

**IN THE COURT OF THE DISTRICT MUNSIF, SANKARI**

Present: Tmt. R. ELAMATHI, B.A., B.L.,  
District Munsif, Sankari

Wednesday, the 11<sup>th</sup> day of March, 2026

திருவள்ளூர்வராண்டு 2056, விசுவாவசு வருடம், மாசி திங்கள் 27-ம் நாள் புதன்கிழமை

**O.S.No.138/2018**

**TNSA080001442018**

K. Rajendran

... Plaintiff

// Versus //

1. Velavan Auto Finance and its partner A. Sesuraj

2. A. Sesuraj Partner Sri Velavan Auto Finance

3. S. Mahendran Partner Sri Velavan Auto Finance

... Defendants

This suit came up for final hearing before me on this day in the presence of Thiru. K.N. Natarajan, appearing for the Plaintiff and Thiru. M. Venkatesh Advocate appearing for the Defendants and upon hearing both side arguments and upon perusal of entire case records and having stood over for consideration till this day, this Court delivered the following;

**JUDGMENT**

This suit has been instituted by the Plaintiff seeking the relief of Permanent Injunction restraining the Defendants and their men from interfering with the Plaintiff's peaceful possession and enjoyment of the suit property except under due process of law.

**2) The Gist of the Plaint:**

2.1) The Plaintiff submits that, he purchased the suit property under a registered Sale Deed dated 03.03.2000 bearing Document No.521/2000 registered in

the office of the Sub-Registrar, Komarapalayam. After the purchase, the Plaintiff constructed a residential house in the said property bearing Door.No.9/300 and has been residing there along with his family members. The Plaintiff is carrying on a handloom weaving business in the said house for his livelihood.

2.2) The Plaintiff submits that, the Defendants 2 and 3 are partners of the 1<sup>st</sup> Defendant finance company, and the 2<sup>nd</sup> Defendant was managing and looking after the affairs of the said finance company. Due to continuous losses in the Plaintiff's handloom weaving business, the Plaintiff was in urgent need of money for his business requirements and family expenses. Since Defendants 2 and 3 were known to the Plaintiff, he approached them for a loan of Rs.2,50,000/-. The Defendants 2 and 3 agreed to arrange the loan through the 1<sup>st</sup> Defendant finance company. Accordingly, on 26.11.2013, an unregistered Mortgage Deed was executed by the Plaintiff in favour of the 3<sup>rd</sup> Defendant in respect of the suit property for a loan amount of Rs.1,00,000/- for a period of five years with interest at the rate of Rs.1.50 per month per hundred. The said document was registered at the Sub-Registrar Office, Komarapalayam as Mortgage Deed vide Document No.8650/2013. On the very same day, as additional security for the said loan transaction, the Defendants obtained from the Plaintiff an unregistered Sale Agreement in respect of the suit property in favour of the 2<sup>nd</sup> Defendant for a period of two years. The 2<sup>nd</sup> Defendant had attested the Mortgage Deed executed by the Plaintiff. Further, the Defendants obtained the Plaintiff's signatures in several blank documents, including unfilled loan finance documents and bonds, in connection with the said loan transaction.

2.3) The Plaintiff submits that, the loan was shown in the records of the 1<sup>st</sup> Defendant finance company, namely Sri Velavan Auto Finance, under HP No's.21

and 22. In the said loan accounts, it was mentioned that the loan was repayable in 60 monthly instalments. The Plaintiff had paid several instalments towards the said loan. The 18<sup>th</sup> instalment under Loan Account No.22 was paid on 27.03.2018 and the 13<sup>th</sup> instalment under Loan Account No.21 was paid on 20.09.2017. However, certain amounts paid by the Plaintiff were not properly credited by the Defendants. Due to continuous losses in his business, the Plaintiff was unable to pay further instalments regularly. However, the Plaintiff has already repaid a sum of about Rs.1,50,000/- towards the loan amount and has also expressed his willingness to repay the remaining balance of Rs.1,00,000/-. Instead of accepting the repayment, the Defendants have been demanding exorbitant interest and are attempting to misuse the incomplete and blank documents obtained from the Plaintiff. They have also threatened the Plaintiff that they would forcibly evict him from the house, lock the premises and sell the property. On 04.08.2018, Defendants 2 and 3 came to the Plaintiff's property and threatened the Plaintiff to vacate the house by 05.08.2018, failing which they would lock the house and dispossess the Plaintiff. Even though the period mentioned in the Mortgage Deed had not expired, the Defendants attempted to take illegal possession of the property by using force and intimidation. The Defendants have no right to dispossess the Plaintiff except through due process of law. The Defendants, if at all entitled, can recover the Mortgage debt only in accordance with law. Hence, it has become necessary for the Plaintiff to file the present suit seeking a decree of Permanent Injunction restraining the Defendants, their men, agents or anyone claiming under them from trespassing into the suit property and interfering with the peaceful possession and enjoyment of the Plaintiff. Since the original Sale Agreement and other original documents relating to the transaction are in the custody of the defendants, the Plaintiff is unable to produce the same before this Court. Hence this suit.

