



A.S.No.255 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.07.2026

CORAM :

The Hon'ble Mr.Justice N.SATHISH KUMAR  
and  
The Hon'ble Mr.Justice M.JOTHIRAMAN

A.S.No.255 of 2017  
and  
C.M.P.No.10054 of 2017

1.Chelladurai (died)  
2.Dhavamani  
3.Maniarasi  
4.Mutharasan  
5.Muthumani  
[Sole appellant died, A-2 to A-5 are  
brought on record as LR's. of deceased  
sole appellant Chelladurai vide court  
order dated 05.12.2025 made in  
CMP No.14209 of 2025 in A.S.No.255 of 2017] .. Appellants

Vs.

1.Shahul Hameed  
2.Junath Begam  
3.Nijamudden  
  
4.G-7 Investment Private Limited,  
rep by its Director, Sridevi  
Door No.86, 2<sup>nd</sup> and 3<sup>rd</sup> Floor,  
Gokul Tower, M.S.Ramaiah Naidu,  
Bangalore  
represented by their power agent,  
N.Panneerselvam  
S/o.Narayanasamy Pillai



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4C, Arunthathiar Street,  
Karattangadu village,  
Alampalayam, Thiruchengode Taluk,  
Namakkal District.

5.Morova Infrastructure Private Ltd.,  
rep by its Director,  
No.1343, 10<sup>th</sup> Main Road,  
Judicial Layour, GKVK Post,  
Yelahanka, Bengalore-560 065.

.. Respondents

This appeal suit has been filed under section 96 read with Order XLI Rule 1 of CPC seeking to set aside the judgment and decree passed in O.S.No.7 of 2011 dated 21.03.2017 and to allow this appeal and to decree the suit as prayed for with costs and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellants : Mr.C.Prakasam

For Respondents : Mr.S.Senthil for RR1 and 2  
No appearance for RR3 and 4  
Mr.S.S.Rajesh for R-5

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## JUDGMENT

(The judgment of the court was made by N.SATHISH KUMAR, J.)

Aggrieved over the dismissal of the suit which was filed for specific performance, the present appeal came to be filed by the unsuccessful plaintiff.



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2.The parties herein are referred to in this judgment as per their

ranking in the trial court.

3.The brief facts of the case for disposal of the present appeal are as follows:

3.1.Originally, there were fish farms in the suit properties and in the adjoining government properties. The first defendant as the Manager of the family was maintaining the suit properties. As the first defendant was not able to maintain the properties and as the plaintiff had experience in the fishing farm, the first defendant insisted the plaintiff to take possession of the properties for fishing farm. Therefore, the plaintiff had agreed for the proposal. The first defendant agreed to sell the properties to an extent of 65 acres at the rate of Rs.1,00,000/- per acre for a total sale consideration of Rs.65,00,000/- and agreed to convey the property and received Rs.15,00,000/- as advance on 10.09.2007. The said entire agreement was reached as oral agreement between the parties. From then onwards, the plaintiff was in possession of the suit properties. Further, a sum of Rs.10,00,000/- was also given separately to the first defendant in respect of the fishes in the fish farm in the presence of witnesses on 10.09.2007 and a receipt has also been prepared. The first defendant has also received a sum of Rs.3,00,000/- towards interest for the balance sale



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consideration of Rs.50,00,000/-. The first defendant has also agreed to register the said 65 acres in the name of the plaintiff in the Sub Registrar office and has also handed over the documents relating to those properties. Thus, the plaintiff was in possession and enjoyment of the properties. When the matter stood thus, the plaintiff came to know that on 03.03.2009, the first defendant along with defendants 2 and 3 sold the properties to a third party, namely the fourth defendant. Therefore, the plaintiff has also issued a public notice through his lawyer on 08.03.2009 in the newspaper stating that the illegal sale done by the first defendant will not be binding on the transaction already done with the plaintiff. The first defendant has also published a denial statement in the newspaper on 15.03.2009. Hence, the plaintiff has filed the suit for specific performance to enforce the alleged oral contract.

