BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2026

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

A.S(MD)No.174 of 2018

and

C.M.P(MD)No.10487 of 2018

R.Mohanakrishnan ... Appellant / Defendant

Vs.

R.Amutha ... Respondent / Plaintiff

Prayer: Appeal Suit filed under Section 96 CPC to set aside the judgment and decree in O.S.No.65 of 2014 on the file of the learned II Additional District Judge, Trichirapalli on 18.09.2015 and allow this appeal.

For Appellant : Mr.Raghuvaran Gopalan

For Respondent : Mr.V.Jeya Chandran

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The defendant in O.S.No.65 of 2014 on the file of the learned II Additional District Judge, Tirichirappalli is the appellant herein. The suit was one on mortgage.

2.The case of the plaintiff was as follows:

The plaintiff is a business woman. The defendant and his wife were her friends. They approached the plaintiff and sought hand loan for Rs.25,00,000/- (Rupees Twenty Five Lakhs only). The plaintiff, however, was in a position to lend only Rs.17,00,000/-(Rupees Seventeen Lakhs only). The plaintiff insisted that the defendant must give due collateral security. The defendant thereupon offered his property documents as security, and based on the same, the plaintiff lent a sum of Rs.17,00,000/- (Rupees Seventeen Lakhs Only) on 08.10.2009. Loan agreement was also executed by the defendant on the same date. It was attested by PW2. The defendant had agreed to repay the principal amount within two years. Since the defendant neither repaid the principal nor paid any interest, the plaintiff had to institute the suit for recovery of the money lent by her.

3.The defendant filed written statement. The case of the defendant was that there was some other loan transaction between himself and his wife on the one hand and the plaintiff on the other. The security documents were given in connection with that transaction. The defendant further claimed that the earlier loan transaction was fully settled, but the defendant failed to collect the documents. The defendant also alleged that his signatures were obtained on blank papers and based on the same, the suit loan agreement was also fabricated.

4.Based on the rival pleadings, The court below framed the following three issues:

"1.Is the defendant liable to pay Rs.28,15,014/- to the plaintiff?

2.Whether the plaintiff is entitled for a preliminary decree by ordering sale of hypotheca towards the above amount?

3.Whether it is true to state that the defendant borrowed Rs.9,00,000/- only and have repaid Rs.16,50,000/-?

4.Any other relief?"

5.The plaintiff examined herself as PW1 and the attestor of the agreement as PW2. Exhibits A1 to A8 were marked. The defendant examined himself as DW1 and marked Exs.B1 to B5, which were nothing but Income Tax return verification forms and statements of accounts. The Court below, after considering the evidence on record, decreed the suit as prayed for and directed the defendant to pay a sum of Rs.28,15,014/- (Rupees Twenty Eight Lakhs Fifteen Thousand and Fourteen only) with subsequent interest and costs. Aggrieved by the judgment and decree passed by the Court below, this appeal has been filed.

6.The learned counsel appearing for the appellant reiterated all the contentions set out in the grounds of appeal and called upon this Court to set aside the impugned judgement and decree and allow the appeal as prayed for.

7.Per Contra, the learned counsel appearing for the plaintiff / respondent submitted that the impugned judgment is well reasoned and that it does not warrant interference.

8.We carefully considered the rival contentions and went through the evidence on record.

9.The point that arises for determination is whether the plaintiff has proved that he had the suit loan transaction with the defendant and that the Court below was justified in decreeing the suit as prayed for.

10.The plaintiff primarily relied on the loan agreement dated 08.10.2009 which was marked as Exhibit A1. This said agreement was attested by two witnesses, one of whom, Shiva was examined as PW2. The plaintiff, by marking Exs.A4 to A8, had demonstrated her wherewithal to lend the suit amount. The plaintiff also marked Exs.A2 and A3. Ex.A3 is the title document standing in the name of the defendant while Ex.A2 is the parent document. Unless there has been some kind of loan transaction between the plaintiff and the defendant, there was no way these documents could have been in the custody of the plaintiff. Section 114 of the Indian Evidence Act, 1872 enables a court to presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. As per Section 58 of the Transfer of Property Act, loan can be advanced on the strength of title deeds. There are different kinds of mortgage, one of which is mortgage by deposit of title-deeds. If the title documents belonging to the defendant are with the plaintiff or vice versa and the holder of documents states that the title-documents were given to him as security for the loan, the court can very well presume it to be true. Of course, this is a rebuttable presumption. Parting of a title document warrants explanation.

11.The defendant made a fanciful claim that his wife had an earlier loan transaction with the plaintiff and that though it was settled and that the documents obtained in connection therewith had been misused for instituting the present suit. If that be so, the plaintiff should have examined some other witnesses to substantiate this defence. But the defendant examined only himself as a witness and no other witness was examined on his side. If the alleged earlier loan transaction had been cleared, the defendant would have definitely sent a communication to the plaintiff and called upon the plaintiff to return the title documents. No such intimation was sent as no such communication was marked.

12.In these circumstances, The court below rightly held that by preponderance of probabilities, the plaintiff had more than established her case. We fully concur with the reasons assigned by the Court below for decreeing the suit as prayed for. We affirm the judgment of the court below.

13.This Appeal Suit stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.P, J.]
01.04.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To

II Additional District Judge, Tiruchirappalli.

G.R.SWAMINATHAN, J.

AND

R.POORNIMA, J.

MGA

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