In the Court of the Subordinate Judge, Usilampatti.

Present : **Tmt. L.Maheswari, M.L.,**

Subordinate Judge, Usilampatti

Thursday, the 09th day of July 2026

[Original Suit No.197/2024 [CNR No.TNMD240004242025]

Mariyammal … Plaintiff

/Versus/

Asaikkani … Defendant

This suit is coming up before me for final hearing on 09.06.2026, in presence of learned counsel **Thiru.A.C. Balachandran** Advocate for plaintiff and learned counsel **Thiru.P. Selvaraj** Advocate for defendant, and upon perusal of case records and after hearing the both side arguments, and this suit having stood over for consideration till this day, this court delivered the following:-

JUDGMENT

This suit has been filed for , directing the directing the defendant to pay a sum of Rs.8,67,479/- with interest at the rate of 12% per annum on Rs.6,50,000/- from the date of plaint till the date of decree and pay the interest at the rate of 6% from the date of decree till the date of realization in full to the plaintiff within a reasonable time to be fixed by this honourable court failing which directing the suit property to be brought for sale without attachment and appropriate sale proceeds towards the decree amount and passing a personal decree if the sale proceeds are not sufficient for payment of the decree against the defendant to pay the cost.

2) Brief averments of the plaint as follows:

i) The case of the plaintiff that the suit property belongs to the defendant absolutely by means of registered sale deed dated 12.06.2019. She had borrowed a sum of Rs.4,00,000/- (Four Lakh Rupees only) from the plaintiff for her family expenses and discharging her previous debts and for the said loan, she had executed a registered simple mortgage deed in favour of the plaintiff on 05.08.2019 pertaining to the suit property. As per the terms of the said simple mortgage deed, the said defendant was bound to pay the interest at the rate of 12% per annum for two years. The period of redemption was only 2 years. At the time of borrowing the above loan amount, the defendant handed over her above original sale deed to the plaintiff.

ii) After the said mortgage deed, the defendant came paying stipulated interest for the above principal amount of Rs.4,00,000/-. In the circumstance, the defendant obtained an additional loan amount of Rs.2,50,000/- (Two Lakh and fifty thousand rupees only) from the plaintiff for her family expenses and discharging her previous debts and for the said additional loan amount, she had executed a registered additional simple mortgage deed in favour of the plaintiff on 02.02.2022 pertaining to the suit property. As per the terms of the said simple mortgage deed, the said defendant was bound to pay the interest for the total principal amount of Rs.6,50,00/- (Six lakh and fifty thousand rupees) at the rate of 12% per annum for two years. The period of redemption was only 2 years.

iii) After the above said additional mortgage deed dated 02.02.2022, the defendant has not paid any interest for the above principal amount of Rs.6,50,000/- or towards interest in spite of repeated demands and reminders made by the plaintiff. The said 2 years period of redemption also became expired on 01.02.2024 and after two years, the defendant is bound to pay the interest at the rate of Rs.1.25 month for Rs.100/- but the defendant has not paid any amount either towards principal amounts of Rs.6,50,000/- or towards interest in spite of repeated demands and reminders made by the plaintiff. Since several efforts taken by the plaintiff to realize the above amounts out of the court proved to be futile, the plaintiff filed this suit.

