IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THENI

PRESENT: Thiru. Swarnam J. Natarajan M.L.,

Principal District Judge, Theni

Tuesday, the 26th day of November 2024

Original Suit No.03/2024

CNR No. TNTH-0100-0038-2024

Kannan . . . Plaintiff

-Vs-

C.Rajamani . . . Defendant

This suit was coming up on 25.11.2024, for today final hearing before me in the presence of Thiru.K.Pothuraja, Advocate for the plaintiff and Thiru.M.A.Ramakrishnan, Advocate for the Defendant and written statement not filed on the side of the defendant and the defendant was called absent and remained exparte and upon hearing the arguments of plaintiff side and perusing the evidence, documents, the case having stood over for consideration till this day, this Court delivers the following :

E X P A R T E J U D G M E N T

This is the suit filed by the plaintiff for passing of preliminary decree directing the defendant to pay a sum of Rs. 15,05,100/- on the principle sum of Rs.9,00,000/- with interest at 12% per annum on the principle sum of rupees and for passing of a personal decree against the defendant and on failure of the defendant to repay the said mortgage loan amount to bring the suit property for auction in order to realize the suit claims.

2. The facts stated in the plaint in brief is as follows:-

The suit property belongs to the defendant by virtue of settlement deed dated 18.01.2011 by document number.440/2011,which was enjoyed by the defendant without any encumbrance. The defendant had approached the plaintiff and had mortgaged the suit property for a loan amount of Rs.9,00,000/- and on 25.05.2018 the said cash amount was received and mortgaged the suit property agreeing to repay the said loan amount at 12% percent interest per annum within a period of 3 years. The defendant agreed to settle the loan amount and cancel the mortgage deed executed and had entrusted the original document in favour of the plaintiff registered as document no.3454/2018 and the original document no.440 of 2011 dated 18.01.2011 to the plaintiff towards the due repayment of the loan amount.

3. In spite of several demands made, the plaintiff had not paid the suit claim. Thereby, the plaintiff was forced to issue a legal notice on 01.12.2023 calling upon the defendant to repay the loan amount borrowed, which the defendant had received on 03.12.2023 and had neither sent reply nor paid the loan amount due. Hence the present suit is filed.

4. The defendant having entered appearance through his counsel had failed to file his written statement in spite of sufficient time being granted. On 10.09.2024 the defendant was set exparte for non filing of written statement and the matter was posted for the evidence of the plaintiff. The plaintiff examined himself as PW1 on 25.11.2024 and the Ex.A.1 to Ex.A.4 being the original Mortgage dead Ex.A.1 dated 25.05.2018, 18.01.2011 dated original title deed in favour of the defendant, 01.12.2023 the legal notice issued to the defendant and 03.12.2023 the acknowledgment card were marked on the side of the plaintiff.

5. The plaintiff had proved the case that he had lent the mortgage loan to the defendant on 25.05.2018 and paid Rs.9,00,000 towards the loan amount, which the defendant had agreed to repay the same with interest at 12% per annum. The original mortgage deed Ex.A.1 reveals that the defendant had executed the mortgage deed by depositing the title deed Ex.A2 and the document is duly registered.

6. Considering the above, this court finds that the plaintiff has made out a case in his favour and the Preliminary decree is to be passed accordingly, since the defendant failed to repay the loan amount.

In the result, the suit is decreed with cost, Preliminary decree is passed, directing the defendant to pay the suit claim of Rs.15,05,100/- with subsequent interest at the rate of 9% per annum on the Principal sum of Rs.9,00,000/- from the date of suit till the date of decree, and thereafter at 7.5% per annum till the date of realization on the Principal amount. On failure of the defendant to repay the loan amount, the plaintiff is entitled for final decree as prayed for.

26.11.2024 Principal District Court, Theni.

Dictated to the Steno-Typist, taken by her in shorthand, transcribed and typed by her with the help of voice recorder, and Microsoft 365, corrected and pronounced by me, in the open court, this the 26th day of November - 2024.

Sd/- Swarnam J. Natarajan,
Principal Sessions Judge,
Theni.

<u>List of Witness examined on the side of Plaintiff:-</u>

P.W.1 .. Kannan

<u>List of Exhibit marked on the side of the Plaintiff:-</u>

Ex.A1	25.05.2018	Mortgage deed.
Ex.A2	18.01.2011	Gift settlement deed
Ex.A3	01.12.2023	Legal notice and receipt.
Ex.A4	03.12.2023	Acknowledgment card.

<u>Defendant side witness and documents:</u>

-NIL-

Sd/- Swarnam J. Natarajan,
Principal Sessions Judge,
Theni.

Draft / Fair Judgment
O.S.No.3/2024
Date: 26.11.2024
P.D.J. Court, Theni.