

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.519 of 2013

Raj Kumar Chordia ... Plaintiff

Versus

Dr.S.K.Mukilan ... Defendant

Plaint filed under Order IV, Rule 1 and Order XXXVII Rule 1 of Original Side Rules read with Under Order VII Rule 1 of Civil Procedure Code and praying to pass a judgment and decree:

- a) to pay a sum of Rs.28,00,000/- together with an interest at the rate of 18% per annum on Rs.28,00,000/- from the date of plaint to till the date of realisation within the time to be fixed by this Hon'ble court;
- b) in default order sale of suit property and sale proceeds after deducting expenses of sale applied in towards the decree amount;
- c) in case the sale proceeds insufficient to pay the decree amount the personal decree may be passed against the defendant for the balance amount under the decree and
- d) to pay cost of the suit.

For Plaintiff : Mr.S.Ramesh Kumar

For Defendants : No appearance

J U D G M E N T

Suit is for recovery of a sum of Rs.28,00,000/- together with interest at the rate of 18% per annum on Rs.28,00,000/- from the date of plaint till the date of reliazation.

2. The brief facts narrated in the plaint are as follows:

The plaintiff is the money lender had advanced a sum of Rs.4,00,000/- to the defendant on 10.11.2008 on the said date the defendant had executed a registered Memorandum of deposit of Title Deeds, depositing the Title Deeds relating to the property situate at Door No.7, Ranganathan Street, T.Nagar, Chennai 600 017, as security for repayment of the said loan borrowed by him. Again on 26.06.2010, the defendant approached the plaintiff and sought for further loan of Rs.14,00,000/-, which was advanced by the plaintiff and the defendant executed a promissory note in favour of the plaintiff, promising to repay the said amount with interest at the rate of 18% per annum. During May 2011, the defendant sought for further loan of Rs.6,00,000/-, which was also advanced by the plaintiff on 05.05.2011, as security for repayment of the said sum of Rs.6,00,000/-, the defendant had executed a demand promissory note agreeing to pay the interest at the rate of 18% per

annum on the said sum of Rs.6,00,000/-

3. Apart from paying the total amount of Rs.2,16,000/- towards interest, the defendant did not repay the monies borrowed by him. The defendant came forward and executed compromise in and by which he agreed to pay a total sum of Rs.28,00,000/- towards the loans borrowed from the plaintiff on 16.08.2011. Since the defendant did not repay the money, as agreed by him under the compromise dated 16.08.2011, the plaintiff issued a notice on 07.02.2013, calling upon the defendant to repay the amount of Rs.28,00,000/- with subsequent interest and the said notice returned with an endorsement 'door locked'. Therefore, the plaintiff has come forward with the present suit seeking recovery of a sum of Rs.28,00,000/- along with interest at 18% per annum from the date of plaint till date of realization

4. The defendant was served, he did not appeared either in person or through counsel duly instructed. Hence, the defendant was called absent and set *ex-parte* on 07.12.2015 and the suit was posted for *ex-parte* evidence before the Additional Master. Before the learned Additional master, the plaintiff was examined as P.W.1 and Exs.P1 to P33 were marked. Since only Xerox copies were marked at the time of

tendering evidence, the learned counsel appearing for the plaintiff was directed to produce the originals and the originals have been produced and they were again marked.

5. From the documents produced by the plaintiff the borrowing has been established. The defendant has not come forward to either deny or affirm the borrowing. The evidence of P.W.1 coupled with the documents establishes the borrowing and the fact that the defendant had agreed to repay the loan with interest at the rate of 18% per annum. Hence the suit is decreed as prayed for with costs.

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non speaking order

List of the witnesses examined on the side of the plaintiff:

P.W.1 Rajkumar Chordia

List of Exhibits marked on the side of the plaintiff:

Sl. No.	Exhibits	Description of Documents
1	Ex.P1	Photo copy of the sale deed dated 29.04.1933

Sl. No.	Exhibits	Description of Documents
2	Ex.P2	Photo copy of the sale deed dated 22.10.1972
3	Ex.P3	Photo copy of the sale deed dated 30.09.1988
4	Ex.P4	Photo copy of the sale deed dated 30.09.1988
5	Ex.P5	Photo copy of the sale deed dated 30.09.1988
6	Ex.P6	Photo copy of the sale deed dated 30.09.1988
7	Ex.P7	Photo copy of the General Power of Attorney dated 01.03.1989
8	Ex.P8	Photo copy of approved building plan dated 07.08.1989
9	Ex.P9	Photo copy of the General power of attorney dated 30.09.1989
10	Ex.P10	Photo copy of the sale deed dated 16.05.1991
11	Ex.P11	Photo copy of the sale deed dated 16.05.1991
12	Ex.P12	Photo copy of the sale deed dated 16.05.1991
13	Ex.P13	Photo copy of the sale deed dated 16.05.1991
14	Ex.P14	Photo copy of the sale deed dated 08.06.2005
15	Ex.P15	Photo copy of the sale deed dated 08.06.2005
16	Ex.P16	Photo copy of the sale deed dated 16.11.2005
17	Ex.P17	Photo copy of the sale deed dated 16.11.2005
18	Ex.P18	Photo copy of the property tax receipt dated 24.04.2006
19	Ex.P19	Photo copy of the sale deed dated 10.09.2008
20	Ex.P20	Photo copy of the sale deed dated 10.09.2008
21	Ex.P21	Photo copy of the sale deed dated 10.09.2008
22	Ex.P22	Photo copy of the sale deed dated 10.09.2008
23	Ex.P23	Photo copy of the Encumbrance certificate dated 10.11.2008
24	Ex.P24	Photo copy of the Encumbrance certificate dated 10.11.2008
25	Ex.P25	Photo copy of the Encumbrance certificate dated 10.11.2008
26	Ex.P26	Photo copy of the Encumbrance certificate dated 10.11.2008
27	Ex.P27	Photo copy of the deposit of title deeds dated 10.11.2008
28	Ex.P28	Photo copy of the promissory note dated 26.06.2010
29	Ex.P29	Photo copy of the promissory note dated 07.05.2011

Sl. No.	Exhibits	Description of Documents
30	Ex.P30	Photo copy of the compromise memo dated 16.08.2011
31	Ex.P31	Office copy of the legal notice dated 07.02.2013
32	Ex.P32	Original returned cover dated 19.02.2013
33	Ex.P33	Photo copy of the Encumbrance certificate dated 09.07.2013
		Ex.P1, Ex.P2, Ex.P5 certified copy. Ex.P3, Ex.P4, Ex.P6, Ex.P7, Ex.P8, Ex.P9 notarized copy. Ex.P10 to Ex.P33 all documents original.

List of the witnesses examined on the side of the defendants: Nil

List of Exhibits marked on the side of the defendants: **Nil**

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To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

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R.SUBRAMANIAN, J.

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