**3.The Brief Averments of the Written Statement filed by Defendant No.1 and adopted by Defendants No's. 2 & 3 :-**

3.1) The Defendants alleges that, the Plaintiff's suit is false, fraudulent and unsustainable in law and on facts.

3.2) The Defendants contends that, the allegations made in the plaint that are not specifically admitted hereunder, are not true and are denied, by this defendant. The plaintiff is put to strict to proof of every one of the allegations made in the plaint.

3.3) The Defendants stoutly opposed that, the above suit is filed by Plaintiff, with an evil intention to cheat and defraud several loans borrowed by the Plaintiff, from the Defendant No.1 and also with a devil's mind to cheat and defraud the valuable right of specific performance relief, accrued in favour of defendant No.2, under the Sale Agreement dated 26.11.2013, which was entered into in between the Defendant No.2, in his individual capacity and the plaintiff herein, in respect of the suit property and further with a ghost mind to cheat and defraud the principal amount of Rs.1 Lakh and the entire interest amount, due under the registered Mortgage Deed dated 26.11.2013, whereunder the Plaintiff herein borrowed a sum of Rs.1 Lakh, from the defendant No.3, in his individual capacity, promising to repay the said principal amount, with interest thereon at the rate of Rs.1.50/- per month, per hundred to the defendant No.3, within 5 years, from the date of the said Mortgage Deed dated 26.11.2013 and further the Plaintiff is trying to cheat the loan amounts, borrowed by him under the H.P.Loan A/c No.21 and also H.P.Loan A/c No.22, from the defendant No.1 Finance.

3.4) The Defendants contends that the Plaintiff has borrowed the above said loan amounts from the defendant No.1 by way of separate and independent transactions and those loan transactions covered under H.P Loan Account No.21 and H.P Loan Account No.22 are nothing to do with the above said Sale Agreement dated

26.11.2013 and the registered Mortgage Deed dated 26.11.2013 and these Sale Agreement and Mortgage Deed are separate and independent transactions, which took place in between the Plaintiff and the defendant No.2, in respect of the suit properties, which are covered under the said Sale Agreement dated 26.11.2013 and likewise the loan transactions covered under the above said Mortgage Deed dated 26.11.2013, which took place in between the Plaintiff and the defendant No.3, are having no kind of link or connection, with the above said H.P Loan Account No.21 and H.P Loan Account No.22, which are loan transactions took place in between the plaintiff and the defendant No.1, which is a registered firm, in which the defendants No.2&3 are partners, apart from the other partners namely 1) A.Rajan, Son of Avinashi gounder, 2) P.Sivalingam, Son of Palaniappagounder and 3) M.Kalavathi, Wife of Shanmugasundaram.

3.5) The Defendants contends that, so far as the Defendant No.1 is concerned, namely M/s Velavan Auto Finance, Komarapalayam, which is a registered firm, it has nothing to do with the above said Sale Agreement dated 26.11.2013 and the Mortgage Deed dated 26.11.2013, which are independent and separate transactions, which took place in between the Plaintiff and the defendants No.2&3, respectively and in their individual capacity and so, the plaintiff cannot connect and entangle, those property selling transactions and borrowing of loan transactions, made by the Plaintiff, from the defendant No.3, by way of mortgaging his immovable properties, under the above said Mortgage Deed dated 26.11.2013.

3.6) The Defendants averred that, with a view to cheat all the Defendants the Plaintiff has filed this vexatious and frivolous suit, just to threaten and blackmail the defendants and also with a view to create a scene of litigations in the mind of public, the plaintiff has filed this frivolous and vexatious suit, without any kind of legal

basis and without any cause of actions, and so, the suit is liable to be dismissed with exemplary costs.

