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A.S.No.927 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

A.S.No.927 of 2020

G.Nallammal
W/o.Ganesan

..Appellant

Vs

1.S.Thangavel
2.T.Dhanalakshmi

..Respondents

Appeal suit filed under Section 96 of CPC to set aside the judgment and decree dated 30.09.2019 passed by the learned I Additional District Judge, Salem in O.S.No.44 of 2018.

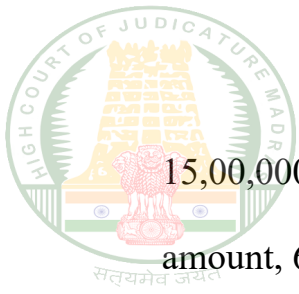
For Appellant : Mr.L.Mouli

For Respondents : Mr.N.Manokaran
for R1 and R2

JUDGMENT

(Judgment of the Court was delivered by N.Sathish Kumar J.)

Challenging the decree of the trial Court directing payment of Rs.23,30,666/- with interest at the rate of 9% on the principal amount of



15,00,000/- from the date of suit till the date of decree and for the remaining amount, 6% till the date of realization, the defendant has filed the appeal.

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2. The suit was originally laid by the plaintiffs for enforcement of sale agreement dated 17.06.2016 and in the alternative, they sought for refund of a sum of Rs.23,30,666/- with interest at the rate of 24%. The trial Court dismissed the suit for specific performance, however, decreed the suit for a sum of Rs.23,30,666/-, which includes 9% interest from the date of suit till the date of decree on the principal amount of Rs.15,00,000/- and for the remaining amount, 6% interest till the date of realization.

3. A challenge has been made by the defendant in this appeal contending *inter alia* that the entire transaction is a money transaction under a registered sale agreements dated 22.06.2015 and 17.06.2016 marked as Ex.A1 and Ex.A2 respectively, she has already paid a sum of Rs.12,00,000/- and an endorsement to that effect has been made in Ex.B2. Though Ex.B2 has been marked on the side of the defendant, the trial Court has rejected the same stating that it is an unregistered document. According to the defendant, the said amount of Rs.12,00,000/- has to be adjusted.

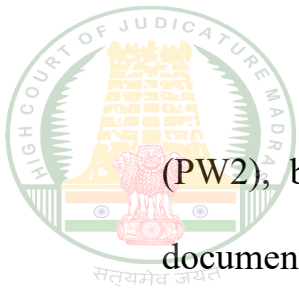
4. The learned counsel appearing for the respondents/plaintiffs would submit that the signature in the document Ex.B2 has not been established and self-serving document cannot be relied upon.



5. In the light of the above submissions, the point that arises for consideration in this appeal is "whether the appellant has repaid the amount borrowed under Exs.A1 and A2?."

6. Admittedly, Ex.A2-Sale Agreement dated 17.06.2016 is a registered agreement, which clearly shows that a sum of Rs.15,00,000/- has been received by the defendant. The receipt of the said amount has not been disputed in the written statement. It is not in dispute that the suit agreements viz., Ex.A1 dated 22.06.2015 and Ex.A2 dated 17.06.2016 were executed by the defendant and both are registered agreements. Though it is claimed by the plaintiffs that the agreement came to be executed for sale of a property for a total consideration of Rs.19,20,000/-, on the date of first agreement (Ex.A1) dated 22.06.2015, a sum of Rs.10,00,000/- was paid as advance and 11 months time frame is fixed for completing the sale, as the defendant expressed difficulty in vacating the tenants, another agreement dated 17.06.2016 came into existence wherein 18 months time is fixed. Despite the readiness and willingness shown by the plaintiffs, as the defendant failed to execute the sale agreement, a suit for specific performance was filed. The alternative relief of refund of advance amount was also sought for.

7. It is the contention of the defendant that two agreements came to be executed for the loan transaction. According to the defendant, one Chettikumar



(PW2), broker of the plaintiffs, misrepresented to the defendant that those documents are executed only towards the loan transaction. Hence, it is not

disputed by the defendant about the receipt of Rs.15,00,000/- in the agreement.

The further stand of the defendant is that she has repaid Rs.12,00,000/- towards the loan amount and an endorsement to that effect has also been made in Ex.B2.

The trial Court decreed the suit only for refund of advance amount with interest and negatived the relief of specific performance.

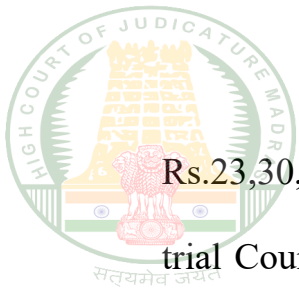
8. As against the dismissal of the suit for specific performance, no appeal has been filed. Since the issue is only with regard to refund of advance amount, we are of the view that no further discussion is required with regard to dismissal of the suit for specific performance.

9. The execution of Exs.A1 and A2 has not been disputed by the defendant. Both are registered documents. Similarly, in the written statement it has been categorically admitted that the defendant has received a sum of Rs.10,00,000/- on 22.06.2015 under Ex.A1 and Rs.5,00,000/- on 17.06.2016 under Ex.A2. Once the registered documents clearly show that a sum of Rs.15,00,000/- has already been parted, which is also admitted by the defendant, the burden lies on the defendant to prove her contention that she has discharged that amount. According to the defendant, a sum of Rs.12,00,000/- has been repaid. Except the endorsement in Ex.B2 said to have been made by the broker



of PW1, there is no other document to prove the same. Even when Ex.B2 is confronted with PWs 1 and 2, they denied the same. No attempt whatsoever has been made by the defendant to show that the document contained the signature of either PW1 or PW2. In the absence of any evidence to show that the endorsement has been made either by PW1 or PW2, the contention of the defendant that she has repaid a sum of Rs.12,00,000/- cannot be countenanced. Once the plea of discharge is taken by a party, the onus lies on the party taking such a plea to prove the same. On a careful perusal of entire evidence, it seen that the defendant has not discharged the burden. In view of the same, now the plea that is now raised in the appeal cannot be countenanced.

10. As the receipt of Rs.15,00,000/- under two agreements is not disputed, the trial Court has rejected the prayer for specific performance, but, however, granted the alternative relief of refund of advance amount. We are of the view that the plea of discharge has to fail. However, we find that the trial Court has decreed the suit for a sum of Rs.23,30,666/- as sought by the plaintiffs which in our view is not proper. The plaintiffs have calculated the interest at the rate of 24% on the advance amount paid on two agreements. The question of granting alternative relief is always depending on the main relief. Normally when the relief of specific performance is dismissed, the alternative relief is granted only with regard to the advance amount paid on the agreement with, of course, reasonable interest. The suit itself is valued for sum of



Rs.23,30,666/- including 24% interest, which is in our view is not proper. The trial Court ought to have granted the alternative relief for the admitted sum of Rs.15,00,000/- with reasonable interest. Accordingly we modify the decree of the trial Court as follows:

i) That the defendant is directed to refund Rs.15,00,000/- [Rupees Fifteen Lakhs only] admittedly received under Exs.A1 and A2 (registered agreements) dated 22.06.2015 and 17.06.2016 respectively with interest at the rate of 9% on Rs.10,00,000/- received on 22.06.2015 under Ex.A1-Sale Agreement and Rs.5 lakhs received on 17.06.2016 under Ex.A2-Sale Agreement.

The appeal is disposed of with the above modification. There shall be no order as to costs.

(N.S.K.,J.) (M.J.R.,J.)
10.07.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

gpa

To

1. I Additional District Judge
Salem
2. The Section Officer
VR Section
Madras High Court



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**N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.**

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