was agreed that the possession of the house should be handed over to Ponnupandi and that he shall enjoy the same in lieu of the interest. Thus, it is clear that the said document was intended to be an usufructuary mortgage. But, later another made over agreement between the present plaintiff and the legal heirs of Ponnupandi was entertained on 12.07.2021 wherein it was mentioned that the possession was not handed over by the said Banumathi and hence the present plaintiff had made payment of the principal with interest to the legal heirs of Ponnupandi. Hence, it is found that possession was not handed over and the said agreement was not given effect to. Hence, the said document cannot be treated as usufructuary mortgage deed but only an agreement vouching borrowal of the amount. Hence, this court is of the considered opinion, that the said document cannot be treated as an

usufructuary mortgage deed and can be treated only as an agreement. Hence, the document is ordered to be received in evidence subject to proof and admissability.

A K MEHBUB ALIKHAN
Digitally signed by A K MEHBUB ALIKHAN
Date: 2024.03.11 18:33:46 +0530

A.D.J.,
Dgl.,

11.03.2024

Separate orders passed in respect of the document dated 15.10.2018 regarding stamp duty penalty.

Records perused. This court entertained doubt about the nature of the document dated 15.10.2018 when it was attempted to be exhibited on the side of the plaintiff. A perusal of the said document revealed that it is an usufructuary mortgage deed but it was treated as lease agreement by the plaintiff and it was sought to be marked. Hence, clarification was sought from the plaintiff's counsel and it was posted for orders today.

The learned counsel argued that the document dated 15.10.2018 is only an agreement leasing out the property for a sum of Rs.22,00,000/- and hence this cannot be treated as mortgage deed.

On a perusal of the said document, it is found that a sum of Rs.22,00,000/- was lent to one Banumathi by Ponnupandi and as the said Banumathi could not pay interest, it