3.7) The Defendants submits that the suit, as framed by the plaintiff is not maintainable in law. In view of the above said several transactions, the Plaintiff cannot club all the above said independent, separate and different and several transactions and thereby join several cause of actions in the above suit and file this frivolous and vexatious suit. The defendant No.3 by name M.Mahendiran had already issued a separate Notice dated 01.10.2018 and 01.11.2018, to the plaintiff herein, demanding upon him to pay the entire mortgage debt, covered under the registered Mortgage Deed dated 26.11.2013. But so far the plaintiff has not paid the principal and interest amounts, due under the above said Mortgage Deed dated 26.11.2013, inspite of several demands, made by defendant No.3 and so, the Defendant No.3 is taking steps to recover the said mortgage debt, by way of filing separate suit. Even after the Notices dated 01.10.2018 and 01.11.2018, the Plaintiff has not paid any amounts to the defendant No.3, due under the above said Mortgage Deed.

3.8) The Defendants further contends that, again the defendant No.2 has already issued the Notice .11.2018, demanding upon the Plaintiff herein to perform his part of the contract, for sale of the suit properties, which are covered under the Sale Agreement dated 26.11.2013, whereunder the plaintiff has agreed to sell the suit properties to the defendant No.2 in his individual capacity for a total sale price amount of Rs.2,50,000/- and thereby he received an advance amount of Rs.1 Lakh, from the defendant No.2 in his individual capacity and thereby the plaintiff has agreed to execute and register the sale Deed infavour of defendant No.2, within 2 years, from the date of the said sale agreement, inrespect of the suit properties,

without any kind of encumbrance and with full marketable title, to the defendant No.2 and after receiving the balance of sale price amount of Rs.1,50,000/-, and thereby deliver vacant possession of the suit property to the defendant No.2, after executing and registering the sale Deed, in favour of defendant No.2, at his costs.

3.9) The Defendants averred that, ever since the date of the said sale Agreement, the defendant No.2 has been always and continuously ready, able and willing to pay the balance of sale price amount and purchase the suit properties from the plaintiff, at his cost, but the plaintiff alone has been evading and avoiding to execute and register the sale deed, infavour of the defendant No.2, by way of giving false excuses, and at the same time he did not clear the encumbrances, subsisting over the suit properties. When this defendant No.2 pressed upon the plaintiff, to receive the balance of sale price amount, and execute the sale Deed, infavour this defendant No.2, the plaintiff had been promising to perform his part of the Sale Agreement, but he did not keep up his promises and in these circumstances, this suit is filed, to cheat this defendant No.2's lawful rights, accrued under the above said Sale Agreement.

3.10) The Defendants contends that, in view of the indifferent and cheating attitude of the Plaintiff, the Defendant No.2 is taking necessary separate suit proceedings, against the plaintiff herein, for recovery of the advance amount of Rs.1 Lakh paid under the above said Sale Agreement dated 26.11.2013. Likewise, the Defendant No.3 is taking necessary legal proceedings, for recovery of the entire principal and interest amounts, which are due under the above said registered Mortgage Deed dated 26.11.2013. It is patent and evident that the Plaintiff is adopting all kinds of fraudulent methods in cheating his creditors.

3.11) The Defendants contends that, the other allegations made in para 5 of the Plaintiff, are partly correct. It is true that the defendants No.2&3 are some of the partners of Defendant No.1 Firm and there are other partners, who are having right in the business activities of defendant No.1 Firm. The Defendant No.1 is producing certified copy of the F.R.C of Defendant No.1, for reference. It is false to say that the plaintiff approached the defendants No.2&3 for obtaining a loan amount of Rs.2,50,000/- and that the Defendants No.2&3 said that they are doing Finance business and they are partners in defendant No.1 and that through the defendant No.1 Finance, they would make arrangements for obtaining the said loan amount of Rs.2,50,000/-.

3.12) The Defendants submits that, it is further false to say that the Plaintiff also agreed for the above said course of borrowing. The defendant No.2 submits that the plaintiff herein entered into the Sale Agreement Dated 26.11.2013 with him and thereby he received an advance amount of Rs.1 Lakh, out of the total sale price of Rs.2,50,000/- and thereby the Plaintiff promised to execute the sale Deed, infavour of defendant No.2, inrespect of the suit properties, free of all encumbrances and with full marketable title, within 2 years and after receiving the balance of sale price amount. Eversince the date of the said sale Agreement, the defendant No.2 has been always and continuously willing, ready and able to pay the balance of sale price amount to the plaintiff and purchase the suit properties from him, without any kind of encumbrances and at his costs.

