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A.S.No. 87/2025

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THENI

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

Friday, this the 27th day of March, 2026

Appeal Suit No. 87/2025

C.N.R. No.TNTH01-002884-2025

1. Avulu Jaikkaian

2. Jakkammal

... Appellants/ Defendants

/Versus/

Ramaraj

... Respondent/Plaintiff

Appeal against the Judgment and Decree dated 12.06.2025 in O.S.No.236 of
2022 on the file of Subordinate Court, Uthamapalayam.

Between:-

Ramaraj

... Plaintiff

/Versus/

1. Avulu Jaikkaian

2. Jakkammal

... Defendants

This Appeal suit was coming up for final hearing
on 12.03.2026 in the presence of Thiru. M. S. Muthukumaran and
Thiru. M. Thandapani, Advocates for the Appellants/Defendants and of
Thiru. G. Moorthy and P. Uma Maheshwari, Advocates for the

27.03.2026

Principal District Judge, Theni



Respondent/Plaintiff and upon perusing the records and the trial court Judgment and decree and on hearing both side arguments, this court delivered the following;

J U D G M E N T

The defendants in O.S.No.236/2022 suffered an judgment and decree from the learned Subordinate Judge, Uthamapalayam on the suit instituted by the plaintiff Thiru P. Ramaraj seeking for recovery of a sum of Rs.5,00,000/- with subsequent interest and cost of the suit on the basis of the 5 promissory notes dated 24.02.2020 executed by the defendants 1 and 2. Being aggrieved and dissatisfied with the judgment and decree passed by the learned Subordinate Judge, Uthamapalayam, the present appeal is filed.

2. The plaintiff in the plaint before the trial Court had stated that the defendants are known to each other with the plaintiff and in view of the said relationship the defendants had approached the plaintiff in February 2020 and borrowed a sum of Rs.5,00,000/- seeking for financial assistance. Agreeing to repay the said loan amount with interest at 15% per annum within 3 years from the date of such borrower and to evidence the said transaction had executed 5 promissory notes on 24.02.2020 in favour of the plaintiff.



2(ii) However, the defendants failed to pay either the monthly interest or the principal made in favour of the defendants and inspite of efforts made by the plaintiff, either in person or through relatives, the same went in vain. The defendants had protracted the said payment, thereby on 25.01.2022 the plaintiff had caused a legal notice to the defendant. The same was received by the defendant on 27.01.2022. Thereafter, neither repaid the loan amount nor sent any reply notice. Hence, the plaintiff had no other option except to file the present suit seeking for recovery of the loan amount of Rs.5,00,000/- with subsequent interest. Hence, the present suit is filed.

3. The averments made by the defendants in the written statement in brief is as follows :-

The defendants denied the allegations made in the plaint and contended that the relationship between the parties alone are admitted whereas other facts stated in the plaint, particularly the loan transaction between the plaintiff and the defendants and that on 25.12.2008 the allegations that the defendants had borrowed loan for a sum of Rs.5,00,000/- from the plaintiff had never been made by the defendants nor issued any promissory notes in favour of the plaintiff.



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3(ii) In fact, if the loan transaction is true, they ought to have issued only one promissory note instead of 5 promissory notes as alleged by the plaintiff and there is no necessity to issue 5 promissory notes in favour of the plaintiff when there were only one loan transaction. Thereby, the said execution of the promissory note is unbelievable and evident that the promissory notes were forged by the plaintiff in order to extract more money from the defendants. Hence, the plaintiffs shall strictly prove the execution of the promissory note, passing of consideration on the said promissory notes. By suppressing the said material facts the plaintiff had approached this Court with unclean hands. In fact, the defendants never executed promissory notes in favour of the plaintiff at his residence as alleged nor liable to pay any cost and interest on the promissory note along with the suit claim. Hence, the defendants prays for dismissal of the suit.

4. Based on the above pleadings, the following issues are framed for trial :-

i.	Whether the plaintiff is entitled for a sum of Rs.6,62,500/- with the interest as prayed for?
ii.	Whether the defendants had executed the suit promissory notes as alleged?
iii.	Whether the plaintiff is entitled for cost of the suit?



iv.	To what other relief?
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5. Before the trial Court on the side of the plaintiff, PW1 and the attester of the said promissory note Ex.A1 were marked as PW2 Attestor Selvendran. Ex.A1 to Ex.A3 being the promissory notes 5 in numbers dated 24.02.2020, legal notice dated 24.01.2022 and the acknowledgment card were marked as Ex. A1 to Ex.A3. On the side of the defendants, the first defendant Thiru. Avulu Jakkaiyan was examined as DW1 and no documents were marked.

6. **The findings of the trial Court :-**

The trial Court was pleased to give a finding that in the chief examination and the cross examination the plaintiff had deposed with regard to the defendant having approached the plaintiff for financial help of Rs.5,00,000/- and executed the suit promissory note on 24.02.2020 each for a sum of Rs.1,00,000/- on the same day and the defendant during cross-examination of the plaintiff could not make out any fact to disbelieve the case of the plaintiff and the attesting witness also clearly deposed that in his presence the promissory notes were signed by the defendants in the revenue stamps and nothing worth mentioning could be elicited from the cross-examination of PW1 and PW2.



