

6 CS DJ No. 572/24
NEELAM DEVI Vs. POOJA RAGINI
14.08.2024

Present: Sh. Dinesh Monga, Ld. Counsel for Plaintiff
alongwith Advocate Sh. Mohit Kumar.

1. Today, matter is listed for consideration on the point of issuance of summons to the defendant.
2. Heard, persued and considered.
3. The plaintiff has filed the present suit praying therein for the recovery of an amount of Rs.10 lakhs alongwith *pendente lite* and future interest at the rate of 18% per annum alongwith costs of the suit. The plaintiff is seeking the recovery of the said amount on the basis of her claim that she had advanced the said amount as a loan to the defendant. In para no.8 of the plaint, it has also been alleged that a mortgage deed dated 30.08.2021 was also executed between the plaintiff and the defendant for the purpose of securing the repayment of the said loan amount.
4. As per Section 59 of the Transfer of property Act, 1882, such a mortgage deed, as was executed in the present case, is required to be compulsorily registered. However, the mortgaged deed, in the present case, is an unregistered document and, therefore, not admissible in evidence, by virtue of Section 49 of the Registration Act, 1908.
5. Further, as per Section 67 of the Transfer of Property Act, the normal remedy for the mortgagee is to file a suit for fore-closure, or a suit for sale of the mortgage property. The mortgagee can sue for the recovery of the mortgage money only under certain circumstances, as mentioned in Section 68 of the Transfer of Property Act.
6. The plaintiff/Ld. Counsel is being given an opportunity to satisfy the court that the present suit, which is a simplicitor suit for the recovery of loan amount/mortgage money, is maintainable in terms of Section 68 of the Transfer of Property Act.
7. List on **19.09.2024** for aforesaid purpose.

(Sachin Mittal)
DJ-03/South-East District
Saket Courts, New Delhi/14.08.2024