

//FAIR//

**IN THE COURT OF THE V ADDITIONAL JUNIOR CIVIL JUDGE AT  
VISAKHAPATNAM****Present : Smt. U.Madhuri,**  
V Additional Junior Civil Judge,  
Visakhapatnam.Tuesday, this the 19<sup>th</sup> day of March, 2024**O.S.2019/2022**

Between :

Smt. Potti Renuka Devi, W/o. Kameswara Rao, aged 44 years,  
Homemaker, r/at D.No.48-18-4, Gandhipuram, Rajamahendravaram,  
East Godavari District and now present at Visakhapatnam.

...Plaintiff

And :

Karri Mahesh, S/o. Ramarao, aged about 39 years, r/at D.No.20-114-  
12, Chattalavari Veedhi, Chengalaraopeta, Visakhapatnam-530 001.

...Defendant.

This suit is coming on 01-03-2024 for exparte hearing before me in the presence of Sri. B. Bhanu Prasad Babu, Advocate for the Plaintiff and of defendant remained exparte, upon perusing the material available on record, upon hearing arguments and having stood over for consideration till this day, this Court delivered the following:-

**J U D G M E N T**

1) This is a suit filed by the plaintiff for passing of preliminary decree on the foot of registered mortgage deed executed by the defendant in favour of plaintiff dated 01.02.2016 directing the defendant to pay an amount of Rs.7,94,400/- together with interest @24% p.a. from the date of suit till the date of realization, within the time that may be stipulated by the Hon'ble Court and if the defendant fails to repay the said amount, to pass a final decree in terms of the preliminary decree and to order sale of the Schedule -B property and adjust

the sale proceeds towards the decretal amount and in the vent of the sale proceeds are not sufficient, the plaintiff may be permitted to proceed against the defendant personally and to pay costs of the suit.

2) The brief facts of the plaint are as follows :-

It is averred that the defendant is the absolute owner of schedule-B property, out of the total property i.e. Schedule-A and that the defendant borrowed an amount of Rs.3,00,000/- from the plaintiff on 01.02.2016 for the purpose of his family expenses and to discharge the debts by mortgaging the schedule-B property i.e. eastern side portion in ground floor of schedule-A and evidencing the said transaction, the defendant executed a Registered Mortgage Deed on the even date vide Doc.No.728/2016. It is further averred that the defendant has deposited his title deed i.e. Gift deed with the plaintiff towards security for the amount borrowed and that according to the said registered mortgage deed, the defendant has to pay an amount of Rs.6,000/- per month towards interest @24% on the principal amount and that if the defendant failed to pay the interest continuously for a period of three months, the defendant is liable to pay the compound interest @24% p.a. on the amount due.

3) It is further averred that subsequently, in spite of repeated requests and demands made by the plaintiff, the defendant failed to pay any amount towards interest accrued or the principal amount by postponing the same on one pretext or the other. It is further averred that recently she came to know that the defendant is making hectic efforts to alienate the schedule -B property to the third parties and to decamp from Visakhapatnam with a view to evade the debts and immediately the plaintiff got issued legal notice to the defendant on 22.08.2022 demanding to repay the amount due under the mortgage, but the defendant with a mala fide intention to evade the payment of debt to the

plaintiff, wantonly not claimed the legal notice, in spite of intimation through the postal authorities and the same was returned to the sender, which clearly shows the ill-intention of the defendant to defraud the plaintiff and having no other go, the plaintiff was constrained to file this suit.

4) Service of summons to defendant returned as affixed. Service of summons is held sufficient. Defendant absent. No representation. Hence defendant is set exparte on 11.01.2024.

5) Heard the counsel for the plaintiff.

6) Now the point for consideration is, whether the plaintiff is entitled for the suit claim as prayed for ?