6(ii) PW2 in fact has no enmity against the defendants to give evidence in hostile against them and no evidence could be let in by the defendant to prove the fact that the promissory notes were forged by the plaintiff. The defendant had not replied for the legal notice issued by the plaintiff, though acknowledged the same and by relying upon the judgments of the Hon'ble High Court that an adverse inference was drawn against the defendants for their failure to issue reply notice for the legal notice issued by the plaintiff prior to the filing of the suit.

6(iii) The trial Court had given a finding that the claim of the plaintiff is a genuine one and if at all he wants to forge the promissory note, single promissory note would be sufficient and he need not execute 5 promissory notes on his own. The defendant having admitted during his cross-examination that he is ready to take steps to prove that the signatures found in the promissory note are forged one. However no steps were taken to send the disputed promissory notes to the Forensic Expert's opinion in order to disbelieve the plaintiff's case.

6(iv) Under such circumstances, Section 73 of the Indian Evidence Act enables the trial Court to compare the signature and by comparing the signature the trial Court was pleased to give a finding that the signature contained in the



promissory note belongs to the defendants and the presumption under Section 118 of the Negotiable Instruments Act were raised against the defendants that the promissory notes are duly executed by the defendants and the same is supported by consideration. Hence, the trial Court was pleased to decree the suit.

7. The points raised in the grounds of appeal :-

The appellant in the grounds of appeal had contended that at no point of time the appellants had borrowed loan from the plaintiffs and the promissory notes never contain the signatures of the defendants. The scribe of the document with address and details were not mentioned in the promissory notes, moreover the attesting witnesses details also were not specified in the promissory notes. The signatures of the attesting witnesses, signatures of the defendant, the date of the promissory note and other details were filled in different inks.

7(ii) So, it could prove that at various dates the promissory notes were filled to suit the convenience of the plaintiff and not at the relevant point of time at a stretch as claimed by the plaintiff and the different inks being used for the purpose of filling up the details would prove that the promissory notes were



misused by the plaintiff and forged for the purpose of this case. The said fact has not been considered by the trial Court.

7(iii) During cross-examination, the plaintiff had admitted the fact that in O.S.No.94/2022 the promissory notes executed by one Katthiravan, who was found missing and since the said executant was missing and the promissory note had become time-barred, the promissory notes alleged to be executed by the defendants are forged by the plaintiff. The said fact has not been considered by the trial Court and erred in decreeing the suit. Thereby, it is evident that the promissory notes were created for the purpose of this suit after the first defendant in O.S.No. 94/2022 went missing. The present promissory notes have been forged for the purpose of realization of the amount due from the first defendant in the said suit and truly the defendants had never borrowed money from the plaintiff nor executed the suit promissory note. The said fact had been proved by the defendant during cross-examination of the plaintiff. Hence, the appellant prays for allowing the appeal.

8. The points for consideration in the appeal are :-

i.	Whether the trial Court erred in decreeing the suit without appreciating the fact that the promissory notes were forged?
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ii.	Whether the trial Court erred in raising presumption under Section 118 of the Negotiable Instruments Act even though the execution of the promissory note was not proved?
iii.	Whether the trial Court erred in raising adverse inference for failure to send reply notice for the legal notice issued by the plaintiff?
iv.	Whether the trial Court erred in decreeing the suit overlooking the facts on the suit?
v.	Whether the judgment and decree of the trial Court is to be set aside in the present appeal?

9. The learned counsel for the appellant filed his written arguments and contended that the relative of the appellant one Thiru.Jakkaiyan, the suit promissory note concerned in O.S.No.94/2022 and the present suit were created at the same time and O.S.No. 94/2022 was dismissed by the trial Court. Though it was elicited that the first defendant in O.S.No. 94/2022 was found missing and in order to realize the money due, the present promissory notes have been forged by the plaintiff. All the 10 promissory notes were said to be executed by the same person filled by him, however he was not examined before the Court and he used different pens to fill the details. The promissory note never contains



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particulars with regard to the person who had attested the promissory note nor scribed the same.

10. Under such circumstances, the appellant counsel contended that the promissory note is evidently forged by the plaintiff to suit his convenience and the said fact has not been considered by the trial Court. The appellant counsel further contended that merely because the reply notice was not sent for the legal notice issued by the plaintiff, the Court cannot draw adverse inference against the defendants. Hence, the appellant counsel prays for allowing the appeal.

11. On the other hand, the learned counsel for the respondent contended that the trial Court had rightly decreed the suit by appreciating the evidence and facts and no interference is required in the present appeal.

12. I have given my anxious consideration to the submissions made by both the parties. It is specific case of the plaintiff in the present suit that the 5 promissory notes were executed by the defendants on 24.02.2020 each for a sum of Rs.1,00,000/-. To prove the said fact the plaintiff had examined himself as PW1 and reiterated the facts stated in the plaint. In addition to his evidence, the plaintiff had also examined the attesting witness PW2.



