

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

S.A.No.1244 of 2010

and

M.P.No.1 of 2010

K.Samboornam

.. Appellant

Vs.

1.Indian Bank,
Elumathur Branch,
Rep.by its Branch Manager,
Elumathur,
Erode Taluk.

2.S.Thangamuthu

3.C.Kumarasamy

.. Respondents

PRAYER: Second Appeal is filed under Section 100 of C.P.C against the judgment and decree dated 09.10.2009 in A.S.No.12 of 2009 on the file of Principal District Judge, Erode confirming the Judgment and Decree dated 03.02.2006 in O.S.No.381 of 2005 on the file of Principal District Munsif, Erode.

For Appellant : No appearance

For Respondents : Mr.V.Kalyanaraman for R1
R2-died
R3-No appearance

J U D G M E N T

(The case has been heard through video conference)

The matter was listed for final hearing, the learned counsel for the appellant was not present on the earlier occasion. Even today there is no representation on behalf of the appellant.

2. This Second Appeal is preferred against the concurrent findings of the Courts below passing preliminary decree against the appellant herein for recovery of money by selling the mortgaged property.

3. The plaintiff/respondent herein being a Nationalized bank has advanced loan to the appellant mortgaging the property of the appellant. The loan was advanced on 17.09.1987. Equitable mortgage over the suit property was created on the next day. A letter of deposit on

title was obtained. The statement of accounts marked as Ex.A-24 reveals on the date of filing the suit, the appellant owed a sum of Rs.68,000/-. Ex.A-2 -Pro-note dated 15.09.1987 and letter depositing the title deed proves the equitable mortgage created by depositing of title deed by the appellant and due payable by the appellant to the respondent bank.

4. In the said circumstances, both the Courts held against the appellant and passed preliminary decree to sell the mortgaged property and appropriate to the decretal amount. This Court finds no substantial question of law to interfere the concurrent findings of the Courts below. Hence the Second Appeal is dismissed. Consequently, connected miscellaneous petition is also closed. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Principal District Judge,
Erode

2.The Principal District Munsif,
Erode.

S.A.No.1244 of 2010
and M.P.No.1 of 2010

AD (CO)
GN (09/07/2021)

सत्यमेव जयते

WEB COPY