**IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TENKASI**

Present: Thiru. B. Rajavel, B.Sc., B.L.,
Principal District Judge, Tenkasi

Friday the 10th day of July 2026

**O.S. No. 211 of 2024**

**(CNR.No.TNTS010031972024)**

Komu … Plaintiff

Versus

1. Subbulakshmi
2. Geetha
3. Malathi
4. Kaleeswari … Defendants

This suit is coming on for hearing before me this day, in the presence of Thiru.K.Thangadurai, learned counsel for the plaintiff and Thiru. X.Fransis Xavier, learned counsel for the defendants and upon perusing the pleadings, oral and documentary evidence, and upon hearing both sides, this Court delivers the following Judgment:

**JUDGMENT**

This suit has been filed directing the defendants to pay a sum of Rs.10,88,263/- with interest for the principal amount of Rs.8,00,000/- from the date of plaint till the date of realization, failing which directing the sale of plaint schedule property and to set off the sale proceeds towards the amount to be recovered from the defendants and if the suit claim is not satisfied even after the set off of aforesaid sale proceeds, to pass a personal decree against the defendants for such balance amount and for the costs.

2. **<u>The brief averments stated in the plaint are as follows:-</u>**

(i) The plaintiff states that the suit property is situated within the territorial jurisdiction of this Court and belongs to the defendants. According to the plaintiff, on 25.08.2021, the defendants borrowed a sum of Rs.8,00,000/- from the plaintiff for their family expenses and, as security for the loan, executed a registered mortgage deed in favour of the plaintiff. The mortgage deed was registered as Document No.1840 of 2021 in the Office of the Sub-Registrar, Uthumalai.

(ii) As per the terms of the mortgage, the defendants agreed to repay the principal amount with interest at the agreed rate, and the mortgage was to remain in force for a period of three years. The defendants, however, failed to pay either the principal or the interest as agreed, despite repeated demands made by the plaintiff. The plaintiff thereafter caused a legal notice dated 24.07.2024 calling upon the defendants to pay the mortgage amount together with interest and redeem the mortgage. Defendants 2 and 3 received the notice, while defendants 1 and 4 returned the notice without receiving it. Despite service of notice, the defendants neither complied with the demand nor sent any reply. Hence, the plaintiff has filed the present suit seeking recovery of the mortgage amount together with interest and other consequential reliefs as against the defendants.

3. **<u>The brief averments in the Written Statement of defendants 1 to 4 are as follows:-</u>**

(i) The defendants deny the plaint averments except those specifically admitted. They contend that they did not borrow Rs.8,00,000/- as alleged by the plaintiff. According to them, they approached the plaintiff only for a loan of Rs.6,00,000/-. However, the plaintiff insisted that a registered mortgage deed should be executed for Rs.8,00,000/- and that the original title deeds should also be handed over as security. Having no other option, the defendants executed the mortgage deed dated 25.08.2021.

(ii) The defendants further stated that on the date of execution of the mortgage deed, the plaintiff paid only Rs.5,00,000/- in cash and the remaining Rs.1,00,000/- was paid later on 09.03.2022 through GPay. Thus, according to the defendants, the total loan advanced by the plaintiff was only Rs.6,00,000/-.

(iii) The defendants also contend that they have repaid Rs.1,70,000/- towards the loan amount. Out of this, Rs.44,000/- was paid through GPay to the plaintiff's nephew, Udayakumar, and Rs.1,26,000/- was transferred on various dates to the bank account of the plaintiff's wife, Maruthu Selvi, as instructed by the plaintiff. According to the defendants, after adjusting the repayments, only Rs.4,30,000/- remains due, if at all. They allege that the plaintiff has deliberately suppressed the payments made through the accounts of his wife and nephew and has filed the suit fraudulently for recovery of the entire mortgage amount. On these grounds, the defendants pray that the suit be dismissed with costs.

**4. Issues framed on 07.02.2025 are as follows:-**

1. Whether it is true that the defendants borrowed a sum of Rs.8,00,000/- from the plaintiff and executed a mortgage deed in his favour?
2. Whether it is true that the defendants borrowed only Rs.6,00,000/- as contended by them?
3. Whether it is true that the first defendant has already repaid a sum of Rs.1,70,000/- towards the loan amount?
4. Whether the plaintiff is entitled to the reliefs/decree as prayed for in the plaint?
5. To what other reliefs, if any, is the plaintiff entitled?