13. The defendant had filed his written statement and contended that the promissory note is forged and denied the execution of the promissory note. Except the said denial, no substantive defence had been put forth on the side of the defendant. Mere denial of signature in the promissory note would not be sufficient to dislodge a document, particularly when the plaintiff had taken steps to prove its execution in the manner known to law by examining the plaintiff as the witness and the attesting witness as PW2. When the execution of the document is specifically denied the burden initially lies on the plaintiff to prove the execution of the same and in the present case the plaintiff had satisfactorily proved the execution of the promissory note by proving the execution. By examined himself as PW1 and examined the attesting witness PW2 for the promissory note who had spoken in detail about the execution and attestation of the document. The evidence of the attesting witness had remained cogent, trustworthy and unshaken.

14. Nothing material had been elicited during cross-examination of the witness PW2 by the defendant to discredit his testimony. Thus, this Court finds that the execution of the promissory notes stands duly proved through direct oral evidence which is legally acceptable. Once the plaintiff had established the



execution of the promissory notes, the burden shifts upon the defendant to rebut the same. In cases where the signature is disputed, the defendants had several remedies available in law including seeking for comparison of the disputed signature with the admitted signature through the Court under section 73 of the Indian Evidence Act or by taking steps to send the documents for experts opinion by a handwriting expert by producing the documents containing the admitted signature of the defendants.

15. In the present case, the defendants had not taken steps whatsoever to substantiate their defense by neither producing admitted documents containing their signature nor filed any application seeking for experts opinion by comparing the signature found in the promissory note. Mere denial on the side of the defendant would not be sufficient and the law expects the defendants to play an active role in disproving the plaintiff's case. Such inaction on the side of the defendant clearly weakens their defence. It is equally significant to note that the defendant had not issued reply notice for the legal notice sent by the plaintiff prior to the institution of the suit.

16. The notice admittedly was served upon the defendants yet no reply was issued denying the transaction or disputing the signature. The absence of



issuance of reply notice, though not a condition precedent for raising presumption against the defendants. The defendant is at least expected to explain under what circumstances the reply notice was not issued to the plaintiff. When the defendant takes the plea of total denial of the signature of the defendant in the promissory note. Even before the Court also the defendant had not filed memo before the trial Court to peruse the promissory notes before denying their signature in the same.

17. Such a conduct on the side of the defendant gives rise to an adverse inference against the defendant as the same indicates that the defence has now been taken with an afterthought. Thus, the defence taken by the defendant is found to be unsupported by evidence and inconsistent with normal conduct and lacking in bona fides.

18. The defendant had never produced the copy of the plaint filed in the other suit by the plaintiff and failed to establish the fact that the promissory notes in the other suits were also similarly forged by the plaintiff and since he could not recover money from the defendant in the said suit, who went missing, the present promissory notes were forged to realize the money and to wreck vengeance from the present defendants. There is no specific pleadings in this



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regard on the side of the defendant in the written statement nor any issue framed by the trial Court in this regard. Nor the plaint, written statement and promissory notes of the said suit filed and executed before the present suit in order to disprove the case of the plaintiff.

19. Thereby, mere suggestion during cross-examination of the plaintiff with regard to the earlier suit filed by the plaintiff against the two defendants in which one went missing and the suit was dismissed by the trial Court, the same cannot be made use of by the plaintiff herein. Thereby, this Court finds that the defence plea taken by the defendant is found to be unsupported by evidence and inconsistent with normal conduct of an ordinary prudent man, lacking in bona fides.

20. On the contrary, the plaintiff had established his case through acceptable evidence both oral and documentary. The testimony of the attesting witness corroborates the plaintiff version and there is no materials to disbelieve the same. In view of the above discussions, this Court finds that the execution of the promissory note has been duly proved by the plaintiff through PW1 and PW2's evidence and the denial of the signature by the defendant is mere formal denial without any evidentiary backing and no bonafides have been shown by the



defendant to disprove the case of the plaintiff except bare denial of the signature without making attempt to send reply notice for the legal notice and without taking earnest effort to send the documents for handwriting experts' opinion.

21. Thereby, this Court finds that the defence put forth by the defendants are liable to be rejected and accordingly the contentions of the defendants are disbelieved and the case of the plaintiff has to be accepted as true and fully established. Thereby, this Court finds that the trial Court had rightly decreed the suit and no interference is required in the present appeal and the appeal is liable to be dismissed, confirming the Judgment and decree of the trial Court. Hence, the points are answered against the Appellants and in favour of the Respondent.

In the result, the Appeal Suit is dismissed with cost throughout the proceedings and the judgment and decree passed by the learned Subordinate Judge, Uthamapalayam in O.S.No.236/2022 dated 12.06.2025 decreeing the suit for recovery of money is confirmed.

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 March - 2026.

**Principal District Judge,
Theni.**



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Appellants side witness and documents :-

-Nil-

Respondent side witness and Documents:-

-Nil-

**Principal District Judge,
Theni.**

The Principal District Court,
Theni.

A.S.No. 87/2025

Copy of **JUDGMENT**

Dated : 27.03.2026