3.13) The Defendants further averred that, the above said sale agreement is an independent and separate transactions, with which defendant No.1 has nothing to do with. It is submitted that till this date, the Plaintiff has not cleared the mortgage debt, due under the above said Mortgage Deed dated 26.11.2013 which are due to the

defendant No.3. In these circumstances only, the plaintiff is unable to discharge the above said mortgage debt and thereby clear the encumbrances, subsisting over the suit properties, which are covered under the above said Sale Agreement. The plaintiff is trying to wriggle out of the said Sale agreement, but at the same time, he has not returned the advance amount of Rs.1 Lakh, received by him, under the above said sale agreement and so, the defendant No.2 will be taking separate legal proceedings, against the plaintiff, for recovery of the said advance amount.

3.14) The Defendants contends that the other allegations made in para 5 of the Plaint are false and incorrect. It is false to say that for availing the loan amount of Rs.2,50,000/-, the defendant No.3 obtained a Mortgage Deed dated 26.11.2013, whereunder a sum of Rs.1 Lakh was lent as loan amount to the Plaintiff by the defendant No.3 and that the defendant No.2 obtained an unregistered Sale Agreement dated 26.11.2013, whereunder the plaintiff received a sum of Rs.1,50,000/-, as advance amount and thereby totally the above said loan amount of Rs.2,50,000/- asked and demanded, by the Plaintiff, upon the defendants No.2&3, are arranged by the defendants No. 2&3, through the defendant No.1, to the Plaintiff.

3.15) The Defendants further contends that, the Defendants No.2 & 3 and others are partners of Defendant No.1 and the entire loan transactions done by the Plaintiff with defendant No.1 are separate, independent and self contained, by documents. Likewise the defendant No.2, entered into the above said sale agreement with the plaintiff and the said purchase transactions, are done by this defendant No.2, individually and separately. Again likewise, the defendant No.3 lent money to the plaintiff and obtained the above said Mortgage deed for the loan amount paid to the

plaintiff, under the above said Mortgage Deed and so, the above said mortgage loan transactions are independent, separate and self contained one.

3.16) The Defendants averred that, purposely and wantonly and with a view to cheat the amounts due to the defendants No.1 to 3, the plaintiff has filed this vexatious suit. It is false to say that the defendants No.2 & 3 had obtained the signatures and LTIs of the plaintiff, in and over several empty stamp papers and finance papers and over unfilled pro-note forms, for the purpose of lending the alleged loan amount of Rs.2,50,000/-. Since the defendants No.2&3 are also partners of the Defendant No.1, the plaintiff is trying to fish in troubled water and at the same time cheat the defendants No.1 to 3.

3.17) The Defendants further averred that, the allegations made in para 6 of the Plaintiff, are partly correct and partly incorrect. It is false to say that for the above said alleged borrowing of Rs.2,50,000/-, the Defendant No.1, gave Two cards to the Plaintiff, which are covering H.P. loan A/c No.21 and H.P. loan A/c No.22 and that the payment made by the plaintiff, towards the above said H.P. loan A/c No.21 and H.P. loan A/c No.22, necessary endorsements are made in the said cards, issued to the plaintiff. It is not correct to say that the plaintiff paid last payment on 27.03.2018, due for the 18th installment, in respect of H.P. loan A/c No.22 and that the plaintiff paid the 13th installment on 20.09.2017, in respect of H.P. loan A/c No.21.

3.18) The Defendants contends that, in respect of the loan amounts borrowed by the Plaintiff under the H.P. loan A/c No.21 and H.P. loan A/c No.22, from the defendant No.1, for all the payments of amounts, the Defendant No.1 gave receipts to the Plaintiff. So it is false to say that subsequently the plaintiff paid amounts, for the

above said H.P. loan A/c No.21 and H.P. loan A/c No.22, to the defendant No.1, but the defendant No.1 did not issue any receipts and did not make any endorsements over the Two cards, issued to him. Except the payments, in respect of which endorsements are made in the above said H.P. loan A/c No.21 and H.P. loan A/c No.22 cards, no amount is paid by the Plaintiff and so, the plaintiff is falsely saying that for the alleged other payments made by him, the defendant No.1 did not issue any receipts and did not make any endorsements. The Plaintiff has been always, at default in the repayment of loan amounts, borrowed from defendant No.1 under H.P. loan A/c No.21 and H.P. loan A/c No.22. The defendant No.1 reserves its right to recover the balance amounts, due under the above said H.P. loan A/c No.21 and H.P. loan A/c No.22, from the plaintiff, by way of taking separate legal proceedings, against the plaintiff.