**5.** In this case on the side of plaintiff, the plaintiff was examined himself as P.W.1 and Tmt.Marudhuselvi who is wife of the plaintiff was examined as P.W.2 and

Ex.A1 to A4 and Ex.X1 to X4 were marked. On the side of Defendants D.W.1 to D.W.3 were examined and no documents marked.

**6. Issues 1&2:-**

The principal defence of the defendants is that, although they approached the plaintiff for a loan of Rs.6,00,000/-, the plaintiff insisted that they execute a registered mortgage deed for Rs.8,00,000/- and hand over the original title deeds as security. According to the defendants, only Rs.5,00,000/- was paid at the time of execution of the mortgage deed and the balance Rs.1,00,000/- was paid subsequently, thereby making the total loan only Rs.6,00,000/-.

**7.** It is an admitted fact that the defendants executed the registered mortgage deed dated 25.08.2021. Under Section 91 of the Indian Evidence Act, 1872, where the terms of a contract or disposition of property have been reduced to writing, the document itself is the best evidence of its contents, and no evidence can be given in proof of its terms except the document itself. Section 91 applies not only where parties voluntarily reduce the terms of a transaction into writing but also where the law requires such transaction to be evidenced by a written document, as in the case of a registered mortgage. Section 92 of the Indian Evidence Act further provides that once the execution of such written document is admitted, no oral evidence can be adduced to contradict, vary, add to or subtract from its terms, except in cases falling under the recognised exceptions such as fraud, coercion, misrepresentation or other vitiating circumstances.

**8.** In the present case, the defendants have admitted the execution of the registered mortgage deed. They have neither pleaded nor established any case of fraud, coercion, misrepresentation or any other recognised exception under Section 92 of the Indian Evidence Act. Therefore, the plea that the mortgage deed for Rs.8,00,000/- was executed only as security for a loan of Rs.6,00,000/- cannot be accepted on the basis of oral evidence alone, as it directly contradicts the recitals contained in the registered mortgage deed. Accordingly, the said defence is rejected. This issues are answered in favour of the plaintiff.

**9. Issues 3&4**

The next defence of the defendants is that, although the mortgage deed was executed, they subsequently repaid part of the loan by making payments through the plaintiff's nephew, Udayakumar, and by depositing amounts into the bank account of the plaintiff's wife, Maruthu Selvi, as instructed by the plaintiff. During cross-examination, the plaintiff made the following admissions:

> "It is true that I sent Rs.1,00,000/- to the first defendant through GPay using the bank account of my sister's son, Udayakumar."
>
> "It is true that I gave the bank account numbers of my wife and Udayakumar and instructed the defendants to deposit the amounts into those accounts."

These admissions clearly establish that the plaintiff not only advanced part of the loan through his nephew, Udayakumar, but also instructed the defendants to make repayments into the bank accounts of his wife and nephew. Therefore, any amount credited to those accounts after the execution of the mortgage deed dated 25.08.2021 must ordinarily be treated as repayment towards the mortgage debt unless the plaintiff proves otherwise.

**10.** The defendants have specifically pleaded that a sum of Rs.1,26,000/- was credited to the bank account of the plaintiff's wife, Maruthu Selvi. To rebut this plea, Maruthu Selvi was examined as P.W.2. In her chief examination, she stated that the amounts received from Krishna Pravin, the son of the first defendant, related to a personal loan transaction between herself and Krishna Pravin and had no connection with the mortgage transaction. However, during cross-examination, she admitted that a sum of Rs.1,26,000/- had been credited to her savings bank account through thirteen transactions. She also admitted that she neither knew Subbulakshmi nor had she met her sons. In such circumstances, her claim that she had personally lent money to Krishna Pravin and later recovered the same appears highly improbable. Significantly, she admitted that no document was executed in respect of the alleged personal loan of Rs.1,50,000/- said to have been advanced by her to Krishna Pravin. When these admissions are considered together with the plaintiff's own admission that he had instructed the defendants to deposit repayments into his wife's bank account, this Court is unable to accept the explanation offered by P.W.2. Accordingly, this Court holds that the sum of Rs.1,26,000/- credited into the bank account of Maruthu Selvi represents repayment made by the defendants towards the mortgage loan at the request of the plaintiff.

