary is proved, that the holder of the cheque received it for the discharge, in whole or in part, of a debt or other liability. The presumption under Section 118(a) as to consideration also operates. The Hon'ble Supreme Court has consistently held that such presumption is rebuttable, but the initial burden to raise a probable defence lies upon the drawer of the cheque. The standard required for rebuttal is preponderance of probabilities and not proof beyond reasonable doubt.

10. It is equally well settled that the defendant need not necessarily disprove the plaintiff's case by direct evidence. He may rely upon the evidence of the plaintiff himself, the surrounding circumstances and the documents produced by either party to demonstrate that the existence of the alleged debt is improbable. But the defence must nevertheless be a probable one and must be assessed on the totality of the evidence.

11. In the present case, the plaintiff's specific case is that the defendant borrowed a sum of Rs.10,00,000/- on 02.10.2021 for his urgent financial requirements and that, towards repayment of the said amount, he issued Ex.A1 cheque dated 21.10.2021 for Rs.10,00,000/-.

12. Ex.A1 is admittedly signed by the defendant. Ex.A2 establishes that the cheque was presented and returned unpaid for the reason “Funds Insufficient”. Ex.A3 is the legal notice issued by the plaintiff demanding payment of the cheque amount, and Ex.A4 establishes its receipt by the defendant on 25.11.2021.

13. The conduct of the defendant after receipt of Ex.A3 is a material circumstance which cannot be ignored. The defendant admittedly did not issue any reply to the said notice. This assumes importance because the notice specifically called upon him to pay the cheque amount and was founded upon the assertion that the cheque represented a liability due from him to the plaintiff.

14. If the defendant's present case that Ex.A1 was an old cheque given as security in connection with a property transaction was true and was within his knowledge at the relevant time, there was nothing preventing him from immediately responding to Ex.A3 by stating that he had never borrowed Rs.10,00,000/- from the plaintiff, that Ex.A1 had been issued in an earlier transaction, and that the cheque was being misused. No such reply was issued.

15. It is true that mere failure to issue a reply cannot, by itself, amount to an admission of liability. Silence to a notice is not conclusive proof of the transaction alleged therein. Nevertheless, it is a relevant circumstance while assessing the probability of a defence subsequently put forward in the course of trial. In the present case, the defendant has not explained why, after receiving a specific demand for Rs.10,00,000/- based upon Ex.A1, he remained completely silent.

16. The defendant's explanation regarding Ex.A1 is that the cheque was handed over in connection with a property transaction between his wife, D.W.2, and the plaintiff's wife. The existence of such a property transaction cannot be said to be wholly imaginary. Ex.B2 is a registered document executed in favour of D.W.2, and the plaintiff himself, in cross-examination, has admitted that the property concerned belonged to his wife.

17. Therefore, the Court accepts that there was indeed a property transaction between the families of the parties. But the existence of that transaction, by itself, does not establish the further and crucial assertion that Ex.A1 was one of the cheques handed over as security in that transaction.

18. This distinction is of considerable importance. The defendant has to establish not merely the existence of an earlier property transaction but a credible connection

between that transaction and the particular cheque now sued upon, namely Ex.A1 bearing No.391437 for Rs.10,00,000/-.

19. On this aspect, the defendant has not produced any contemporaneous document showing that Ex.A1 was handed over as a security cheque. There is no receipt, letter, acknowledgment, agreement, communication or other contemporaneous material identifying Ex.A1 as one of the alleged blank cheques said to have been given in connection with the property transaction.

20. D.W.1 has asserted that the cheque was given in connection with the property transaction. However, his evidence in that regard is essentially his own assertion. D.W.2, being his wife and the purchaser under Ex.B2, is also an interested witness insofar as the transaction is concerned. D.W.3 does not appear to have personal knowledge of all the alleged payments or of the circumstances in which Ex.A1 was handed over to the plaintiff. Consequently, while the evidence of D.Ws.1 to 3 establishes that there was a property transaction, it does not satisfactorily establish that Ex.A1 was issued as security in that transaction.

