Form No.9
(Civil)
Title sheet for Judgment
in suits (R.P.91)

KACN220011552023

IN THE COURT OF THE I ADDL. CIVIL JUDGE AND JMFC., GUNDLUPET

Present :
Sri. Girisha.R.B., B.A.L, LLB,
I Addl. Civil Judge & JMFC
Gundlupet.

Dated this the 09th day of June 2026

O.S. No.304/2023

Plaintiff :	**Manju** S/o Late. Basappa Aged about 51 years, R/at : Kandegala village, Kasaba Hobli, Gundlupet Taluk. **(By Sri.G.R -**Advocate**)**
	V/s
Defendant:	**Shivarajappa** S/o Late. Shivappa Aged about 50 years, R/at : Sheelavanthapura village, Terakanambi Hobli, Gundlupet Taluk. **(By Sri. H.S.R. -**Advocate**)**

TABULATION OF EVENTS

Date of institution of the suit	**:**	**17.11.2023**
Nature of the suit	**:**	**Money Suit**
Date of commencement of Recording evidence	**:**	**10.02.2026**
Date on which the judgment Was pronounced	**:**	**09.06.2026**

		Year/s	**Month/s**	**Day/s**
Total duration	**:**	**02**	**06**	**23**

I Addl. Civil Judge & JMFC.,
Gundlupet.

J U D G E M E N T

This is a suit filed by the Plaintiff for recovery of money.

2. The facts of the case of the plaintiff is as follows:

It is the case of the Plaintiff that on 06.02.2018 the defendant has approached the plaintiff for a loan of Rs.1,00,000/- for family necessities and the plaintiff has agreed to give the said loan to the defendant on certain terms and conditions. It is submitted by the Plaintiff that the defendant has agreed to the terms and conditions of the said loan and borrowed Rs.1,00,000/- from plaintiff and executed a registered Hypothecation deed mortgaging the suit schedule property. The plaintiff submits that the defendant has agreed to pay the interest at the rate of 1.50 percent per month on the said loan amount from time to time. The plaintiff submits that defendant has not paid any amount either towards interest or principle amount. The plaintiff submits that the plaintiff has made several demands to pay the said loan amount along with interest but the defendant has failed to pay the same. The plaintiff submits that the defendant has failed to pay the principle amount of Rs.1,00,000/- and interest by way of damage.

3. The Plaintiff further submit that despite repeated demands, the Defendant did not repay the said loan amount and later the plaintiff has issued legal notice to the Defendant, calling upon the Defendant to repay the said loan amount. The said legal notice served to the defendant, but the defendant has not paid any amount. Hence, without any alternative, plaintiff has filed this suit. The plaintiff submits that the cause of action has arose on 06.02.2018 and subsequently within the jurisdiction of this Hon'ble court.

4. Further, the Plaintiff contended that as on the date of filing of this suit the Defendant is liable to pay Rs.2,01,00/-. By contending so, the Plaintiff has prayed for Judgment and Decree as sought for.

5. After the presentation of the plaint, the same was registered and suit summonses were issued and the same have been duly served on the Defendant and

Defendant has entered appearance through his counsel and filed the written statement wherein he has denied the averments made in the plaint. It is submitted by the Defendant that the defendant has not obtained any loan from the plaintiff. It is submitted by the Defendant that the plaintiff has filed the above false suit with the intention of causing trouble to the defendant to make an unlawful gain. With these averments defendant prays to dismiss the suit.

6. In support of their case, plaintiff by name G.C.Chandru has examined himself as PW.1 and produced 3 documents, which were marked as Ex.P-1 to Ex.P-3 and also examined one witness by name Mahadevappa as PW-2. In support of his contention defendant has examined herself as DW-1.

7. Upon considering the rival contentions raised by the parties, the following issues have been framed.

I S S U E S

1. **Whether the plaintiff proves that he has advanced the loan of Rs.1,00,000/- to defendant on 06.02.2018 and defendant has agreed to pay interest of 1.50% per month by executing registered hypothecation deed for suit property?**

2. **Whether the plaintiff proves that the plaintiff is entitled for the relief as prayed for? if so, what is rate of interest?**

3. **What order or decree?**

8. Now, my answers to above issuess are as follows:

Issue No.1: In the **Affirmative**
Issue No.2: **Partly in the Affirmative**
Issue No.3: As per final order for the following :

REASONS

9. Point No.1 and 2 : These three points are taken together for discussion since they are interconnected with each other and so also they require common discussion.

10. The present suit is filed for the relief of recovery of money of ₹.2,01,000/-. It is the case of the plaintiff that the defendant has executed registered mortgage deed by pledging the suit property i.e., property Sy. No.30/1, totally measuring 4 acres 27 guntas out of that 1 adcre 4 acres, sitauted at Sheelavanthapura village, Terakanambi Hobli, Gundlupet Taluk. That, the defendant has executed the said mortgage deed and agreed to Pay interest rate of 1.50 percent per annum. In support of his case, the plaintiff himself examined as PW-1 and produced as many as 3 documents which were marked as Ex.P-1 to Ex.P-3. On the other hand, in order to prove his contention, defendant himself examined as DW-1 and did not produced any documents.

