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S.A.No.671 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.06.2026

PRONOUNCED ON : 27.07.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

S.A.No.671 of 2020
and C.M.P.No.13905 of 2020

Abdul Rasheeth (Died)

1.Aaliya Begum

2.Basheer

3.Kappar

4.Abdulla

... Appellants

Vs.

Veerammal

... Respondent

Prayer: Second Appeal filed under Section 100 of C.P.C., praying to allow the appeal with cost by setting aside the judgment and decree dated 14.11.2019 passed in A.S.No.16 of 2019 by the Additional Subordinate Judge, Namakkal and by restoring the judgment and decree dated 20.12.2018 passed in O.S.No.583 of 2010 by the Principal District Munsif Judge, Namakkal.

For Appellants : Mr.A.Abdul Ravoof



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For Respondent : Mr.K.P.Gnanasambandhan
for M/s.B.Thirumalai.

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J U D G M E N T

The unsuccessful defendants are the appellants. The respondent herein filed a suit for specific performance of the sale agreement dated 06.04.1995. The suit was dismissed by the trial Court. On appeal filed by the respondent/plaintiff, the first appellate Court reversed the findings of the trial Court, allowed the appeal and thereby decreed the suit granting performance of the agreement. Aggrieved by the said reversal finding, the legal representatives of original defendant Abdul Rasheeth has filed the present appeal.

2. According to the respondent/plaintiff, the suit property belonged to the deceased original defendant Abdul Rasheeth, as per the sale deed dated 25.01.1984. The plaintiff entered into an agreement of sale on 06.04.1995, agreeing to purchase the agreement mentioned property for sale consideration of Rs.20,100/-. On the date of agreement, an advance of Rs.20,000/- was paid by the plaintiff. As per the terms of the agreement, the parties agreed that the balance sale consideration should be paid within 6

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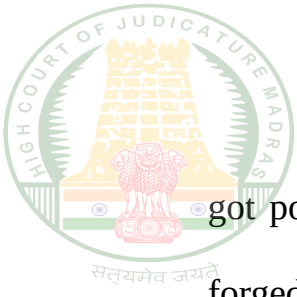


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months. The plaintiff paid the balance sale consideration of Rs.100/- on

05.10.1995 and on the very same date, the defendant made an endorsement in the agreement acknowledging the receipt of balance sale consideration and agreed to execute the sale deed in favour of plaintiff as and when called upon to do so. Even though the plaintiff requested the original defendant to execute the sale deed pursuant to the sale agreement, he evaded the same and hence, the plaintiff issued a legal notice on 24.04.2010, calling upon the original defendant to mention the correct date on which the sale deed would be executed. After receiving the notice, the original defendant issued a reply with false averments and in view of the same, the present suit has been filed seeking specific performance of the agreement.

3. The appellants/defendants filed a written statement and resisted the suit by denying the very execution of the suit sale agreement. It was the case of the defendant that he had no prior acquaintance with the plaintiff and he never entered into any kind of sale agreement with the plaintiff. It was further stated that the defendant misplaced the original document relating to the agreement mentioned property on 05.04.2010 near Namakkal bus stand and in this regard, the defendant issued a paper publication on 09.04.2010. It was further pleaded that the plaintiff, having



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got possession of the misplaced title document of the defendant, created a forged sale agreement dated 06.04.1995 and issued a legal notice with false allegation. After acquiring knowledge of the said forged sale agreement, the defendant preferred a complaint before the Superintendent of Police, Namakkal and in these circumstances, the plaintiff filed a suit seeking specific performance of the agreement. The defendant denied the allegation in the plaint as if the plaintiff was ready and willing to perform the part of the contract. On these pleadings, the defendant sought for dismissal of the suit.

4. Before the trial Court, the plaintiff was examined as P.W.1 and one of the attester to sale agreement was examined as P.W.2. On behalf of plaintiff, 4 documents were marked as Ex.A1 to Ex.A4. The wife of the deceased sole defendant, who was subsequently brought on record as second defendant was examined as D.W.1. On behalf of the defendants, two documents were marked as Ex.B1 to Ex.B2.

5. The trial Court, on appreciation of oral and documentary evidence, came to the conclusion that the plaintiff failed to prove her readiness and willingness and dismissed the suit. On appeal filed by the plaintiff, the first appellate Court reversed the findings of the trial Court and



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dismissed the suit. Aggrieved by the same, the defendants have come before this Court with the second appeal.

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6. At the time of admission, this Court formulated the following substantial questions of law by order dated 16.12.2020:

“1. Whether the suit is hit by Section 16(3) of the Specific Relief Act?

“2. Whether the appellate court was right in granting a decree despite the fact that the suit is filed nearly 15 years after the agreement?”

7. Elaborating the substantial question of law arising for consideration, the learned counsel appearing for the appellants/defendants would submit that the present suit has been filed by the plaintiff after 15 years from the date of agreement and therefore, the plaintiff miserably failed to prove the readiness and willingness on her part and the same has not been properly appreciated by the first appellate Court.

8. Per contra, the learned counsel appearing for the respondent/plaintiff would submit that the entire sale consideration had been paid by the plaintiff within the time stipulated in the agreement and all the obligations of the plaintiff under the agreement had been performed by her and in such circumstances, merely because the suit is filed after 15 years, she

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cannot be non-suited on the ground that she failed to prove the readiness and willingness.

