

IN THE COURT OF THE PRINCIPAL JUNIOR CIVIL JUDGE:: KANDUKUR

Present: **Sri N. Nikhil Reddy**,
Addl. Civil Judge (Junior Division), Kandukur.
FAC : Principal Civil Judge (Junior Division), Kandukur.

Friday, this the 10th day of January, 2025.

ORIGINAL SUIT No. 911/2022

Between:

Berakayala Vera Raghavulu, S/o. Malakodaiah,
Hindu, aged about 58 years, Agriculturist,
R/o. Kalavalla Village, Voletivaripalem Madal,
SPSR Nellore District.

... Plaintiff

Vs.,

Cherukuri Ramesh, S/o. Buda Kondaiah, Hindu,
aged about 45 years, Agriculturist,
R/o. Deppalampadu Village, Gudluru Mandal,
SPSR Nellore District.

... Defendant

This suit is coming on 09.01.2025 for final hearing before me in the presence of **Sri. Penna Krishnaiah and N.Yallamanda Rao**, Advocates for Plaintiff, and the Defendant having remained **exparte**, and having stood over for consideration till this day, this court delivered the following:-

// J U D G M E N T //

1) This suit is filed by the plaintiff for recovery amount of **Rs. 74,781/- (Rupees Seventy four thousand seven hundred and eighty one only)** from the defendant with future interest and for costs of the suit.

2) **The brief averments of the plaint are as follows:**

The plaintiff submits that the defendant borrowed an amount of Rs.55,000/- on 09.09.2019 from the plaintiff for his family expenses and in evidence thereof the defendant executed a promissory note in favour plaintiff on the same day and agreeing to repay the same with interest at 12% p.a either to the plaintiff or to his order on demand and duly

attested. Subsequently, inspite of repeated demands made by the plaintiff, the defendant did not discharge the suit promissory note debt together with interest and postponing the same on some pretext or the other. The plaintiff got issued lawyer notice on 06.07.2022 the same was received by the defendant and kept quite. Hence, the plaintiff constrained to file this suit.

3) Summons of defendant through Court served personally on 21.03.2024. Defendant called absent, no representation. Hence, defendant remained set exparte to the suit proceedings on 01.07.2024.

4) To prove the plaintiff examined himself as PW1 on behalf of PW2 examined as witness and Exs.A1 to A3 are marked in favour of plaintiff.

5) Heard the learned counsel for the Plaintiff.

6) ***Now the point for consideration is that:***

Whether the plaintiff is entitled for the suit claim, as prayed for?

7) **POINT :**

In order to establish his contentions, the plaintiff has examined himself as PW1 and PW2 and Exs.A1 to A3 are marked. As the Defendant has remained exparte on 01.07.2024, it can be said that the evidence of PW.1 and PW.2 has remained discredited and unchallenged. It would be relevant to refer to the documents relied upon by the Plaintiff under Exs.A1 to A3. Since, the Defendant remained exparte in the suit, it can be said that an adverse inference can be drawn against the defendant to the effect that he had admitted the case of the Plaintiff. Therefore, by virtue of the consistent and in-discredited evidence of PW1 and PW2 coupled with Exs.A1 to A3, this court concludes that the plaintiff has established his case, and the failure of the defendant to discharge the same, and as such, the plaintiff is entitled for the suit claim as prayed for. Therefore, this point is answered in favour of the plaintiff against the defendant.

8) *At this stage this court relied the decision In Vidyadhar Vs Manic Rao (AIR 1999S.C.1441) The Hon'ble Apex court held's that in para 16" where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross examined by the other side a presumption would arise that the case set up by him is not correct.....". Here in the present case the defendants did not adduce any evidence on his behalf and did not come to the witness box to prove his defence on his behalf. As such I hold that an adverse inference has to be drawn against the defendants U/Sec.114 (g) of Indian Evidence Act, 1972.*

9) *And another decision reported in AIR 2007 SUPREME COURT PAGE 2025 between Adivekka & Others Vs Hanamavva Kom Venkatesh (deceased by LR's) and another where in their lordships held that " Evidence Act (1 of 1872), S 114 - Adverse inference - Non examination of party to the suit -Adverse inference can be drawn against the party". In my humble view and in the light of the above said decisions, the defendant who is a party to the suit did not come to the witness box and states his own case on oath and does offer himself to be cross examined by the other side, a presumption would arise that the case set up by defendant is false and when the defendant did not enter into the witness box to deny such pleas which are taken in the written statement an adverse inference can be drawn against the defendant as contemplated U/Sec 114 (g) of Indian Evidence Act.*

10) In the result, suit is decreed with costs in favour of the plaintiff against the defendant, directing the defendant to pay a sum of **Rs. 74,781/- (Rupees Seventy four thousand seven hundred and eighty one only)** together with future interest at the rate of 12% per annum from the date of filing of the suit till the date of decree and thereby subsequent interest at 6% per annum on the principal amount of **Rs. 55,000/-** from the date of decree till the date of realization.

Typed to my dictation by the Stenographer, corrected and pronounced by me in the open court, on this the 10th day of January, 2025.

Sd/- N. Nikhil Reddy
ADDL. CIVIL JUDGE (JUNIOR DIVISION),
KANDUKUR.
FAC: PRL. CIVIL JUDGE (JUNIOR DIVISION),
KANDUKUR.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PLAINTIFF:

PW.1: Berakayala Vera Raghavulu

PW.2: Parre Malyadri.

FOR DEFENDANT :

Exparte

EXHIBITS MARKED

FOR PLAINTIFF:

Ex.A1 is the suit promissory note dated 09.09.2019 executed by the defendant in favour of the plaintiff.

Ex.A2 is the office copy of the lawyer notice dated 06.07.2022.

Ex.A3 is the acknowledgment card.

FOR DEFENDANT: NIL

Sd/- N. Nikhil Reddy
AJCJ,KDKR,
FAC: PJCJ, KDKR.