

IN THE COURT OF SUBORDINATE JUDGE OF PERUNDURAI
PRESENT: THIRU. M.ASHFAQ AHAMED,B.A.B.L.,
Subordinate Judge, Perundurai.

Thursday, the 09th day of April 2026

Original Suit No. 27/2021
CNR No. TNED11-000095-2021

M. Manoharan ... Plaintiff

/Vs/

A. Rabiya ... Defendant

This suit coming for final hearing before me on 08.04.2026 in the presence of Advocates Thiru.A.Nandhakumar for plaintiff and Thiru.S.Vetriselvan for defendant and on hearing both side arguments and upon perusing the documents and having stood over till this day for consideration and this court passed the following :

JUDGMENT

I. The plaintiff has filed the suit for recovery of money.

II. The brief averments of the plaint read as:

On 01.08.2021 the defendant borrowed a sum of Rs.3,00,000/- from the plaintiff for her urgent needs and executed a promissory note in favour of plaintiff. The defendant had also agreed to repay the above principal with interest at the rate of 18% either to the plaintiff or to his order on demand. In spite of repeated demands the defendant has not made any payment. The

plaintiff issued a legal notice to the defendant on 16.02.2021 and the same was received by defendant. In spite of notice the defendant has failed to pay any amount. Hence the suit.

III. The brief averments of the written statement filed by defendant read as:

The suit is not maintainable. It is denied the defendant borrowed Rs.3,00,000/- from the plaintiff for her urgent needs and executed promissory note. The defendant has no necessity to borrow amount from the plaintiff and the plaintiff has no capacity to pay such huge amount to the defendant. The witness and scribe found in the promissory are stranger to this defendant. The name of the defendant and her husband are false. There is no consideration for the promissory note. The plaintiff has to prove the suit promissory note was genuine and executed for proper and valid consideration. The signature and thumb impression in the promissory note is not that of this defendant. There is no cause of action for the suit and prays for dismissal.

IV. On perusal of pleadings and documents the following issues were framed for consideration on 16.08.2022.

1. Whether the suit promissory note was executed by the defendant for consideration as alleged by the plaintiff?
2. Whether the plaintiff is entitled for recovery of the suit sum as prayed for?
3. To what other relief ?

V. Evidence

On the side of plaintiff, the plaintiff examined himself as PW1 and EX.A1 to Ex.A3 was marked and during the cross examination of DW1, Ex.A4 to Ex.A7 was marked. The attesor of the promissory note was examined as PW2. The defendant was examined as DW1 and during cross examination of PW1, Ex.B1 was marked.

VI. Issue No.1 &2 :

(a) The learned counsel for the plaintiff would submit the plaintiff through his evidence and the evidence of PW2 has proved the execution of promissory note. Before filing the suit pre-suit notice was issued and the same was acknowledged and the defendant has failed to issue any reply. The main contention of defendant during cross examination of plaintiff is that the name of the defendant is wrongly mentioned in the plaint and legal notice which was disproved by the evidence of DW1 in cross examination wherein the defendant would admit the name as given in the plaint and legal notice is the correct name of defendant. In other aspects the defendant has failed to challenge the evidence of plaintiff in proper perspective and therefore the plaintiff is entitled for decree.

(b) On the other hand the learned counsel for the defendant would submit the suit promissory note is forged and the evidence of defendant and cross examination of plaintiff and his witness would demonstrate the plaintiff has not

approached the court with clean hands. The suit promissory note is a rank forged one and no consideration was passed. The evidence of PW1 and PW2 are contradictory. As such th promissory note was not supported by consideration and prays for dismissal of the suit.

(c) This Court carefully considered submission of both sides and perused the material records. The plaintiff has filed the suit on the basis of promissory note executed by defendant. The plaintiff and his witness have deposed, on 16.07.2018 the defendant borrowed Rs.3,00,000/- and executed promissory note in favour of plaintiff. The execution of the promissory note is denied as it is forged and fabricated. Since the defendant has taken a plea of forgery, this court has to ascertain whether the execution of promissory note is proved before drawing presumption under Section 118 of Negotiable Instruments Act.