3.19) The Defendants submits that, it is false to say that the plaintiff is unable to discharge the above said loan amounts, due to loss in his business. It is again false to say that the plaintiff has repaid a sum of Rs. 1,50,000/- so far, for the alleged loan amount of Rs.2,50,000/-. It is false to say that the plaintiff is willing to pay Rs.1 Lakh, but the defendant No.1 is demanding excess interest amounts and that the defendants are threatening to lock the house, by way of using the alleged unfilled documents obtained by the defendants from the plaintiff. The Defendant No.1 and its partners never obtained any kind of unfilled documents from the plaintiff, at any point of time. For the purpose of filing this suit, the Plaintiff is falsely saying that the defendants have obtained the signature and LTIs of the plaintiff, over unfilled stamp papers, unfilled papers and unfilled pro-note forms etc.,. The defendants No.1 to 3 strongly and vehemently oppose the above said false allegations made by the Plaintiff. With a view to damage the good reputation enjoyed by the defendant No.1, among the public, the above said false allegations are made against the defendants

No.1 to 3. Since the plaintiff borrowed several huge amounts, from the defendants No.1to 3, as detailed above, but failed to repay the same and as he has entered into the Sale Agreement dated 26.11.2013, which he is failed to perform, now he is trying to cheat the defendants No.1 to 3, collectively and independently and with that evil intention, this suit is filed.

3.20) The Defendants submits that, the other allegations made in para 6 of the Plaint are all wild imagination of the plaintiff. It is false to say that on 04.08.2018, the defendants 2 & 3 came to the suit properties, and demanded upon the plaintiff to vacate the suit properties, on or before 05.08.2018, failing which the defendants No.2 & 3 and their men, threatened to lock the house and keep the key with them. No incident took place on 04.08.2018. The defendants No.2 & 3 never gave any kind of threats, as alleged by the Plaintiff. The defendant No.2 has been demanding upon the Plaintiff to perform his part of the contract and his duty, covered under the above said Sale Agreement, likewise the defendant No.3 has been demanding upon the Plaintiff to pay the said Mortgage amounts and likewise the defendant No.1 has been making demands upon the plaintiff, to repay the entire balance of loan amounts, due under the H.P. loan A/c No.21 and H.P. loan A/c No.22. Since the Defendant No.2 entered into the Sale Agreement dated 26.11.2013 with the plaintiff he used to inspect the suit properties for surveying and measuring the same, to checkup the correctness of the measurements, inrespect of the suit properties and therefore the defendant No.2 has to necessarily, enter the suit properties for the purpose of surveying the same and planting the survey stones and for checking of the boundary lines and therefore the activities of the defendant No.2 are natural and legal. But to avoid execution of the Sale Deed, and to cheat all the defendants, the Plaintiff is falsely saying that the defendants are trying to trespass into the suit properties. So, the above said allegations made by the plaintiff are patently false and

hence the suit is liable to be dismissed. Till this date the plaintiff has not come forward to perform his part of the contract, though he has already received an advance amount of Rs.1 Lakh, from the defendant No.2, out of the total sale price of Rs.2,50,000/- fixed under the above said Sale agreement.

3.21) The Defendants further averred that, in the above circumstances, this vexatious suit is filed by the plaintiff, just to threaten and blackmail the defendants No.1 to 3. The defendants No.1 to 3 are law abiding citizens and they are obeying all the rules and regulations. The plaintiff and his men alone are indulging in unlawful activities of threatening and blackmailing the defendants No.1 to 3. The defendants No.1 to 3 never threatened to lock the house, situating in the suit properties. It is false and atrocious to say that the defendants No.1 to 3 are entitled to recover the mortgage loan amounts, alone. As stated already the defendant No.1 will be taking separate legal proceedings against the plaintiff, to recover the balance of loan amounts, covered under the above said two H.P. Loan accounts.

3.22) The Defendants contends that, the defendant No.2 is entitled to recover the advance amount of Rs.1 Lakh, from the plaintiff, by way of taking separate legal proceedings and the said advance amount was paid under the above said Sale Agreement. The defendant No.3 is entitled to recover the above said mortgage loan amounts, by way of separate legal proceedings. So, the plaintiff cannot question the above said transactions in this suit. It is false to say that the original Sale Deed dated 03.03.2000, which is registered as Document No.521/2000 on the file of S.R.O, Komarapalayam, is in the custody of the defendants No.1 to 3. The said document dated 03.03.2000 must be in the custody of the plaintiff alone, because he never gave the custody of the said document, to the defendants No.1 to 3, though photocopy of the document dated 03.03.2000 was shown to the defendant No.2 at

the time of entering in to the sale Agreement. Now with some illegal design in mind, the plaintiff is falsely saying that the custody of the said document dated 03.03.2000 is in the custody of the defendants No. 1 to 3, for the purpose of evading and avoiding the execution of sale Deeds, infavour of defendant No.2, as per the Sale Agreement Dated 26.11.2013.

