

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE C.SARAVANAN

A.S No. 948 of 2008

Purasawalkam Santhatha Sanga Nidhi Ltd
Rep. By its Trustee having its office
at No.47, Vellala Street,
Purasawalkam,
Chennai - 600 084 ... Appellant

Vs.

1.M.D.Raman
2.Deviram ... Respondents

Prayer: Appeal filed under Order 41 Rule 1 r/w Sec 96 of CPC
against against the judgment and decree dated 10.11.2006 in
O.S.No.9 of 2005 on the file of Learned Additional District
Judge/Fast Track Court.No.III, Poonamalle.

For Appellant : Ms.G.Devi
for Mr.V.Raghupathi

For Respondents:Mr.A.K.Balaji

JUDGMENT

(Delivered by M.M.Sundresh,J.)

The suit has been filed for recovery of amount on mortgage.
The defendants borrowed money from the appellant by way of
mortgage. As there was default in payment, the suit was filed
for recovery of money. The respondents, being the defendants, in
the written statement filed acknowledged the borrowing of money,
mortgage and payment with interest. The trial Court framed the
following issues:-

- "1. Whether the interest is correct according to the plaintiff?
2. Whether the defendants paid Rs.5,20,250/- to the plaintiff or not?
3. To what relief the plaintiff is entitled?"

2. The substantial issue before the trial Court was with respect to the interest component which is liable to be paid by the respondents. Placing reliance upon the evidence of PW1, the trial Court while awarding interest at 21.6% per annum from 2.2.96 to December, 1997, fixed the rate of interest at 16% per annum from 1998 and up to the date of filing of the suit. Thereafter 6% interest has been fixed from the date of the decree till the date of realization. Though the respondent had accepted the said decree, seeking higher interest at 21.6% per annum for the period from 1998 up to the date of the filing of the suit, the present appeal has been filed.

3. Learned counsel appearing for the appellant would submit that the respondents in the written statement has accepted about the interest liable to be paid. The said interest is liable to paid as per the contract agreed between the parties. Therefore, the trial Court has committed error in this regard.

4. Learned counsel appearing for the respondents would submit that the statement made in the written statement has to be seen contextually in tune with the evidence adduced by the parties and inasmuch as PW1 has admitted that what is liable as per law is only interest at the rate of 16% per annum, no interference is required.

5. The issue before us lies in a narrow compass. It is qua the interest which is liable to be paid by the respondents either at 16% per annum as decreed by the trial Court or 21.6% per annum from the year 1998 to the filing of the suit. The trial Court has rightly come to the conclusion based upon the evidence adduced by PW1. Therefore, in such view of the matter we do not find any error in the conclusion arrived at by the trial court by fixing at 16% per annum. After all, the appellant has to establish his own case. When the appellant has come into the box and stated that the interest payable is only 16% per annum, the decree granted by the Court on that basis cannot be found fault with, especially when the statement is also to the effect that the interest which is permissible in law to be received by the lender from the borrower. In such view of the matter, we do not find any error in the judgment and decree rendered by the trial Court.

In view of the above, the appeal stands dismissed. No costs.
Consequently, connected M.P.Nos. 1 and 2 of 2008 stand closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssm
To:

The Additional District Judge,
/Fast Track Court.No.III,
Poonamalle.

+1cc to M/S. V.Raghupathi, Advocate Sr.20417
+1cc to Mr.V.V.Ravichandran, Advocate Sr.20272

A.S.No. 948 of 2008

ad[co]
srg 14/06/2019



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