11. Before adverting to the materials available on recorded, it is better to go through the arguments canvassed by learned counsels for the parties. Wherein during the course of arguments, Learned counsel for the plaintiff has argued that that on 06.02.2018 the defendant has borrowed Rs.1,00,000/- from the plaintiff executed a registered Hypothecation deed mortgaging the suit schedule property and the defendant has agreed to pay the interest at the rate of 1.50 percent per month on the said loan amount from time to time. It is further argued that, the defendant has not paid any amount either towards interest or principle amount even after several demands by the plaintiff. Further it is argued that defendant has replied to the notice issued by the plaintiff though it is served on him. That, the defendant has not denied the alleged mortgage deed which was marked as Ex.P-1. It is further argued that, during the course of cross examination DW1 himself admits that he has mortgaged the suit property as per Ex.P-1. It is further argued that the defendant though has led his evidence by filing affidavit in lieu of his chief examination, but he has not produced any documents. Therefore it is argued that in the absence of Documentary evidence in civil suits, the only leading evidence by way of filing affidavit is not sufficient to hold that the defendant has not obtained any loan amount from the plaintifff. Hence it is pray to decree the suit.

12. On the other hand, Learned counsel for the defendant has vehemently argued that the plaintiff has created the alleged exhibit Ex.P-1 i.e. Mortgage deed. It is further argued that the defendant has not obtained any loan from the plaintiff. That, the plaintiff is habit to file several suit against other persons and the present suit is filed just to harass the defendant. Hence it is prayed to dismiss the suit.

13. In the above said light of arguments it is better to go through the oral as well as documentary evidence available and record. On perusal of evidence seduced by the defendant, it is very apparent that during the course of cross-examination, the DW-1 has categorically admitted the said execution of mortgage deed by him. Now the question remains whether the defendant has borrowed the said loan amount i.e. of ₹. 1,00,000/- from the plaintiff or not. It is to be noted that before filing the present suit the plaintiff has issued legal notice to the defendant as per Ex.P-2. Further it appears that as per Ex.P-3 the said notice has been duly served upon the defendant. But interestingly The defendant has not replied the said notice to the best reasons known to him.

During the course of arguments, Learned counsel for the defendant has argued that the suit is barred by Law of limitation. The present suit ought to have been filed within 3 years from 06.02.2018. But the present suit is filed during the year 2023. Hence it is prayed to dismiss the suit on the ground of limitation.

14. It is to be noted that the plaintiff has filed the present suit on the basis of mortgage deed. Thus, Article 62 of Limitation Act comes into play. As per the said article the limitation for recovery of money in respect of mortgage deed is 12 years. Accordingly the plaintiff has filed the present suit in time.

15. For better appreciation it is better to go through the cross examination portion of DW-1. Wherein during the course of cross examination DW1 has categorically stated as under :

"ದಿಃ 06.02.2018 ರಂದು ನಾನು ದಾವಾ ಸ್ವತ್ತನ್ನು ವಾದಿಗೆ ಆದಾರ ಮಾಡಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ1 ರಲ್ಲಿ ಕಾಣುವ ಫೋಟೋ ಮತ್ತು ಸಹಿಗಳು ನನ್ನದೆ."

16. From the above said portion evidence of DW-1 it is very apparent that the DW1 has clearly admitted the alleged mortgage deed which claimed to be executed by him. Further in order to prove the same the plaintiff has examined another witness by name Mahadevappa who has identified his signature on Ex.P-1 which was marked as Ex.P-1(b). Thus, it appears that the plaintiff has successfully proved that the defendant has executed the alleged mortgage deed by obtaining loan of ₹.1,00,000/-.

17. However in support of his contention, the defendant has not examined any witnesses nor produced any documents to show that he has not obtained loan amount as pleaded in his written statement. Therefore this Court is of the considered opinion that the plaintiff has successfully proved that the defendant has executed the mortgage deed by mortgaging the suit property and obtained loan of ₹.1,00,000/- and agreed to pay interest of ₹.1.5 per annum. Considering the facts and circumstances of this case, the plaintiff is entitled to recover the interest 6% p.a. not the interest rate as prayed in the plaint. Hence, the Plaintiff is entitled for the amount of Rs.1,00,000/- along with the interest of 6% from the date of execution of hypothication deed till the realisation. Hence, **issue No.1 is answered in Affirmative** and **issue No.2 is answered in the Partly Affirmative.**

19. ISSUE NO.4: In view of my findings to above points, I pass the following-

O R D E R

The Suit of the plaintiff is partly decreed with cost.

The plaintiff is entitle for Rs.1,00,000/- with with interest at the rate of 6% per annum from the date of execution of mortgage deed till the date of realization.

The defendant is granted one month time to repay the decree amount. In case the defendant did not pay the decree amount as stipulate above, the plaintiff is at liberty to seek for sale of the suit schedule property.

Draw preliminary decree accordingly.

(Dictated to the stenographer, computerized by him, revised and corrected and then pronounced in the open Court on this the 9th day of June 2026)

(Girisha.R.B)
I Addl. Civil Judge & JMFC,
Gundlupet.

ANNEXURE

I: LIST OF WITNESSES EXAMINED ON BEHALF OF PLAINTIFF/S:

PW-1 : Manju

PW-2 : Mahadevappa

II: LIST OF DOCUMENTS MARKED ON BEHALF OF PLAINTIFF/S:

Ex.P-1 : Mortgage deed dated 06.02.2018

Ex.P-2 : Notice dated 15.06.2023

Ex.P-3: Postal acknowledgment

III: LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANT/S:

DW-1 : Shivarajappa

IV: LIST OF DOCUMENTS MARKED ON BEHALF OF DEFENDANT/S:

NIL

(Girisha.R.B)
I Addl. Civil Judge & JMFC,
Gundlupet.