21. Ex.B1 also does not establish that Ex.A1 was handed over as a security cheque. Likewise, Ex.B3 bank statement may have relevance in determining the payments made in connection with the property transaction, but it does not establish the purpose for which Ex.A1 was delivered to the plaintiff.

22. It is also relevant that Ex.B3 relates to the period from 01.09.2020 to 31.08.2021, whereas the alleged loan transaction pleaded by the plaintiff is dated 02.10.2021. Therefore, Ex.B3 cannot, by itself, establish that no loan could have been advanced by the plaintiff on 02.10.2021. At the highest, it may support the defendant's case regarding the earlier property transaction.

23. The defendant has also relied upon the alleged total sale consideration of Rs.23,00,000/- and several payments said to have been made towards the same. However, the registered document produced as Ex.B2 and the amounts reflected therein have to be considered separately from the defendant's oral assertion regarding the alleged total consideration. The discrepancies regarding the stated consideration and the manner and timing of the alleged payments do not satisfactorily establish the defendant's further assertion that Ex.A1 formed part of the security documents.

24. It is also significant that the alleged property transaction was substantially earlier, whereas the plaintiff's case concerns a fresh and specific loan allegedly advanced on 02.10.2021. The defendant has not produced any contemporaneous document from the year 2021 showing that the plaintiff was still holding Ex.A1 as a security cheque or that the defendant had demanded its return immediately before the alleged presentation.

25. The defendant's contention that Ex.A1 was a “security cheque” cannot, therefore, be accepted merely because an earlier transaction between the parties' families is proved. The Supreme Court has clarified that describing a cheque as a “security cheque” does not by itself determine the liability. The real question is whether the cheque represented a legally enforceable liability when it was presented. There is no inflexible rule that a cheque described as security can never be presented.

26. In the present case, the defendant has not satisfactorily established the circumstances in which Ex.A1 came into the possession of the plaintiff, the date on which it was allegedly handed over, the purpose for which that particular cheque was given, or the circumstances in which it continued to remain with the plaintiff until its presentation in October 2021.

27. On the other hand, the plaintiff's evidence regarding the cheque transaction is supported by the admitted signature of the defendant, Ex.A1 cheque, Ex.A2 return memo, Ex.A3 statutory notice and Ex.A4 acknowledgment of receipt. The defendant admittedly did not issue any reply to Ex.A3 disputing the alleged loan or alleging misuse of the cheque.

28. The absence of a contemporaneous reply is particularly relevant in the present case because the defence now advanced is not a mere denial of the amount but a

specific assertion that the cheque had been issued for a wholly different purpose in a transaction which had taken place much earlier. If that were truly the defendant's position when Ex.A3 was received, it would have been natural for him to put the plaintiff on notice of that defence immediately.

29. The Court is conscious that the burden upon the defendant to rebut the statutory presumption is only that of preponderance of probabilities. The defendant is not required to prove his defence beyond reasonable doubt. Nevertheless, the probability has to arise from acceptable evidence and circumstances.

In the present case, the defendant has established the existence of the earlier property transaction, but has failed to establish the crucial link between that transaction and Ex.A1. The defence therefore remains at the level of an assertion unsupported by sufficient contemporaneous evidence.

30. It is also pertinent that the plaintiff's alleged loan is not required to be proved by a written agreement merely because it is a cash transaction. The statutory presumption arising from the admitted cheque is itself evidence in favour of the plaintiff unless and until it is rebutted. The absence of a promissory note or receipt cannot, by itself, defeat the plaintiff's claim when the defendant has failed to establish a probable alternative explanation for the particular cheque.

31. The Court therefore finds that the defendant has not successfully rebutted the statutory presumption arising under Sections 118(a) and 139 of the Negotiable Instruments Act. Consequently, the presumption that Ex.A1 was issued towards discharge of a legally enforceable debt continues to operate in favour of the plaintiff. The plaintiff's case that the defendant borrowed Rs.10,00,000/- on 02.10.2021 and issued Ex.A1 towards repayment thereof therefore stands established on the preponderance of probabilities.