(d) The case of the defendant as per her written statement is the promissory note is forged and there is no necessity for the defendant to borrow money from the plaintiff. However the defendant has not stated what is the motive for the plaintiff to forge the document and file the present suit. On going through the evidence of plaintiff and defendant it is clear the defendant has also not suggested nor deposed any motive for the plaintiff to file the present suit even at the stage of examination of the parties. Ex.A1 is the promissory note said to have been executed by defendant. In the promissory note, the name of the defendant has been stated as **ரகுமான் மனைவி ராபிகா** and in english in

the plaint, written statement and in the legal notice the name of defendant was mentioned as **A.Rabiya**. The defendant during cross examination of the plaintiff has marked Ex.B1 Aadhar card of the defendant to contend that her name is **Rabiya Abdhul Raguman**. In the written statement the defendant has generally stated that her name and the name of her husband is totally false. Whereas during cross examination of defendant (DW1), by the plaintiff, Ex.A4 to Ex.A7 were marked. Ex.A4 is the family card of defendant where under the name of the defendant is mentioned as **ரஹிபியா** and her husband name as **ரஹ்மான்**. In English as per Ex.A5 to Ex.A7 the name of the defendant is spelled as A.Rabiya. Therefore the documents produced by plaintiff during cross examination of defendant would establish the name of the defendant is Rabiya only and taking advantage of the natural variations in spelling and writing the name in Tamil and English the defendant has contended that she has not executed the promissory note. As already stated the plaintiff has demonstrated the name of the defendant mentioned in the promissory note would only refer to the defendant. It is not the case of the defendant that there were other persons with similar name in the village or in her vicinity and the suit was filed against wrong person. The evidence of the defendant would show the defendant has got knowledge about the plaintiff, his occupation and his status in the village.

(e) As already stated on perusal of the promissory note, it not only contain

the signature of the executant rather the left thumb impression was marked on the right side of the promissory note. Though the defendant would contend that the thumb impression and signature found in the promissory note is ranked forgery and fabricated, the defendant has not placed any material before the court as to when and how the forgery has taken place. When a party to the suit pleads forgery and fabrication it is for them to explain as to how and under what circumstance the plaintiff has forged the signature of the defendant.

(f) The law is also well settled, the person pleading forgery has to plead the circumstance and substantiate the same by evidence. Mere suggestions of defence of forgery would not relieve the party from discharging the burden of proof nor displace the burden of proof on the plaintiff. In the present case though the defendant has not taken any steps, the plaintiff at his own initiative has taken steps for comparison of signature and thumb impression found in the promissory note but the defendant has failed to produce any admitted signatures of her and had contended in the said application that no admitted signature of her is available and in such circumstance the petition was not proceeded further. The cross examination of defendant by the plaintiff and the marking of Ex.A4 to Ex.A7 shows though the defendant possess admitted signatures but for the said application had denied existence of documents. The defendant has also not taken any steps to compare the thumb impression in the promissory note with her thumb impression nor come forward with any request to subject her thumb

impression in open court for comparison by expert. PW2 in his evidence has spoken about the details regarding the execution of promissory note and passing of consideration in the lines of the evidence of PW1. There is no material to show the evidence of PW1 and PW2 are contradictory regarding material aspect of execution and passing of consideration. The cross examination of plaintiff and defendant shows the plaintiff and defendant are known to each other for a long time.

(g) As regard the contention of the defendant that there is no necessity for the defendant to borrow money also cannot be accepted. The plaintiff in his evidence has stated the defendant borrowed money for her family expenses and business. The cross examination of the defendant by plaintiff would show defendant started the bakery at Sennapuram in the name of Chennai Bakery 15 years ago and in the year 2016 she shifted the shop to Grey Nagar in the building of one K.K.Mani and in the year 2018 she shifted the bakery from the building of K.K.Mani in the same Grey Nagar by upgrading the bakery in the month of December 2018. The defendant would deny that only for the purpose of upgrading her bakery and to start the bakery afresh the loan was availed. The means or capacity of the plaintiff to advance money was not seriously disputed or challenged during cross examination of the plaintiff and no inroads was made in the cross examination in this regard. It is admitted the plaintiff is a retired Village Assistant and the plaintiff has deposed that he possess sufficient means

and the retirement benefits received by him was paid to the defendant. The evidence of PW1 and PW2 proves the execution of promissory note by the defendant after receipt of consideration. The defendant also admits that she is aware about the occupation of plaintiff. Therefore the evidence of plaintiff and the evidence of defendant would substantially prove the execution of promissory note and passing of consideration.

(h) The evidence of plaintiff and his witness was not challenged by the defendant on material aspects. The plaintiff and PW2 have given clear description of the execution, passing of consideration and the usage of black pen for execution of promissory note. The cross examination of PW1 and PW2 does not materialize the case of defendant. The contention of the defendant the non examination of the scribe is a relevant fact and it goes to the root of the case has no substance. When the evidence of plaintiff clubbed with evidence of PW2 establish the execution of promissory note, it is not necessary the scribe must be examined by plaintiff. The non examination of the scribe is not a material fact and it does not affect the case of plaintiff. The evidence of PW1 and PW2 inspires confidence in the mind of the court that the defendant has executed the suit promissory note. The oral evidence of PW1 duly proves the execution of promissory note and the cross examination of defendant does not in any way disprove the execution of the promissory note.