3.23) The Defendants averred that, the defendant No.1 and its partners, including the defendants No. 2 & 3 are entitled to verify the nature of the suit properties, for filing necessary suits and for getting necessary reliefs, against the plaintiff and for that purpose, they are entitled to physically see the suit properties, which cannot be questioned by the Plaintiff. Moreover the plaintiff has been making frequent illegal attempts to alter and change the physical features of the suit properties, with some illegal design in mind. The Plaintiff alone is trying to create false and fraudulent documents, infavour of third parties and his close relatives, solely with a view to cheat and defraud the lawful amounts and rights of the defendants No.1 to 3, over the suit properties.

3.24) The Defendants further averred that, the allegations made in para 7 of the Plaint are all false and are denied. There is no cause of actions for the suit. The alleged date of cause of action dated 04.08.2018 is an imaginary and illusory one. The plaintiff has to be non-suited, for the above said reasons.

3.25) The Defendants further more averred that, the Plaintiff cannot maintain the suit for permanent injunctions, against the defendants, since the defendant No.2 has got right to purchase the suit properties and defendant No.3 is entitled to recover the mortgage loan amounts and so, they are entitled to see and verify the suit properties, in view of the adamant attitude of the Plaintiff, in creating false documents and frequently attempting to alter and change the physical features and nature of the suit properties.

3.26) The Defendants submits that, the Court Fee paid by the Plaintiff is incorrect. The Plaintiff cannot file this suit for permanent injunction alone, without seeking for necessary declaration reliefs, in respect of the suit properties and thereby the plaintiff is bound to pay correct Court Fees. So the suit is hit both under Section 12 & Section 40 of the Court Fees Act. Mere bare injunction suit is not maintainable. The defendants No.1 to 3 are taking necessary legal actions, against the plaintiff, through the process of court, for getting their respective reliefs, as detailed above.

3.27) The Defendants further more contends that, there is no truth or bonafide in this suit. The Plaintiff has not come to court with clean hands. The suit is hit under the legal principle of "Suppressio veri and Suggestio falsi". The Plaintiff has burked the truth and filed this frivolous and vexatious suit and hence it is liable to be dismissed with costs. Therefore this Defendant No.1 prays that the suit may be dismissed with exemplary costs.

4) Having considered the submissions and pleadings of the both parties, this court has framed the following considerable Issues:-

- i) Whether the Plaintiff is entitled to get Permanent Injunction against the Defendants over the suit property?
- ii) To what other reliefs the Plaintiff is entitled?

5) On the side of Plaintiff, Plaintiff was examined as PW1 on Proof Affidavit. Through PW1, Ex.A1 to Ex.A10 were marked. Ex.A1 is the Mortgage deed dated 26.11.2013 vide Document No. 8650/2013. Ex.A2 is the H.P.No.21 Srivelavan Auto Finance Installment Card dated 26.11.2013. Ex.A3 is the H.P.No.22 Srivelavan Auto Finance Installment Card. Ex.A4. is the receipt for installment No.18 dated 27.03.2018. Ex.A5 is the receipt for installment number 10 dated 30.05.2015. Ex.A6

is the House tax receipt dated 09.11.2017 in the name of Gauthamraj. Ex.A7 is the Water tax receipt dated 05.03.2018 in the name of Gauthamraj. Ex.A8 is the House tax receipt dated 24.02.2020 in the name of Gauthamraj. Original. Ex.A9 is the Water tax receipt dated 24.02.2020 in the name of Gauthamraj. Ex.A10 is the sale deed dated 03.03.2000 in the name of plaintiff. One Mr. Kandhasamy was examined as PW2. No documents were marked through him.

On the side of defendants no oral and documentary evidences were adduced.

**6) Issue No.1:-**

i) Whether the Plaintiff is entitled to get Permanent Injunction against the Defendants over the suit property?