Accordingly, Issue No.1 is answered in favour of the plaintiff and against the defendant. For the same reasons, it is held that Ex.A1 was issued towards discharge of the legally enforceable liability of the defendant.

Issue No.2 is answered in favour of the plaintiff and against the defendant.

32. ISSUE No.3 and 4

Whether the plaintiff is entitled to the suit amount with interest?

To what other relief?

In view of the findings rendered on Issue Nos.1 and 2, the plaintiff has established the liability of the defendant to pay the principal sum of Rs.10,00,000/-. The plaintiff has claimed interest at the rate of 12% per annum. However, the plaintiff has not produced any written agreement or other material establishing that the defendant had expressly agreed to pay interest at the rate of 12% per annum on the alleged loan. Therefore, the claim for interest at 12% per annum cannot automatically be granted merely because the plaintiff has claimed the same. The Court has to determine the appropriate rate of interest having regard to the nature of the transaction, the conduct of the parties and the provisions of Section 34 of the Code of Civil Procedure. The transaction pleaded is a personal loan between individuals and is not shown to be a commercial transaction. In the absence of proof of a contractual rate of interest, the Court is not inclined to grant the claimed rate of 12% per annum as a matter of course.

33. The plaintiff has, however, established his entitlement to the principal amount. Having regard to the nature of the transaction and the fact that the defendant has retained the amount due to the plaintiff, interest ought to follow the principal liability. Accordingly, the plaintiff is entitled to interest at a reasonable rate from the date on which the amount became due, subject to the limitations under Section 34 CPC. Having regard to the facts and circumstances, interest at the rate of 6% per annum would meet the ends of justice. The plaintiff is therefore entitled to recover Rs.10,00,000/- with interest at 6% per annum from the date of the suit till the date of realization, together with proportionate costs. In view of the reliefs granted, the plaintiff is not entitled for any other relief.

Accordingly, Issue No.3 and 4 are answered partly in favour of the plaintiff, to the extent indicated above.

34. Result

In the result,

i. the suit is decreed in part.

ii. The defendant is directed to pay to the plaintiff a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) together with interest at the rate of 6% per annum from the date of institution of the suit till the date of realization.

iii. The defendant shall also pay the costs of the suit to the plaintiff.

iv. The claim of the plaintiff for interest at 12% per annum is rejected.

Dictated by me to the Stenographer, transcribed and typer by her, corrected and pronounced by me in Open Court on this the 18th day of August 2026.

SWARNAM J RAJAGOPALAN

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Date: 2026.08.18 14:15:20 +0545

Additional District Judge,
Dindigul.

Annexure :

List of witnesses on the side of Plaintiff:

P.W.1 - Thiru. Govindharaj (Plaintiff)

List of document on the side of Plaintiff:

Ex.A1	21.10.2021	Cheque bearing No.391437 for Rs.10,00,000/- (Original)
Ex.A2	21.10.2021	The Return Memo issued by Indian Bank stating that the above-mentioned cheque was returned unpaid due to insufficiency of funds. (Original)
Ex.A3	23.11.2021	Office Copy of the Legal Notice issued by the Plaintiff to the Defendant.
Ex.A4	25.11.2021	Postal Acknowledgment Card evidencing receipt of the said Legal Notice by the Defendant.

List of witnesses on the side of Defendant:

D.W.1 – Venkatesan (Defendant)

D.W.2 – Gayathri

D.W.3 – Pandiyarajan

List of document on the side of Defendant :

Ex.B1	18.05.2020	The General Power of Attorney executed by Jeevamani, wife of the Plaintiff, in favour of Gokulakrishnan – Computer generated certified copy
Ex.B2	19.09.2020	Sale Deed executed by Gokulakrishnan in favour of Gayathri, wife of the Defendant - Computer generated certified copy
Ex.B3	27.10.2020	Bank account statement relating to the relevant period from 01.09.2020 to 31.08.2021- Computer generated copy

SWARNAM J RAJAGOPALAN

Digitally signed by SWARNAM J RAJAGOPALAN
Date: 2026.08.18 14:15:26 +0545

Additional District Judge,
Dindigul.