

IN THE COURT OF THE PRL. CIVIL JUDGE (JUNIOR DIVISION):: SATTENAPALLI.

Present : **A. Thousheed Hussain,**
Prl. Civil Judge (Junior Division), Sattenapalli.

Tuesday, this the 03rd day of September, 2024.

O.S.No.778/2022.

Between :-

Makkapati Venkateswara Rao, S/o Veeraiah, 58 years,
Cultivation, R/o Rentapalla Village, Sattenapalli Mandal,
Sattenapalli P.J.C.J., within the jurisdiction of this Hon'ble Court.

.... Plaintiff.

AND

Mallisetti Ramudu, S/o Nagaiah, 37 years, Cultivation,
R/o 88 Thalluru Village, Krosuru Mandal, Sattenapalli PJ CJ,
within the jurisdiction of this Hon'ble Court.

....Defendant.

This suit coming on 02.09.2024 before me for final hearing in the presence of Sri. Shaik Balishaid, Advocate for Plaintiff and of Sri. Ch. Balakotaiah, Advocate for the defendant and having stood over for consideration till this day, this court delivered the following :-

J U D G M E N T

1) The suit is filed for recovery sum of Rs.1,32,440/- with costs and with future interest at 24% p.a against the defendant basing on suit promissory note dated 22.05.2019 for an amount of Rs.77,000/-.

2) **The case of the plaintiff as set out in the plaint as follows :-**

The defendant herein borrowed an amount of Rs.77,000/- on 22.05.2019 for his family expenses and executed promissory note in favour of the plaintiff agreeing to repay the same with interest at 24% p.a. either to the plaintiff or to his endorse on demand. Subsequently inspite of repeated oral demands made by the plaintiff personally and through mediators, the defendant did not settle the above promissory note debt and postponed the same from time to time, on some pretext or other. The plaintiff also got issued legal notice on 13.05.2022 calling upon the defendant to discharge the above promissory notes debt. Hence the plaintiff was constrained the present suit.

3) After receiving the summons, the defendant filed the written statement, denied the averments of the plaint and submitted that the the defendant never borrowed an amount of Rs.77,000/- or any amount from the plaintiff and never executed suit promissory note in favour of the plaintiff in the presence of scribe and attestor. This defendant is tenant to the plaintiff agricultural land and cultivating the same, at that time the defendant executed an empty promissory note as collateral security and this defendant never executed any promissory note in the presence of alleged scribe and attestors. Subsequently, after completion of tenure the defendant asked the empty promissory note, but the plaintiff stated that the promissory note was misplaced, whenever I found I will return the said promissory note, believing the words of the plaintiff the defendant went away, but the plaintiff filed the empty promissory note as per his whims and fancies and filed this suit against the defendant. After receipt of the summons from this Hon'ble court also the defendant approached the plaintiff and asked about filing of the suit, but the plaintiff is arrogant in nature not listening the words of the defendant and the attestors and on the suit promissory note are close associates to the plaintiff and they are not present on the date of execution of promissory note and the plaintiff obtained the signatures of the attestors and scribe before filing the suit and got filed the suit against the defendant and defendant does not know the attestors and scribe, the plaintiff is not entitled for the relief as prayed for and the suit is liable to be dismissed.

4) Basing on the above pleadings the following issues have been framed for trial:

- 1) Whether the suit pronote, dt.22.05.2019 is true, valid and binding on the defendant and supported with consideration ?**
- 2) Whether the plaintiff is entitled for suit amount as prayed for ?**
- 3) To what relief ?**

5) On behalf of the plaintiff, he himself examined as PW.1, Ex.A1 to Ex.A3 are marked on his behalf. On the other hand, inspite of ample opportunity defendant failed to adduce his evidence, hence the defendant evidence was closed.

6) Heard both sides. Perused the pleadings of both parties and evidence and documents of the plaintiff.

7) **ISSUE NO.1:**

It is the contention of the plaintiff that the defendant borrowed amount from him and executed Ex.A1. Whereas, it is the contention of the defendant is that there is no cash consideration passed between the plaintiff and defendant under Ex.A.1 and Ex.A.1 is a collateral security, so prays to dismiss the suit. Since the defendant is denying the allegations of plaintiff, initial burden lies on the plaintiff to prove execution of Ex.A1 promissory note by the defendant. To prove that plaintiff himself examined as PW.1. PW.1 categorically stated that the defendant borrowed an amount of Rs.77,000/- on 22.05.2019 from him for his family expenses and the defendant executed Ex.A1 suit promissory note in his favour in the presence of scribe and attestor agreeing to repay the said amount with interest at 24% per annum. In spite of number of demands on the defendant orally and requested the defendant to repay the entire amount, but he did not pay anything towards principal or interest. Nothing was elicited by the defendant during the cross examination of PW.1 and PW.2 to disbelieve their testimony with regard to the execution of Ex.A1 suit promissory note by the defendant after receiving cash consideration from the plaintiff.

08. On other hand to prove the contention of defendant, the defendant did not adduce any evidence. If really there is no cash consideration passed under Ex.A1, the defendant would have adduced the evidence to prove the same, but he did not do so. Further more defendnat stated that he executed Ex.A.1 for security purpose. When once the execution of Ex.A1 is proved, the presumption U/s.118 of Negotiable Instrument Act has to be drawn as to the existence of consideration under Ex.A1 until contra is proved. It is rebuttal presumption, except the defendant stating that no consideration was passed under Ex.A1, he did not adduce any evidence to rebut the presumption. So, by taking the presumption and by the

direct evidence of PW1 and Ex.A1, it can be safely held that Ex.A1 is executed by the defendant having received the consideration under it. So the defendant failed to disprove the non passing of consideration under Ex.A1. On the above grounds, I am of the opinion that the plaintiff proved the execution as well as passing of consideration under Ex.A1 suit promissory note. Accordingly this issue is answered in favour of the plaintiff against the defendant.

09. **ISSUE NO.2 :**

As stated supra in issue No.1 the plaintiff proved the execution of Ex.A1 suit promissory note by the defendant, when once the Ex.A1 has proved by the plaintiff certainly he is entitled to recover the suit promissory note amount from the defendant. Accordingly this issue is answered in favour of the plaintiff against the defendant.

10. **ISSUE No.3:**

In the result, the suit is decreed with costs, against the defendant for an amount of **Rs.1,32,440/- (Rupees One Lakh Thirty Two Thousand Four Hundred and Forty Only)** with subsequent interest at the rate of 12 percent per annum from the date of the suit till the date of decree and thereafter at 6 percent per annum from the date of decree till the date of realization on the principal amount of **Rs.77,000/- (Rupees Seventy Seven Thousand Only).**

Directly typed to dictation on Computer by the Typist, PJCJ Court corrected and pronounced by me in open Court, this the 03rd day of September, 2024.

Sd/- A. Thousheed Hussain
**PRL. CIVIL JUDGE (JUNIOR DIVISION),
 SATTENAPALLI.**

Appendix of evidence
Witnesses examined for

PLAINTIFF;-

DEFENDANT :- None.

PW.1: Makkapati Venkateswara Rao.

Exhibits marked for

PLAINTIFF

Ex.A1 : Promissory note, dt.22.05.2019.
Ex.A2 : Office copy of legal notice, dt.13.05.2022.
Ex.A3 : Postal receipt.

DEFENDANT

NIL

Sd/- A. Thousheed Hussain
P.C.J(J.D), SAP.