

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THENI.

**PRESENT: Thiru.Swarnam J. Natarajan , M.L.,
Principal District Judge, Theni.**

Monday, this the 27th day of October, 2025

I.A. No.02/2025

- in -

O.S. No.122 / 2025

D. Dhatchanamoorthy

...Petitioner / 3rd Defendant

/ Vs /

1. P. Vijayaragavan

...1st Respondent/ Plaintiff

2. Padmavathi

3. Pavithra

...Respondents 2 & 3 /1, 2 Defendants

This petition is coming upon 27.10.2025, for today final hearing before me in the presence of Thiru P. Muralidharan and Thiru. Muthuramalingam, Advocates for the Petitioner, Thiru. Guru. Radhakrishnan, Advocate for the 1st Respondent, Thiru. M. Dhandapani, Advocate for the 2nd Respondent and Thiru. M. Susee, Advocate for the 3rd Respondent and upon perusing the case records and the case having stood over for consideration, this court delivered the following:

ORDER

This is the application filed under Order 7, Rule 11(d) CPC., r/w Section Order 7 Rule 10 CPC., and Section 151 CPC., to reject the plaint since the same does not disclose cause of action within the territorial jurisdiction of this Court or as an alternative prayer return the plaint in O.S.No.122 /2025 to be presented before the competent Court at Chennai, where alone the cause of action, if any has arose.

27.10.2025

Principal District Court, Theni

2. The facts stated in the petition in brief is as follows:-

(i) The 3rd defendant in the above suit had filed the above application seeking for rejection of the plaint on the ground of jurisdiction. The petitioner had stated that the present suit is filed for recovery of a sum of Rs.67,67,200/- arising out of loan transaction and deed of acknowledgment of debt dated 05.07.2022. The present suit is not maintainable before this court at Theni as no part of cause of action has arose within the territorial jurisdiction. The plaint is liable to be rejected under the provisions of Order 7, Rule 11(d) CPC., if the plaintiff failed to disclose cause of action on the face of the plaintiff itself.

(ii) The plaintiff's own pleadings and documents clearly established that the alleged deed of acknowledgment dated 05.07.2022, along with the alleged loan transaction referred therein was executed at Chennai on the same day, in the presence of two attesting witnesses. The non- judicial paper used for the said document was also purchased at Chennai on 05.07.2022 from the own materials all parties including the plaintiff signed the said document at Chennai and not at Theni. None of the parties addressed the alleged deed of acknowledgment are shown to be at Theni, thereby, no part of transaction took place at Theni. Thereby, there was no necessity for the parties to assemble at Theni including the defendants and the witnesses, since the non judicial stamp paper itself had been purchased at Chennai. The loan was disbursed at Theni on 05.07.2022 is false and contrary to the documentary evidence

27.10.2025

Principal District Court, Theni

relied upon by the plaintiff. No part of cause of action had arose at Theni.

(iii) The defendants never approached the plaintiff at Theni for the loan and acknowledgment. Only to confer jurisdiction on this Court it is falsely averred that part of cause of action had arose at Theni. The jurisdiction cannot be conferred fictitiously or with inconsistent pleading, particularly when documentary evidence clearly demonstrates otherwise. With an ulterior motive to harass the 3rd defendant, taking advantage of the fact that Theni is the plaintiff's native place and the husband of the second defendant, who is serving as an IAS Officer, Joint Commissioner of Health, Greater Chennai Corporation and Government of Tamil Nadu is younger brother of the plaintiff.

(iv) In order to suppress the defects and inconsistencies in the alleged cause of action, the plaintiff had unnecessarily arrayed the 3rd defendant as party to the suit. The suit does not disclose any cause of action. The valuable judicial time would be saved if proper cause of action is disclosed. The present suit is not maintainable and liable to be rejected under Order 7 Rule 11(d) CPC., Hence, the present application is filed.

(v) On filing the application, the petitioner had also filed his written arguments and contended that, no cause of action had arose within the jurisdiction of this court and jurisdiction cannot be conferred by consent or waiver when the pleadings and documents themselves shown otherwise. Where a contract is made or

27.10.2025

Principal District Court, Theni

performed entirely outside the jurisdiction, near residence of the plaintiff cannot confer the jurisdiction. Hence, the plaintiff prays for rejection of the plaint and relied upon several authorities of the Hon'ble Supreme Court and Hon'ble High Court, Madras.

3. I have given my anxious consideration to the submissions made by both the parties. In the plaint it is averred that loan was borrowed at Theni and acknowledgment was obtained at Theni and further loan was borrowed at Theni only. So, the plaint averment alone has to be seen. Of-course in the document acknowledgment of debt, the stamp paper was purchased at Chennai and the address of the parties were mentioned at Chennai. There is no indication in the document where the document was executed. Under such circumstances, it's a matter for trial and at this stage, the request of the petitioner cannot be considered to reject the plaint on the point of territorial jurisdiction.

4. The general principles of law that the debtor should follow the creditor would govern the jurisdiction of money suits. The contention of the petitioner overlooks a well settled common principles of law that has found recognition in Indian jurisprudence namely, that where no place of payment is expressly or impliedly fixed, the debtor must seek out the creditor and tender payment at the creditors place of residence or business. This principle originates in English law is expressed in ***Ball - versus- Antwerp, London and Brazil lines 1924 1KB 292, Sayward -versus- Palmer***

27.10.2025

Principal District Court, Theni

1867 LR-2 and Cranley -versus- Hillary 1928-1KB-479. The rational underlying rule is one of justice and convenience. A data who owes an obligation shall take steps to discharge it by approaching his creditor. In India though this rule is not statutorily incorporated, it has been considered in the context of Section 49 of the Indian Contract Act, 1872. The said provision stipulates that where a promise is to be performed and no place for performance is fixed. The promise must apply to the promiser to appoint a reasonable place for performance. Courts have harmonized this provision with a common rule by holding that Section 49 does not preclude the application of the equitable principles that the debtor must find the creditor.