9. Heard the learned counsel appearing on either side and perused the materials available on record.

10. It is seen from the typed set of papers and other records, the suit sale agreement was entered into between the plaintiff and the deceased sole defendant Abdul Rasheeth on 06.04.1995. The plaintiff agreed to purchase the suit property for sale consideration of Rs.20,100/-. On the date of agreement itself, a sum of Rs.20,000/- was paid and the balance amount of Rs.100/- was agreed to be paid within a period of 6 months. The said 6 months period expired on 06.10.1995. One day prior to expiry of the said period, the plaintiff said to have paid Rs.100/- to the defendant and got the endorsement in the suit sale agreement. The very execution of the suit sale agreement was denied by the defendant.

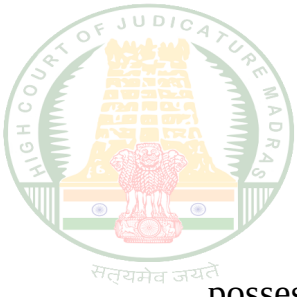
11. It is also seen from the records that the plaintiff filed an application seeking sample thumb impression of the deceased first defendant for comparison with the disputed thumb impression found in the suit sale



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agreement. However, the first defendant failed to give thumb impression as ordered by the Court and later he died. Subsequently, the legal representatives of the first defendant filed applications to send for the documents from the Sub Registrar office, wherein admitted thumb impression of the deceased defendant was available and the said application was dismissed by the trial Court.

12. In order to prove the execution of the agreement, one of the attessor to the agreement was examined as P.W.2. He deposed about the execution of agreement by deceased defendant. Based on the evidence of P.W.2 and the reluctance on the part of the deceased defendant to furnish the admitted thumb impression for the purpose of comparison, the first appellate Court came to a factual conclusion that the suit sale agreement got proved. In the absence of any perversity, this Court is unable to disagree with the findings reached by the first appellate Court with regard to the due execution of suit sale agreement. However, the circumstances under which, the suit sale agreement was entered into and the terms and conditions mentioned thereon creates a suspicion with regard to the true intention of the plaintiff to purchase the property.



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13. P.W.1 in her evidence categorically admitted that she

possessed the full sale consideration of Rs.20,100/- at the time of execution of the agreement. However, she paid only an amount of Rs.20,000/- on the date of agreement and retained Rs.100/- without paying to the defendant. When the entire sale consideration was at the disposal of the plaintiff, absolutely there is no explanation why for the payment of balance sale consideration of Rs.100/-, 6 months time was fixed in the agreement. Further, according to the plaintiff, just one day prior to the expiry of the 6 months period, the balance sale consideration of Rs.100/- was paid and an endorsement was received in the sale agreement. Endorsement found in the suit sale agreement was not attested by any of the witnesses and none has been examined to prove the execution of endorsement.

14. Further, the plaintiff waited for nearly 15 years to issue first notice demanding execution of the sale deed pursuant to the sale agreement. After paying the entire sale consideration, why plaintiff waited for 15 years to issue first notice calling upon defendant to execute sale deed is not at all explained. It is pertinent to mention that when the plaintiff was examined as P.W.1, she deposed that after execution of sale agreement, she used to call upon the defendant in person and requesting him to execute the sale deed once in two or three months. However, the defendant evaded the execution



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of sale deed.

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15. The story of the plaintiff that she had been requesting the defendant to execute the sale deed once in two or three months continuously for 15 years without issuing notice calling upon him to perform his part of the agreement is highly unbelievable. If it is true that the plaintiff continuously approached the defendant and performance was refused by him, the plaintiff should have issued a legal notice and filed the suit within a reasonable time. Merely because no time limit was prescribed in the endorsement, we cannot come to a conclusion that suit can be filed by the plaintiff at any distant time at her wish. What is the reasonable time for seeking performance of agreement is depending on the facts and circumstances of each case.

16. In the case on hand, the entire sale consideration was paid by the plaintiff nearly 15 years prior to filing of the suit. In such circumstances, absolutely, there is no necessity for the plaintiff to wait for nearly 15 years to seek performance of the agreement. Mere payment of entire sale consideration would not absolve plaintiff of her obligation to plead and prove readiness and willingness to perform her part of the



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agreement. As a purchaser, she has to procure stamp papers, make ready sale deed and call upon agreement vendor to complete the sale transaction.

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Payment of amount by the agreement vendee may prove the readiness. But her failure to follow up and get the sale deed executed in her name within reasonable time clearly established the lack of willingness on her part. In the absence of plausible explanation on the part of the plaintiff why she waited for nearly 15 years to seek performance of the agreement, after paying the entire sale consideration, this Court feels that the plaintiff failed to prove her willingness to perform her obligation to get the sale deed executed in her name. A similar view was taken by me in ***Alamelu Vs. Chandranathan and others*** in ***S.A.No.68 of 2020***, judgment ***dated 10.03.2026***.

17. In the light of the discussion made earlier, both the substantial questions of law framed at the time of admission are answered in favour of the appellants and the Second Appeal stands allowed.

18. In nutshell, the judgment and decree passed by the first appellate Court are set aside and the judgment and decree passed by the trial Court stand restored. There shall be no order as to costs. Consequently,

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connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No

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S.SOUNTHAR, J.

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To

1. The Additional Subordinate Judge,
Namakkal.

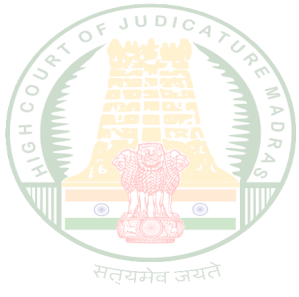
2. The Principal District Munsif Judge, Namakkal.

3. The Section Officer

VR Section, High Court, Madras.

Pre-Delivery Judgment made in
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