IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 05.08.2025	PRONOUNCED ON 26.08.2025

CORAM :

THE HON`BLE MR.JUSTICE K.KUMARESH BABU

C.S.No.3 of 2021

Suresh Kumar ... Plaintiff

vs.

1.Mrs.Mumtaj Bheevi (Deceased)
2.Mr.Mansoor
3.Mrs.Noor Beevi
4.Mr.Nazar
5.Mrs.Fathima Beevi
6.Mrs.Samshath Beevi
7.Mrs.Harijara Beevi
8.Mr.Rahim ... Defendants

(2 to 8 Defendants are brought on record as legal heirs of deceased sole defendant as per the order of this Court on 03.01.2024 in A.No.6900 of 2023)

Prayer : Civil Suit filed under Order 37 Rule 1 of Original Side Rules Read with Order 34 Rule 1 of CPC for the following reliefs:-

(a) Preliminary decree direct the defendant to pay to the plaintiff the sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) towards the

Principal amount along with interest of Rs.71,25,000/- (Rupees Seventy One Lakhs Twenty Five Thousand only) at the rate of 18% per annum from the date of the loan borrowed being 01.03.2011 till the date of filing of the suit 14.02.2019 thereby directing the defendant to pay a sum of Rs.1,21,25,000/- (Rupees One Twenty one Lakhs Twenty Five Thousand only) and also to pay interest from the date of filing of the above suit to till the date of realization on the principal amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) and also the cost of the suit on the date to be named by this Court and in default, the property mentioned in the schedule to be sold and the proceeds (after defraying the expenses of the sale) applied in and towards the payment of the amount of the said principal and interest and costs. That, if such proceeds not be sufficient for the principal in full and such amount the defendants may be ordered to be paid to the plaintiff the amount of the plaintiff, the amount of deficiency with interest thereon at the rate of 18% per annum until realization.

(b) to pay cost of the suit.

(c) Pass such further or other orders as this Court may deem fit and proper in the above facts and circumstances of this case.

For Plaintiffs : Mr.S.Ramesh Kumar
For defendants : D1- Deceased
No Appearance for D2 to D8

J U D G M E N T

This instant suit has been filed for a preliminary decree for recovery of a sum of Rs.1,21,25,000/- from the defendant and, in default, for sale of the suit property mortgaged as security for the debt. The original defendant having died during the pendency of the suit, her legal heirs have been impleaded as defendants 2 to 8.

2) It is the case of the plaintiff that the defendant borrowed a sum of Rs.50,00,000/- from the plaintiff and, as security, entered into a loan agreement on 12.04.2011 and deposited the title deeds of the suit property with the plaintiff. The defendant agreed to repay the said amount with interest at 24% per annum. However, she failed to repay either the principal or the interest. Consequently, the plaintiff caused a legal notice to be issued to the defendant on 16.12.2017. The defendant, by reply dated 27.12.2017, agreed to repay the loan within 30 days and further agreed to sell the suit property in the event of default. Despite such undertaking, the defendant neither repaid the loan

amount nor executed the sale deed. Hence, the plaintiff filed the present suit for recovery of the said sum and, in default, for sale of the suit property.

3) The defence of the defendants is that the averments in the plaint are false and the plaintiff is put to strict proof thereof. They contend that the suit is barred by limitation since the transaction took place in 2011 and the suit was filed only in 2021. It is further contended that the defendant had in fact borrowed only Rs.2,00,000/- on 03.08.2006 from the plaintiff, and, on the plaintiff's instigation, entered into a mortgage deed with one A. Navneeth, a close relative of the plaintiff. The defendant repaid the said amount exceeding to Rs.15,00,000/-, for which a receipt was issued by the said Navneeth. The defendants deny the loan agreement and reply notice, alleging that the defendant's signatures on blank papers were misused by the plaintiff. On these grounds, the defendants seek dismissal of the suit as time-barred.

4) Based on the pleadings and materials on record, the following issues arise for determination:

1.Whether the defendant borrowed a sum of Rs.50,00,000/- from the plaintiff and created a mortgage by deposit of title deeds as security for the said loan?

2.Whether the plaintiff is entitled to recover the suit amount with interest as prayed for?

3.To what other reliefs, if any, is the plaintiff entitled?

5) On the side of the plaintiff, the plaintiff examined himself as PW1 and produced Exs. P1 to P8. Although the original defendant filed a written statement, after her demise the legal heirs, despite due service of notice, neither appeared to contest the matter nor produced any evidence in support of their defence.

6) Heard Mr. S. Ramesh Kumar, learned counsel for the plaintiff.

7) Mr. Ramesh Kumar submits that the plaintiff is engaged in finance business at Chintadripet and that the defendant is the absolute owner of the suit property situated at Maduravoyal Village measuring about Acres 3.75 cents, which she acquired under a settlement deed dated 15.04.2005 vide document No. 2128 of 2005 (Ex.P1). He submits that the defendant approached the plaintiff for financial assistance to discharge her earlier loans including the mortgage debt under document No. 4148 of 2006 dated

03.08.2006 (Ex.P2) in favour of A. Navaneeth, which was redeemed on payment as evidenced by Ex.P3.