5. The full bench of the ***Hon'ble High Court, Madras in Employees State Insurance Corporation -versus- M. Haji Muhadeen Ismail Sahib AIR- 1966 Madras 407 Full Bench*** was pleased to observe that, Section 49 of the Contract Act does not exclude the applicability of the common law rule and the doctrine can be applied in appropriate circumstances.

6. ***The Punjab and Hariyana High Court Full Bench in Form Kirlal Giridari Lal -versus- Baees North Haridyalal Katari AIR 1956 Punjab 133 Full Bench*** took a different view holding that the said rule being one of english common law is not a statutory rule of law in India and cannot by itself determine jurisdiction. The Hon'ble High Court of Punjab was pleased to held that the place of payment must be determined as a question of fact from the contract and surrounding circumstances.

7. On the contrary, the *Hon'ble Calcutta High Court in A.K Raha Engineering Limited -versus- State of Punjab AIR 1961 Calcutta 299 and later in SP Consolidated Engineering Company Private Limited -versus- Union of India AIR 1966 Calcutta 549* expressly adopted the common law doctrine holding that, the rule that the debtor must seek the creditor is one based on justice, equity and good conscience and is therefore of universal application. The Hon'ble Calcutta High Court held that even in the absence of a specified place of payment, a part of the cause of action arises at the place where the creditor resides or carries on business.

8. The *Hon'ble High Court of Andhra Pradesh in Maria Munsia Begum -versus -Noor Muhammad Sahib, AIR 1971 Andhra Pradesh 316* following the Calcutta view applied the same principle holding that the doctrine is not inconsistent with the Indian law and can validly determine jurisdiction in appropriate cases. The *Hon'ble High Court of Kerala Division Bench in Ramasubramanian -versus -Ranganathan AIR 1984 Kerala 81 Division Bench* preferred to treat the principle not as a rule of substantive law but as a rule of evidence to be invoked when the facts and circumstances so warrants. The Hon'ble Division Bench restricts its application to the cases where Section 49 of the Contract Act is inapplicable and to promissory notes payable on demand under the Negotiable Instruments Act, 1881, which do not specify a place of payment. The Delhi High Court, after analyzing the divergence of opinion, has consistently preferred the Calcutta view.

27.10.2025

Principal District Court, Theni

9. ***The National Building Construction Corporation Limited -versus- Vyisiya Bank Limited AIR 1994, Delhi 286***, the court held that where no place of payment is specified, the principle that the debtor must seek the creditor can be applied to determine jurisdiction. The same reasoning was followed in ***Ln. Gupta -versus- Tharamani 2009-157DLT 653*** and subsequently re-affirmed in ***Union Bank of India -versus- Milk Food Limited 2011 SCC Online Delhi 5261*** where, the Division Bench held that the principle that the debtor must seek the creditor unless there is an arrangement to the contrary is now a settled principles of law.

10. It is also pertinent to note that the ***Hon'ble Supreme Court in Subramanian Swamy -Versus- Union of India 2016- 7 SCC- 221*** that the common law of England continues to operate in India under Article 372 of the Constitution to the extent not inconsistent with the existing laws. Likewise, in ***Bhagwan Das, Govardhan Das Kedia -Versus- Girdhari Lal, Parshottam Das and Co., AIR 1966 SC-543***, the Apex court held that where statutory law is silent, common law principles may be invoked to determine the rights and obligations of the parties.

11. In the light of the above precedent, the position that has now emerged is that while there is divergence of judicial opinion among High Courts, the dominant view particularly of the High Court of Calcutta and High Court of Delhi and supported by

the reasoning of the Hon'ble Supreme Court in *Bhagwan Das, Govardhan Das Kedia* is that the common law doctrine of debtor must seek the creditor continues to have application in India as a rule founded on justice, equity and good conscience and can be invoked where the contract is silent as to the place of payment.

12. Applying the above principle to the present case, this Court finds that even though the promissory note was executed outside the jurisdiction of this Court and the defendant resides elsewhere. The obligation being one of payment of a debt without a specified place of performance. The cause of action also arises at the place where the creditor / plaintiff resides or carries on business, since the debtor is in law bound to seek out the creditor and discharge the debt. Hence, this Court cannot be said to lack territorial jurisdiction to entertain the suit. Thereby, this Court finds no merit the contention of the plaintiff either to seek for rejection of the plaint or for return of the same. Hence, the application filed by the petitioner / 3rd defendant is liable to be dismissed.

13. Taking into consideration the documents and plaint averments, this Court finds that the plaintiff being a resident of Theni and claimed that the further debt was borrowed at Theni and the payment is to be made at the place where the plaintiff resides. It's a matter for trial which cannot be adjudicated on the basis of the documents filed by the plaintiff. Hence, the application seeking for rejection or for return of the plaint it cannot be considered and liable to be dismissed.

27.10.2025

Principal District Court, Theni

In the result, this petition is dismissed. No cost.

Dictated to the Steno-Typist, taken by her in shorthand, transcribed and typed by her with the help of voice recorder, and Microsoft 365, corrected and pronounced by me, in the open court, this the 27th day of October - 2025.

**Principal District Judge,
Theni.**

27.10.2025

Principal District Court, Theni

Principal District Court,

Theni.

I.A.No.02/2025 - in -

O.S.No.122/2025

Copy of Order

Dated : 27.10.2025

27.10.2025

Principal District Court, Theni