03. Brief averments of the Written statement filed by the Defendant is as follows:

i) The defendant denies the allegations made in the plaint. The defendant denied that she did not receive any loan from the plaintiff. The defendant never saw the plaintiff. The defendant had initially abtained a loan for sum of Rs.2,00,000/- from one Velmurugan and for the said loan she mortgaged the property to Velmurugan. She was paying due interest. In this situation, the defendant's relative Chinnasamy brought the defendant Karuthapandi and asked loan of Rs.2,00,000/- to the above Chinnasamy. The said Chinnasamy brought the defendant to the above said Karuthapandi and asked the defendant to execute a simple mortgage deed, the defendant as stated that she had already mortgaged the property to one Velmurugan for loan. Thereafter, the above said Chinnasamy and Karuthapandi asked the defendant to pay only a principal loan amount of Rs.2,00,000/-, The balance amount would be paid by the Chinnasamy and asked the defendant to sign. Thereafter by using the signature of the defendant they have created Ex.A1. Subsequently the defendant had paid Rs.80,000/- twice in total Rs.1,60,000/- to the Karuthapandi out of Rs.2,00,000/- payable to him, therefore the balance amount of Rs.40,000/- only payable by the defendant. The said Karuthapandi acknowledged the amount received by him. Only after filing of this suit alone the defendant came to know that the plaintiff is the wife of the above said Karuthapandi. The defendant ready to pay the balance amount of Rs.40,000/- and seeks to directe the plaintiff to receive the balance amount of Rs.40,000/- cancel the simple mortgage. Further, the defendant said that the plaintiff has filed the above suit with unclean hands by suppressing the material fact and also filed the suit beyond the limitation. Hence, seeks to dismiss the suit.

04. Based on the pleadings set out in the plaint, written statement, this court framed the following issues:

1 Whether the Mortgage deed dated 05.08.2019 in executed by the defendant for consideration?

2 Whether the plaintiff is entitled for preliminary decree as prayed for?

3 To what other reliefs, if any, is the plaintiff entitled?

To substantiate the case, the plaintiff examined herself as PW.1 and 3rd party was examined as PW.2. Ex.A1 to Ex.A3 were marked on the side of the plaintiff. Ex.A1 is the Original Sale Deed, Ex.A2 is the Original of the indemnity bond written to the plaintiff by the defendant and Ex.A3 is the Original of the overpayment bond written to the plaintiff by the defendant. On the side of defendant, she was examined as DW1 and the exhibits were not marked through her.

06. DISCUSSION AND FINDINGS

Issue Nos. 1 & 2:-

i) The plaintiff has instituted the present suit seeking recovery of the mortgage amount by sale of the mortgaged property.According to the plaintiff, the defendant borrowed a sum Rs.4,00,000/- and executed a simple mortgage deed

05.08.2019 and agreed to pay the 12% interest per annum for two years. Thereafter, again the defendant obtained an additional loan amount of Rs.2,50,000/- and executed a additional simple mortgage deed on 02.02.2022 and agreed to pay interest for the total principal amount of Rs.6,50,000/- at the rate of 12% interest per annum for two years. After, expiry of 2 years redemption period the interest rate at Rs.1.25 per month for Rs.100/-, but the defendant neither paid the principal nor paid the interest amount inspite of repeated request demands.

ii) On the other hand the defendant has stated that the plaintiff is unknown to her and and intially she had mortgaged the property to one Velmurugan for loan amount of Rs.2,00,000/-, Subsequently one Chinnasamy and Karuthapandi spoke the honey words and abtained her signature thereafter they have created Ex.A1 document. Further, the defendant has stated that she has repaid Rs.1,60,000/- out of Rs.2,00,000/- and balance to be paid only Rs.40,000/- and she also ready to pay the same to the plaintiff.

iii) Though the defendant has taken the defence as one Karuthapandi and Chinnasamy by making false promise and obtained her signature in simple mortgage deed, and she had paid a sum of Rs.160000/- to Karuthapandi and Karuthapandi issued a receipt for the same, but the defendant has not filed any document in order to substantiate her defence. The defendant can prove her defence by producing receipt issued by Karuthapandi,police complaint or legal notice for the above said payment of Rs.160000/- and false promise made by the above said person and obtaining the signature in simple mortgage deed, but the defendant nither lodged a complaint nor issued legal notice, therefore mere allegation in the absence of any material remains unsustainable. Apart from the above the defendant has not wishpered anything in her written statement or proof affidavit about the excution of additional simple mortgage deed dated 02.02.2022.

iv) Furthermore it is settled law that as per the Indian Evidence Act the documentary evidence prevails the oral evidence, in the present case as already stated above the defendant without any documentary proof to substantiate her defence, simply raised several allegation against the plaintiff.

v) Furthermore though the defendant has stated that she did not know the plaintiff and she did not obtained any loan from the plaintiff, but during the cross examination she has clearly and catagarically admitted the barrowal of Rs.4,00,000/- on 05.08.2019 and additional barrowal of Rs.2,50,000/- in the year 2022 and excution of simple mortgage deed and additional simple mortgage deed and further she admitted that she had read the document and signed in the documents. The relavant portion of DW1 evidence runs as follows.