The burden lies upon the Plaintiff to establish that he was in lawful possession and the enjoyment of the suit property as on the date of the suit and that the defendants attempted to interfere with such possession otherwise than by due process of law. To prove his case, the plaintiff examined himself as PW1 and another witness One Mr. Kandhasamy as PW2. On the side of the plaintiff, Ex.A.1 to Ex.A.10 were marked. At the outset, the title and possession of the Plaintiff over the suit property require consideration. The Plaintiff has produced the registered Sale Deed dated 03.03.2000 marked as Ex.A10 which stands in his name. The said document establishes that the Plaintiff purchased the suit property and has been the owner of the property from the year 2000 onwards. Though in a suit for bare Injunction the title deed not be conclusively decided, the production of title deed strengthens the claim of possession. The Plaintiff has further produced house tax receipt marked as Ex.A6 and Ex.A8 and water tax receipt marked as Ex.A7 and Ex.A9. These documents stand in the name of the Plaintiff and relate to the suit property. Payment of municipal and local body taxes is a strong circumstance

indicating possession and enjoyment of the property by the person in whose name such receipts stand. The Plaintiff has also produced Ex.A1 Mortgage Deed dated 26.11.2013 executed by him. From the said document it is clear that the Plaintiff created a Mortgage in favour of the 3<sup>rd</sup> Defendant for securing a loan amount of Rs.1,00,000/-. The very execution of the Mortgage Deed indicates that the Plaintiff was the owner in possession of the property and created the mortgage as security for borrowing money. Further, the Plaintiff has produced Ex.A2 and Ex.A3, which are the original installment cards issued by the 1<sup>st</sup> Defendant finance company in respect of H.P. Loan Account No. 21 and H.P Loan Account No.22. These documents show that the Plaintiff had financial dealings with the Defendants and was paying installments towards the loan. The Plaintiff has also marked Ex.A4 and Ex.A5 which are receipts for installment payments dated 27.03.2018 and 30.05.2015 respectively. These documents indicate that the Plaintiff had been making payments towards the loan transaction. From the above documentary evidence, it is clear that the Plaintiff had borrowed certain amounts from the defendants by executing Mortgage Deed and by availing finance under installment accounts. However, the existence of such loan transactions does not confer any right upon the defendants to interfere with the possession of the Plaintiff over the suit property. The Defendants in their written statement have specifically contended that the Plaintiff has entered into multiple transaction with them. According to the Defendants, the Plaintiff executed a registered Mortgage Deed dated 26.11.2013 in favour of the 3<sup>rd</sup> defendant for securing a loan amount of Rs.1,00,000/-. The Defendants further contend that the plaintiff entered into a Sale Deed dated 26.11.2013 with the 2<sup>nd</sup> defendant agreeing to sell the suit property for a total sale consideration of Rs.2,50,000/- and received an advance amount of Rs.1,00,000/-. Apart from these transactions, the Plaintiff also borrowed certain amounts from the 1<sup>st</sup> defendant finance company under H.P. Loan Account No. 21 and H.P Loan Account No.22.

The Defendants have taken a consistent stand that these transactions are independent legally enforceable and that the Plaintiff has filed the present suit only with an intention to evade repayment of the loan amounts and to defeat the rights accrued in favour of Defendants 2 and 3. However, it is pertinent to note that the defendants have not entered the witness box nor produced any documentary evidence to substantiate the allegations made in the Written Statement. Though they claimed existence of a Sale Agreement dated 26.11.2013, the said document has not been produced before this Court. It is a well settled principle of law that pleadings without proof cannot be relied upon. When a party who has special knowledge of certain facts fails to enter the witness box, an adverse inference can be drawn against such party. In the cross-examination of PW1, he deposed as “ 3-ம் பிரதிவாதியிடம் எனது வீட்டு சம்பந்தப்பட்ட ஆவணத்தை அடமானமாக வைத்து ரூ.100000-ம் கடன் பெற்றுள்ளேன், அதனால் அவரை 3-ம் பிரதிவாதியாக சேர்த்துள்ளேன். 3-ம் பிரதிவாதியிடம் எப்போது அடமானம் வைத்தேன் என்று எனக்கு ரூபகமில்லை. நான் அந்த அடமான பத்திரத்தை வேலவன் ஆட்டோ பைனான்ஸ் பார்ட்னர் மகேந்திரன் என்ற பெயரில் தான் ஏற்படுத்திக் கொடுத்துள்ளேன். அடமானத்திற்கான சொத்து கத்தேரி கிராமம் சர்வே எண். 205/1A-ல் 720 சதுரடியில் உள்ளது. அதில் 350 சதுரடியில் ஒரு வில்லை வீடு உள்ளது”. In the cross-examination PW1 further deposed as “நான் பதிவு செய்யப்படாத கிரைய ஒப்பந்தத்தின்படி 2-ம் பிரதிவாதியிடமிருந்து ரூ.150000-ம் கடனாக பெற்றேன். அந்த பதிவு செய்யப்படாத கிரைய ஒப்பந்தத்தின் அசல் ஆவணம் 2-ம் பிரதிவாதியிடம் உள்ளது”. In the cross-examination PW1 further more deposed as, “மேற்படி அடமான பத்திரம் மற்றும் பதிவு செய்யப்படாத கிரைய ஒப்பந்த ஆவணத்தின்படி பெற்ற கடன்களில் சுமார் ரூ.1,50,000-ம் வரை திரும்ப செலுத்திவிட்டேன். மீதி பணம் பாக்கி உள்ளது. நான் இரண்டு கடன்களுக்கும் சேர்த்துதான் ரூ.150000-ம் செலுத்தியுள்ளேன்” the Plaintiff admitted that he had borrowed money from the defendants and that a part of the loan amount remains unpaid. However, such admission only establishes the existence of loan transactions between the parties and does not in any way establish that the defendants are entitled to dispossess the Plaintiff from the suit property.

