

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09.11.2017

PRONOUNCED ON: 14.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CS.No.759 of 2015

1. R.Kanakarani
2. K.K.Rajkumar

Plaintiffs

Vs

R.Banumathi

Defendant

Prayer:- This Civil Suit is filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC.

For Plaintiff : Mr.M.J.Sundar

For Defendants : Set Exparte

JUDGEMENT

This Civil Suit is filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of CPC, to pass a Judgement and Decree against the Defendant:-

a) directing the Defendant to pay a sum of Rs.1,35,70,000/- (Rupees one crore thirty five lakhs and seventy thousand only) together with interest at 24% p.a. and future interest for the principal amount of Rs.1,15,00,000/- (Rupees one crore fifteen lakhs only) from the date of filing and till the date of realisation

(or)

to recover the mortgage amount of Rs.1,35,70,000/- (Rupees one crore thirty five lakhs and seventy thousand only) together with future interest for the principal amount of Rs.1,15,00,000/- (Rupees one crore fifteen lakhs only) from

the Defendant through court auction sale proceedings of the of the Schedule mentioned mortgaged properties and thereby settle the amount to the Plaintiff.

b) granting permanent injunction, restraining the Defendant and their men from in any manner selling or alienating the suit Schedule property.

c) directing the Defendant to pay costs of the suit.

2. The case of the Plaintiff is as follows:-

The Defendant for the past three years on different occasions had borrowed a sum of Rs.1,15,00,000/- from the Plaintiffs by mortgaging the suit property under three mortgage deeds dated 5.7.2014 for a sum of Rs.75,00,000/-, 16.12.2014 for a sum of Rs.30,00,000/- and 16.12.2014 for a sum of Rs.10,00,000/-, promising to repay the principal amount with interest at the rate of 2% p.m. Despite repeated demands, the Defendant failed to repay the amount with interest. The Defendant is liable to pay Rs.1,15,00,000/- towards the principal amount and Rs.20,70,000/- towards interest. The Defendant may at any time cause encumbrance to the suit properties. In such circumstances, as stated above, this suit has been filed for recovery of money and for permanent injunction. सत्यमेव जयते

3. Though the Defendant was served on 20.03.2017, no written statement has been filed by the Defendant and hence, the matter was ordered to be listed under the caption of "Undefended Board". For non filing of the Written Statement, the Defendant was set exparte and exparte evidence was ordered to be recorded by the order of this court dated 24.08.2017. The 2nd Plaintiff has filed the proof affidavit for his chief examination and receipt of 7 documents as documentary evidence to prove the suit claim. In the Evidence,

the 2nd Plaintiff examined himself as PW.1 and marked Exs.P1 to P7 as documentary evidence in order to prove the suit claim.

4. Considering the oral and documentary evidence, viz. Ex.P1 to Ex.P7 adduced by PW.1, this Court is of the view that the plaintiff has proved the suit claim and hence, the Plaintiff is entitled for the reliefs, as asked for. Accordingly, this civil suit is decreed as prayed for, with costs. Time for payment is three months.

14.11.2017

Index:Yes/No
Web:Yes/No
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1. List of Witnesses Examined on the side of the Plaintiff:-
 1. P.W.1 - K.K.Rajkumar (2nd Plaintiff)
2. List of Exhibits Marked on the side of the Plaintiff:-
 1. Ex.P1 is the original mortgage deed dated 5.7.2014.
 2. Ex.P2 is the original mortgage deed dated 16.12.2014.
 3. Ex.P3 is the original mortgage deed dated 16.12.2014.
 4. Ex.P4 is the original sale deed of Defendant dated 15.6.2012.
 5. Ex.P5 is the original sale deed of Defendant dated 18.8.2011.
 6. Ex.P6 is the original sale deed of Defendant dated 24.09.2012.
 7. Ex.P7 is the original sale deed of the Defendant dated 15.4.2013.
3. List of Witnesses Examined on the side of the defendant:-

Nil

4. List of Exhibits Marked on the side of the defendant:-

Nil

14.11.2017

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C.V.KARTHIKEYAN, J.

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Pre-Delivery Judgement in
CS.No.759 of 2015

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14.11.2017