7) **Point :-**

It is the case of the plaintiff that the defendant is the absolute owner of schedule-B property, and that the defendant borrowed an amount of Rs.3,00,000/- from the plaintiff on 01.02.2016 for the purpose of his family expenses and to discharge the debts by mortgaging the schedule-B property i.e. eastern side portion in ground floor of schedule-A and evidencing the said transaction, the defendant executed a Registered Mortgage Deed on the even date vide Doc.No.728/2016 by depositing his title deed i.e. Gift deed with the plaintiff towards security for the amount borrowed and that according to the said registered mortgage deed, the defendant has to pay an amount of Rs.6,000/- per month towards interest @24% on the principal amount and that if the defendant failed to pay the interest continuously for a period of three months, the defendant is liable to pay the compound interest @24% p.a. on the amount due.

8) But subsequently, in spite of repeated requests and demands made by the plaintiff, the defendant failed to pay any amount towards interest accrued or the principal amount by postponing the same on one pretext or the other and tryings

to alienate the schedule -B property to the third parties with a view to evade the debts and immediately the plaintiff got issued legal notice to the defendant on 22.08.2022 demanding to repay the amount due under the mortgage, but the defendant with a mala fide intention to evade the payment of debt to the plaintiff, wantonly not claimed the legal notice and returned to the sender. Hence, the suit.

9) In support of the case the plaintiff, the plaintiff is examined herself as P.W.1 and got marked the original registered mortgage deed executed by the defendant in favour of plaintiff dated 01.02.2016 as Ex.A.1, original registered gift deed in favour of the defendant dated 01.09.2015 as Ex.A.2 showing that he is the absolute owner of the plaint B schedule property, office copy of registered lawyer's notice issued to the defendant dated 19.08.2022 as Ex.A.3, original postal receipt bearing No.RN693587962IN dated 22.08.2022 as Ex.A.4, Original return registered postal cover with acknowledgment card dated 02.09.2022 as Ex.A.5.

10) During chief examination of P.W.1, she reiterated the plaint averments. The evidence of P.W.1 stands unchallenged. Basing on the evidence of P.W.1 along with Exs.A.1 to A.5, in the absence of contrary evidence, this court is of the opinion that the plaintiff has established his case that the defendant borrowed an amount of Rs.3,00,000/- from the plaintiff on 01.02.2016 and executed the registered mortgage deed, registering the Schedule-B property in favour of plaintiff, agreeing to repay the same with interest @24% p.a. but subsequently he failed to pay the same. Accordingly, the point is answered.

11) In the result, the suit is **preliminarily decreed** with costs in favour of plaintiff and against the defendant, directing the defendant to pay a sum of **Rs.07,94,400/-** (Rupees Seven Lakhs, Ninety four thousand, four hundred only) on the foot of Registered Mortgage Deed dated 01.02.2016 together with subsequent interest @ 12% p.a from the date of filing of the suit till the date of decree and thereafter @ 6% p.a. from the date of decree till date of realization on principal amount of Rs.3,00,000/- (Rupees three Lakhs). The time for redemption was granted for six months.

Dictated to the Stenographer Gr.III directly on computer system, corrected and pronounced by me in the open Court, this the 19<sup>th</sup> day of March, 2024.

**Sd/- x x U. Madhuri x x**

**V Additional Junior Civil Judge,  
Visakhapatnam.**

#### **APPENDIX OF EVIDENCE**

##### **For Plaintiff :**

##### **For Defendant : Nil**

P.W.1 : Potti Renuka Devi (plaintiff)

#### **No. of Exhibits marked**

##### **For Plaintiff :**

Ex.A1 : Original registered mortgage deed executed by the defendant in favour of plaintiff dated 01.02.2016.

Ex.A2 : original registered gift deed in favour of the defendant dated 01.09.2015,

Ex.A3 : office copy of registered lawyer's notice issued to the defendant dated 19.08.2022,

Ex.A.4 : original postal receipt bearing No.RN693587962IN dated 22.08.2022,

Ex.A5 : Original return registered postal cover with acknowledgment card dated 02.09.2022.

##### **For Defendant : Nil**

**Sd/- x x U. Madhuri x x  
V AJCJ/VSP**