



ORDER BELOW EXH. 1 IN
R.C.S. NO. 89/2016.

Vithoba Laxman Kamble Vs.
Smt. Sakhu Mahadev Aambi

This is the suit for perpetual injunction. The sum and substance of the pleadings of the plaintiff are that, the suit property bearing Gat No. 91, situated within the limits village Gaulwadi, Tal. Chandgad, an area of 25.3 R out of it's total area of H. 0-76 R is mortgaged with the plaintiffs by conditional sale, by the husband of the defendant No. 1 by registered mortgage deed dtd. 10/12/2009. The plaint is silent as regards having any valid license by the plaintiff for doing money lending business under the provisions of the Bombay Money Lenders Act, 1946, then applicable. Section 10 of the said Act reads as under :-

Section 10. Stay of suits by money-lenders not holding licence.-

(1) No Court shall pass a decree in favour of a money-lender in any suit to which this Act applies [including such suit pending in the Court before the commencement of the Bombay Money-lenders (Amendment) Act, 1975] (Mah. LXXVI of 1975) unless the Court is satisfied that at the time when the loan or any part thereof, to which the suit relates was advanced, the money-lender held a valid licence, and if the Court is satisfied that the money-lender did not hold a valid licence, it shall dismiss the suit.

(2) Nothing in this section shall affect-

(a) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force;

(b) the powers of a Court of Wards, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency-towns Insolvency Act, 1909 (III of 1909), or the Provincial Insolvency Act, 1920 (V of 1920) or any other law in force corresponding to that Act, or of a liquidator under the Companies Act, 1956 (I of 1956), to realise the property of a money-lender.

2. In view of the said mandatory provision, *prima facie* the suit is required to be stayed. However, an opportunity is required to be granted to be plaintiff to satisfy on the said point. Hence, following order.

ORDER

The plaintiff is hereby called upon to satisfy the Court as to why the suit shall not be dismissed in view of section 10 of the Bombay Money Lenders Act, 1946.

Sd/-

Chandgad
dt.18/06/2019

(Amrit C.Birajdar)
Civil Judge Junior Division, Chandgad

CERTIFICATE

I affirm that the contents of this P. D. F. file Judgment/Order are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	Shri. V.G. Kamble, L. G. Stenographer.
Name of Court	Shri. A. C. Birajdar, Civil Judge, Junior Division and Judicial Magistrate, First Class, Chandgad.
Date of Dictation	18/06/2019
order signed by the P. O. on	18/06/2019
order uploaded on	20/06/2019