**11.** This conclusion is further strengthened by the evidence of Krishna Pravin, who was examined as D.W.2. He produced his bank statements for the period from 2021 to 2023, which were marked as Exhibits B1 to B3. The dates and amounts mentioned in the written statement fully tally with the entries found in Exhibits B1 to B3. Although P.W.2 did not produce her own bank statement, she has admitted that Rs.1,26,000/- was credited to her account through Krishna Pravin. Hence, the non-production of her bank statement does not affect the defendants' case. The defendants have further pleaded that they repaid Rs.44,000/- through the bank account of Udayakumar. However, no documentary evidence has been produced in support of the said payment, nor has Udayakumar been examined as a witness. Therefore, the alleged repayment of Rs.44,000/- has not been proved. Accordingly, this Court holds that the defendants have proved repayment of Rs.1,26,000/- towards the mortgage debt but have failed to establish the alleged repayment of Rs.44,000/-.

**12.** Since the suit is based on a registered mortgage deed, it is a secured loan. In exercise of the powers conferred under Section 7(1) of the Tamil Nadu Money-Lenders Act, 1957, the Government of Tamil Nadu issued G.O. Ms. No.406, Co-operation Department, dated 05.07.1979, published in the Tamil Nadu Government Gazette (Extraordinary), Part II, Section 2, dated 06.07.1979, fixing the maximum rate of interest chargeable by a money-lender at 9% per annum simple interest in respect of secured loans and 12% per annum simple interest in respect of unsecured loans. Therefore, even if the mortgage deed provides for a higher rate of interest, the plaintiff, being governed by the above statutory notification, is entitled only to 9% simple interest per annum on the mortgage amount.

**13.** As already held, the defendants have proved repayment of Rs.1,26,000/- towards the mortgage debt. Hence, the plaintiff is entitled to recover only the balance mortgage amount after giving due credit to the said payment, together with simple interest at 9% per annum, in accordance with G.O. Ms. No.406, Co-operation Department, dated 05.07.1979, issued under Section 7(1) of the Tamil Nadu Money-Lenders Act, 1957. This issue is answered accordingly.

**14. Issue No.5:-**

In view of the findings on all the above issues, this plaintiff is not entitled to any other relief. Hence, this issue is decided against the plaintiff.

In the Result, the suit is partly decreed with proportionate costs. The defendants are jointly and severally directed to pay the plaintiff a sum of Rs.6,74,000/- (Rupees Six Lakhs Seventy-Four Thousand only), after giving credit to the repayment of Rs.1,26,000/-, together with simple interest at 9% per annum from the date of suit till the date of realization. The defendants are granted three months time from the date of this decree to pay the decretal amount and redeem the mortgage. In default of such payment within the stipulated period, the plaintiff shall be at liberty to enforce the mortgage by bringing the mortgaged property to sale in accordance with law and realise the decretal amount from the sale proceeds.

Directly dictated to the Steno-Typist and typed by her, corrected and pronounced by me in the Open Court on this the 10th day of July 2026.

BALUCHAMY RAJAVEL
Digitally signed by BALUCHAMY RAJAVEL
Date: 2026.07.23 17:01:48 +0530

**Principal District Judge,**
**Tenkasi.**

**Witness Examined on the side of the Plaintiff.**

P.W.1 Thiru.Komu ( Plaintiff)

P.W.2 Tmt.Maruthuselvi

**<u>Exhibits marked on the side of the Plaintiff</u>**

| | | |
|---|---|---|
| Ex.A1 | 25.08.2021 | Mortgage Deed executed by the defendants in favour of the plaintiff (Original). |
| Ex.A2 | 24.07.2024 | Advocate notice sent by the plaintiff to the defendants. |
| Ex.A3 | --- | Acknowledgment cards 2 Nos. |
| Ex.A4 | --- | Returned postal cover with acknowledgment card. |

**<u>Witness Examined on the side of defendant:</u>**

D.W.1 Tmt.Subbulakshmi

D.W.2 Thiru.Krishnapraveen

D.W.3 Tmt.Sabeena, Manager, Central Bank of India.

**<u>Exhibit marked on the side of the defendant: Nil</u>**

**<u>Witness documents:-</u>**

Ex.X1 Axis Bank Account Statement of D.W.2.
Ex.X2 Axis Bank Account Statement of D.W.2.
Ex.X3 Axis Bank Account Statement of D.W.2.
Ex.X4 Central Bank of India Account Statement of wife of the plaintiff.

BALUCHAMY RAJAVEL

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Date: 2026.07.23 17:01:55 +0530

Principal District Judge,

Tenkasi.