

In the Court of the Subordinate Judge at Kanchipuram

Present: Tmt. A. Packia Jothi, M.L.,

Subordinate Judge

Wednesday, the 3rd day of October 2018

OS. No.28/2018

S. Vasu

.. Plaintiff

Vs.

1. C. Sundaram

represented by his Power of Attorney Jeeva

2. C. Sundaram

.. Defendants

This suit is coming on this day 03.10.2018 for hearing before me in the presence of M/s. P.K.Thevarajan, G.Maharajan, G.pandurangan, Advocates for plaintiff and the defendant being called absent set ex parte and upon hearing the plaintiff side and having stood over for consideration till this day, this court delivered the following

JUDGMENT

Suit is for recovery of money for a sum of Rs.2,40,221/- being the principal and interest due on a pronote executed by the defendant in favour of the plaintiff for a sum of Rs.1,50,000/- on 18.09.2014 together with interest at the rate of 18%p.a. from the date of suit till the date of realization and for costs of the suit.

2. The Plaintiff has filed the suit stating that 1st defendant has borrowed a sum of Rs.1,50,000/- from the plaintiff on 18.09.2016 for her family expenses and executed a registered simple mortgage deed in favour of the plaintiff agreeing to repay the same with interest at the rate of 18% p.a. The defendant has not chosen to repay the amount either towards interest or principal. The plaintiff has sent a legal

notice on 12.01.2018. The 2nd defendant has received the notice. The acknowledgement card of the 1st defendant has not been received. Hence, the suit has been filed for preliminary decree on mortgage for recovery of a sum of Rs. 2,40,221/- with interest at the rate of 18% p.a. from the date of plaint till the date of realization.

3. The defendant has remained ex parte.

4. The issue for consideration is

1. Whether the plaintiff is entitled to the decree as prayed for?

2. To what other relief the plaintiff is entitled to?

5. On Issues :-

It is the case of the plaintiff that the 1st defendant has borrowed a sum of Rs.1,50,000/- from the plaintiff on 18.09.2016 for her family expenses and executed a registered simple mortgage deed in favour of the plaintiff agreeing to repay the same with interest at the rate of 18% p.a. The defendant has not chosen to repay the amount either towards interest or principal. The plaintiff has sent a legal notice on 12.01.2018. The 2nd defendant has received the notice. The acknowledgement card of the 1st defendant has not been received. Hence, the suit has been filed for preliminary decree on mortgage for recovery of a sum of Rs. 2,40,221/- with interest at the rate of 18% p.a. from the date of plaint till the date of realization. The mortgage deed executed by the defendant Sundaram by borrowing a sum of Rs.1,50,000/- agreeing to repay with interest of Rs.1.50 for Rs.100/- per month by mortgaging the suit property has been marked as Ex.A.1. The legal notice which has been sent

demanding the amount has been marked as Ex.A.2. The acknowledgement card is Ex.A.4. The defendant has failed to pay the amount. Hence, the defendants are liable to pay a sum of Rs.2,40,221/- along with interest on Rs.1,50,000/- at the rate of 18%p.a. from the date of plaint till the date of decree and at 6% p.a. thereafter till realization.

6. In the result, preliminary decree is passed with costs for a sum of Rs.2,40,221 along with interest on Rs. 1,50,000/-at the rate of 18% p.a. from the date of plaint till the date of decree and at 6% p.a. thereafter till realization. Time for payment: 2 months.

Dictated to the Shorthand writer, typed by her, corrected and pronounced by me in open court, this the 3rd day of October 2018.

Sd./-A. Packia Jothi
Subordinate Judge,
Kanchipuram.

Exhibits on Plaintiff's side:

- Ex.A.1 18.09.2014 Simple mortgage deed executed by the defendant in favour of plaintiff.
- Ex.A.2 12.01.2018 Legal notice to the 1st defendant
- Ex.A.3 12.01.2018 Legal notice to the 2nd defendant.
- Ex.A.4 -- Postal receipt of the 1st defendant.
- Ex.A.5 16.01.2018 Postal acknowledgement of the 2nd defendant

Witnesses on Plaintiff's side:

P.W.1 Thiru. S. Vasu

Exhibits and Witnesses on Defendant's side: NIL.

Sd./-A. Packia Jothi

S.J.

Draft/Fair Judgment
O.S.No.28/2018
Sub Court, Kanchipuram
Date: 03.10.2018