8) He contends that to secure the fresh loan of Rs.50,00,000/-, the defendant executed a letter and an agreement for deposit of title deeds on 12.04.2011 (Exs. P4 and P8). Upon default, a legal notice dated 16.12.2017 was issued (Ex.P5) and in reply (Ex.P6) the defendant acknowledged her liability and agreed to repay within 30 days, failing which she agreed to sell the property. Despite such acknowledgment, no payment was made. The plaintiff therefore seeks a decree for Rs.50,00,000/- towards principal and Rs.71,25,000/- towards interest, with liberty to sell the mortgaged property in default.

9) In support of his contentions, the learned counsel relied upon a judgment of the Division Bench of this Hon'ble Court in *A.S. Nos. 895 & 896 of 2010*, to contend that when original title deeds are handed over as security for a loan, it creates a charge over the property. He further relied upon the judgments of a learned Single Judge of this Court in *S.A. No. 284 of 2010* and *C.R.P. No. 3795 of 2018*, to submit that even if a document is not registered or duly stamped, the affixing of even a one-rupee stamp is sufficient to admit the

document in evidence to prove the money transaction in a suit for recovery of money.

10) It is contended that after the demise of the original defendant, the legal heirs failed to contest the matter, and the plaintiff's evidence remains unrebutted. Hence, the suit deserves to be decreed as prayed for.

11) I have considered the submissions of the learned counsel for the plaintiff and perused the evidence and documents on record.

12) **Issue No. 1:** a) From the evidence of PW1 and Exs.P1 to P8, it is proved that the defendant, being the absolute owner of the suit property, executed a letter and an agreement for deposit of title deeds on 12.04.2011 (Exs.P4 and P8) in favour of the plaintiff as security for the loan of 50,00,000/-. The reply notice dated 27.12.2017 (Ex.P6) issued by the defendant to the plaintiff's legal notice (Ex.P5) contains an unequivocal acknowledgment of the subsisting liability and an undertaking to repay the amount within 30 days, failing which she agreed to sell the property.

b) The contention of the defendants that the suit is barred by limitation is untenable. A mortgage by deposit of title deeds, as recognised under Section 58(f) of the Transfer of Property Act, carries a limitation period of **12 years** under Article 62 of the Limitation Act, 1963, commencing from the date the money becomes due. Even reckoning the due date as 12.04.2011, the suit filed in 2021 falls well within the 12-year period, which would expire only in April 2023. The acknowledgment of debt in Ex.P6, made within this limitation period, further extends the period under Section 18 of the Limitation Act.

c) The contention of the defendants that the documents were blank papers misused by the plaintiff remains unsupported by any material evidence. Further, the reliance placed by the learned counsel for the plaintiff on the decision of the Division Bench in *A.S. Nos. 895 & 896 of 2010* makes it clear that the handing over of original title deeds as security creates a charge over the property. Hence, this issue is answered in the affirmative.

13) **Issue No. 2:** a) The loan transaction is proved through Exs.P4, P6, and P8. The defendant has acknowledged the debt in Ex.P6 within the period of limitation, which attracts Section 18 of the Limitation Act, thereby saving the suit from being barred by time. The decisions relied on by the plaintiff in *S.A. No. 284 of 2010* and *C.R.P. No. 3795 of 2018* further support the

admissibility of the loan documents in evidence.

b) As on the date of filing the suit, the outstanding principal of Rs.50,00,000/- and accrued interest of Rs.71,25,000/- remain unpaid. The plaintiff is, therefore, entitled to a preliminary decree for recovery of Rs.1,21,25,000/- together with interest at the contractual rate from the date of suit till realization, with liberty to bring the mortgaged property to sale in default. This issue is also answered in the affirmative.

14) **Issue No. 3:** In view of the findings on Issues 1 and 2, the plaintiff is entitled to a preliminary decree as prayed for. The defendants are directed to pay the decreetal amount within a period to be fixed by the Court, failing which the plaintiff shall be entitled to bring the mortgaged property to sale and realize the amount in accordance with law.

15) In fine, this Court passes a preliminary decree with costs, directing defendants 2 to 8 to pay the plaintiff a sum of Rs.1,21,25,000/- (Rupees One Crore Twenty-One Lakhs Twenty-Five Thousand Only) within a period of eight weeks from the date of this order. In default of such payment, the plaintiff shall be at liberty to apply for a final decree for sale of the suit

property for realisation of the loan amount, in accordance with law.

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Index : Yes / No
Internet :Yes / No
Pbn

List of witnesses examined on the side of the plaintiffs:

PW1- Mr.Suresh Kumar

PW-2 – Mr.A.Navneet

List of documents marked on the side of the plaintiff:

ExP1	Original Settlement Deed Doc.No.2128/2005, dated 15.04.2005
ExP2	Original Registered Mortgage Deed Doc.No.4148/2006, dated 03.08.2006
ExP3	Original Receipt Registered in favour of Mr.A.Navneet, dated 03.08.2011
ExP4	Original Letter from 1st Defendant (Deceased) to Plaintiff dated 12.04.2011.
ExP5	Office copy of the Legal Notice sent by the Plaintiff to the 1st Defendant (Deceased) dated 16.12.2017.
ExP6	Original Reply given by the 1st defendant (Deceased) to the plaintiff dated 27.12.2017
ExP7	Online copy of the Encumbrance Certificate dated 17.10.2019.
ExP8	Original deposit of title deeds dated 01.03.2011 for the borrowed amount of Rs.50,00,000/-

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Index : Yes / No
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Pbn

K.KUMARESH BABU.J.,

Pbn

Pre-Delivery Judgment in
C.S.No.3 of 2021

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