(i) When the execution of the promissory note is duly proved by the oral

evidence of PW1 and PW2, the presumption under Section 118 of Negotiable Instruments Act arises in favour of plaintiff. When the execution of promissory note is proved to the satisfaction of the court, the presumption operates as soon as. It is also the principle of the law that if the execution is proved Section 118 of Negotiable Instruments Act imposes a duty on the court to raise a presumption that the instrument was made for consideration. This presumption shifts the burden of proof in the second sense that is the burden of establishing the case shifts to the defendant.

(j) The defendant may adduce direct evidence to prove the promissory note was not supported by consideration and if acceptable evidence is adduced, the burden again shifts to the plaintiff and so on. The defendant may also rely upon circumstantial evidence and if the circumstances so relied upon or compelling, the burden may likewise again shifts to plaintiff. In the present case the defendant has not placed any material except the plea of her name being incorrect. The defence of the defendant on the above score is very weak and it was proved to be false by the cross examination of plaintiff and it does not in any way relieve the defendant from discharging her burden.

(k) The contention of defendant that there is no necessity to borrow money is proved to be false as the plaintiff has probablised the necessity of borrowal in view of the admissions of defendant regarding shifting and upgrading of her bakery. The owning of bakery by the defendant is also proved

by Ex.A6. The defendant has not explained as to how the plaintiff came into possession of the promissory note. In the facts and circumstance of the case from the evidence of PW1 and PW2 and the evidence of defendant in cross examination it is probable and acceptable the defendant has borrowed money from plaintiff for her family and business requirements and executed the promissory note for consideration. It is also settled principle of law that the burden is heavily on the side of defendant when she wants to rebut the presumption or discharge the onus that has been shifted upon her.

(I) In the present case the overall appreciation of available evidence of plaintiff and his witness does not dislodge the presumption in favour of plaintiff. The contradiction and the defence raised by defendant are minor infirmities which does not affect the merits of the case of plaintiff. As such this court is of view the plaintiff has substantially proved the due execution of promissory note and the defendant has failed to rebut the presumption or discharge the burden. Accordingly the issues are answered in favour of the plaintiff.

VII. Issue No.3:

While deciding Issue No.1 and 2 it has been held the plaintiff has proved the execution of promissory note and passing of consideration. When the execution is proved the defendant is liable to pay the amount covered in the promissory note along with interest. Though the plaintiff has claimed interest at the rate 18% per annum considering the facts of this case, this Court is of view

the plaintiff is not entitled for the interest as claimed. The plaintiff has also caused to issue notice to defendant before institution of suit and materials placed before the court would substantiate the defendant has failed to make payment or issue any reply. As such this Court is of view the plaintiff is entitled for costs. In the given facts this court is of view the plaintiff is entitled for interest at the rate of 9% per annum from the date of suit till date of decree and at the rate of 6% per annum from the date of decree till realization of the amount with cost. As such the issue is answered in favour of plaintiff.

In the result, the suit is decreed and the plaintiff is entitled for the suit claim of Rs.4,42,950/- with interest at the rate of 9% per annum on the principle amount of Rs.3,00,000/- from the date of suit till date of decree and at the rate of 6% per annum from the date of decree till realization of the amount with costs.

Dictated to the Steno Typist, typed by her directly in computer, corrected and pronounced by me in the open court this the 09th day of April 2026.

**Subordinate Judge,
Perundurai.**

Plaintiff side witnesses:

PW1	Manoharan (Plaintiff)
PW2	Chandran

Defendant side witness:

DW1	Rabiya (Defendant)
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Plaintiff side documents:

Ex.A1	16.07.2018	Promissory Note	- Original
Ex.A2	16.02.2021	Legal Notice	- Office Copy
Ex.A3	22.02.2021	Acknowledgment Card	- Original
Ex.A4		Ration Card of the Defendant	- Xerox Copy
Ex.A5		Pan Card of the Defendant	- Xerox Copy
Ex.A6	16.03.2015	Registration Certificate issued by Food Safety and Drugs Admin Department	- Xerox Copy
Ex.A7		Bank Passbook 1 st page of Defendant	- Xerox Copy

Defendant side Documents:

Ex.B1		Aadhar Card of the defendant	- Xerox Copy
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**Subordinate Judge,
Perundurai.**

DRAFT/FAIR JUDGMENT
O.S.No. 27/2021
Dt: 09.04.2026
Sub Court, Perundurai.