“ 05.08.2019ல் வாதியிடம் ரூ.4 லட்சம் கடன் வாங்கிக்கொண்டு வாதிக்கு ஈடுகடன் எழுதிக்கொடுத்தேன் என்றால் சரிதான். 2022ல் ரூ.2,50,000க்கு மேல்ஈடுபத்திரம் ஒன்றை வாதிக்கு எழுதிக் கொடுத்தேன் என்றால் சரிதான். ஆனால் ரூ.2,26,000க்கு தான் எழுதிக் கொடுத்தேன். நான் பட்டப்படிப்பு படித்துள்ளேன். ஆவணங்களைப் படித்து பார்த்து கையெழுத்து போட்டேன் என்றால் சரிதான். ”

vi) The above admission is clear, voluntary and unequivocal. It is completely contradics the defence raised by the defendant. It is settled law that an admission is the best evidence against the maker unless satisfactorly explained. Further it is settled law that once the terms of transaction are reduce into writting, Section 91, 92 of the Indian Evidence Act Exclude the oral evidence. In the Present Case the defendant did not Challange martgage deeds.

vii) Further the defendant has also raised a defence of fraud but it is settled law that the fraud must be specifically pleaded and proved by cogent and convincing evidence and cannot be inferred merely from alligations. In the present case also though the defendant has taken the plea of fraud but filed to prove the same through the manner known to law.

viii) Further the defendant has stated that this suit is barred by limitation however the defendant had excuted a simple mortgage deed on 05.08.2019 and excuted a additional simple mortgage deed on 02.02.2022, and agreed to redeem the mortgage within 2 years, the above suit filed on 20.09.2024, therefore the persent suit has been filed within a period of limitation and the same is not hit by law of limitation, thus the above defence taken by the defendant stands unacceptable.

ix) Therefore as discussed above the plaintiff has proved his claim through proper oral and documentary evidence, therefore this court concluds that the mortgage deeds were excuted by the defendant for consideration and the plaintiff is entitled for preliminary decree. Hence, Issue No.1 & 2 decided in favour of the plaintiff.

08. Issue No.3:

The plaintiff is not entitled to any other relief.

In the result, the suit is decreed with cost, accordingly preliminary decree passed,

a) The defendant is directed to pay a sum of Rs.8,67,479/- to the plaintiff together with interest at the rate of 6% per annum from the date of claim till the date of realization.

b) The Defendant is granted two months time to deposite the decretal amount.

c) In default of such payment the plaintiff shall be entitile to obtain a final decree of sale of mortgaged property through public action.

d) If the sale proceeds are insufficient to statisfied the decree amount, the plaintiff is liberty to recover the balance amount from the other individual property of the defendant in accordance with law.

Dictated by me to stenographer directly, computerized by her, corrected and pronounced by me in the open court, this 9th day of July, 2026.

L MAHESWARI
Digitally signed by L MAHESWARI
Date: 2026.07.09 13:26:33 +0530

Sub Judge,
Usilampatti.

Plaintiff's side witness:

PW1: Tmt. Mariammal

PW2: Tr. Karuthapandi

Plaintiff's side Exhibits:

Ex.A1	12.06.2019	Original Sale Deed
Ex.A2	05.08.2019	Original simple mortgage deed
Ex.A3	02.02.2022	Original simple mortgage deed

Defendant's side Witness:-

DW1: Tr. Asaikani

Defendant's side Exhibits:- Nil.

L MAHESWARI

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Date: 2026.07.09 13:26:41 +0530

Sub Judge,
Usilampatti.

Sub Court, Usilampatti,
O.S. No.197/2024
Draft/Fair/Judgment
Dated: 09.07.2026