Even assuming that the defendants have any right under the Mortgage Deed or alleged sale agreement, their remedy is only to approach the competent court for enforcement of such rights. A mortgage merely creates a security interest in favour of the mortgagee. Unless the mortgage is a possessory mortgage, the mortgagor continues to remain in possession of the property. In the present case, there is nothing on record to show that possession of the property was delivered to the mortgagee. Likewise, the alleged Sale Agreement relied upon by the defendants does not create any title in favour of the agreement holder. It only gives a contractual right to seek enforcement through court. It is evident that the Plaintiff has produced documentary evidence to prove his possession over the suit property. The defendants have not produced any evidence to show that they are in possession of the property or that the Plaintiff has delivered possession to them under any document. Therefore, even if the defendants have any financial claim against the Plaintiff, they cannot take law into their own hands and interfere with the possession of the Plaintiff without resorting to appropriate legal proceedings. Based upon the cumulative discussions made above, this Court holds that the plaintiff has proved his possession over the suit property and the defendants have no right to interfere with such possession except under due process of law.

Accordingly, Issue no.1 is answered in favour of the Plaintiff.

**Issue No.2:-**

ii) To what other reliefs the Plaintiff is entitled?

In view of the findings rendered under Issue No.1, this Court has held that the Plaintiff has established his lawful possession and enjoyment over the suit property and that the defendants have no right to interfere with such possession except by following due process of law. Since the Plaintiff has sought only the relief of

Permanent Injunction in the present suit and has not sought for any other relief, this Court is of the view that the Plaintiff is entitled to the said relief alone.

Accordingly, Issue No. 2 is answered in favour of the Plaintiff, holding that the Plaintiff is entitled to the relief of permanent injunction as prayed for and no other relief.

7) In the result, the suit is decreed as follows:

i) this Court directs the Defendants, their men, agents or any persons claiming through them are permanently restrained from interfering with the peaceful possession and enjoyment of the suit property by the Plaintiff except under due process of law.

ii) No cost.

This Judgment directly dictated to the Typist and typed by her and corrected by me, and Pronounced in the Open Court in the 11<sup>th</sup> day of March, 2026.

**District Munsif,  
Sankari.**

**Plaintiff Side Witness :-**

PW.1 - Thiru. K. Rajendran – Plaintiff

**Plaintiff Side Exhibits :-**

Ex.A1	26.11.2013	Mortgage Deed - Doc No. 8650/2013	Certified Copy
Ex.A2	26.11.2013	H.P.No. 21 Sri Velavan Auto Finance - Instalment Card	Original
Ex.A3	26.11.2013	H.P.No. 22 Sri Velavan Auto Finance - Instalment Card	Original
Ex.A4	27.03.2018	H.P.No. 22 - Instalment No.18 <sup>th</sup> Receipt	Original

Ex.A5	30.05.2015	H.P.No. 21 - Instalment No.10 <sup>th</sup> Receipt	Original
Ex.A6	09.11.2017	House Tax Receipt – Door No. 7/65	Original
Ex.A7	05.03.2018	Water Bill Receipt (No. 947)	Original
Ex.A8	24.02.2020	House Tax Receipt – Door No. 7/65	Original
Ex.A9	24.02.2020	Water Bill Receipt (No. 947)	Certified Copy
Ex.A10	03.03.2000	Sale Deed	Online Copy

**Defendants side Witness and Exhibits:- Nil**

**Third Party Witness :-**

PW2 - Thiru. Kandhasamy

**District Munsif,  
Sankari.**