3.2.In the written statement filed by the first defendant which was adopted by the second defendant, it is the case of the first defendant that he had never entered into any oral agreement to sell the suit properties in the name of the plaintiff. It is also denied that a sum of Rs.15,00,000/- was received on 10.09.2007. The first defendant has also denied the execution of receipt for the advance payment. It is the contention of the first defendant that the plaintiff was permitted to harvest the fishes from

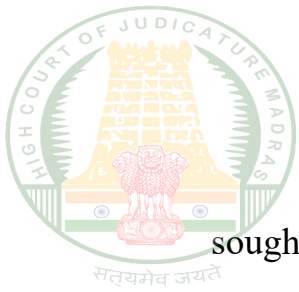


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the fishing farm owned by defendants 1 to 3 in the year 2008 for Rs.10,00,000/- as license fee and except this amount given for the sale of fishes in the fishing farm, there was no amount paid by the plaintiff to the first defendant. The receipt produced by the plaintiff is a created one for the purpose of this case.

3.3.The fourth defendant in its written statement has also disputed the alleged oral agreement between the plaintiff and the first defendant. According to the fourth defendant, they are the bona fide purchaser of the properties and the suit has been filed in order to make an unjust enrichment. The suit properties were purchased by the fourth defendant from the owners of the properties for a proper sale consideration and the name changes were also made in the revenue records and therefore, this fourth defendant has become the owner of the suit properties and hence, he disputed the suit filed by the plaintiff.

3.4. The fifth defendant has also filed the written statement stating that the fourth defendant has purchased the suit properties from defendants 1 to 3 vide a proper sale deed. The fifth defendant has obtained the properties from the fourth defendant after verifying the documents and encumbrance certificate and therefore, this fifth defendant is in possession and enjoyment of the suit properties and therefore, he



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sought for dismissal of the suit filed by the plaintiff.

**WEB COPY** 4. Based on the above pleadings, the trial court has framed the following issues:

(i) Is it true that there was oral agreement, as said by the plaintiff, to sell the suit properties in favour of the plaintiff?

(ii) Is it true that as per the oral agreement, advance payment was made by the plaintiff?

(iii) Whether the plaintiff is entitled to enforce the oral agreement?

5. On the side of the plaintiff, four witnesses were examined as P.W.1 to P.W.4 including the plaintiff as P.W.1 and Exs.A.1 to A.22 documents were marked. On the side of the defendants, D.W.1 to D.W.3 were examined and 26 documents were marked as Exs.B.1 to B.26.

6. Based on the materials available and on appreciation of the evidence, the trial court dismissed the suit. Aggrieved over the same, the plaintiff has filed the present appeal suit. During the pendency of the appeal, the plaintiff died and therefore, appellants 2 to 5 were brought on record as legal representatives of the plaintiff/sole appellant.



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7.The learned counsel for the appellants mainly would submit that

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Ex.A.1, receipt has been clearly proved by the plaintiff. Despite the said fact of proof of Ex.A.1, the trial court dismissed the suit mechanically. Ex.A.1 is the proof for the receipt of consideration of Rs.25 lakhs by the first defendant. Having executed the said document and the plaintiff was also permitted to occupy the premises in question to run the fishing farm, the defendants, very conveniently, have sold the property to the fourth defendant. Further, it is contended that the documents, particularly, Exs.A.7, A.8 and A.9 clearly shows that the plaintiff was in possession of the suit properties pursuant to the oral agreement between the parties. Therefore, the trial court was not right in dismissing the suit.

8.The learned counsel for defendants 1,2 and 5/ respondents 1,2 and 5 submitted that the entire suit itself is a fraudulent one and absolutely, there is no contract whatsoever existing between the parties. Ex.A.1 is fabricated one. In fact, the plaintiff was a licensee under first defendant and he was given license to harvest the fishes in the fishing farm run by the first defendant and his family. It was further contended that the suit properties belonged to defendants 1 to 3. Therefore, the question of defendant no.1 alone entering into the agreement with the



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plaintiff over the entire suit properties including the government properties does not arise at all. The part of the properties are government lands. Therefore, the question of sale of the properties by the first defendant does not arise. In any event, the very agreement between the parties was not established by the evidence adduced by the plaintiff. The evidence of P.W.2 and P.W.3 is highly improbable and the trial court has rightly disbelieved their evidence. Hence, they opposed the appeal preferred by the plaintiff.

9.In the light of the above submissions, the points arises for consideration in the present appeal suit are as follows:

(a)Whether there was any oral agreement on 10.09.2007 to sell the suit properties in favour of the plaintiff/first appellant herein/

(b)Whether the plaintiff was entitled to enforce such a oral contract/agreement?

(c)To what other relief, the parties are entitled to?

10.A perusal of the pleadings in the plaintiff would show that the plaintiff has based his claim on the basis of the Ex.A.1 receipt said to

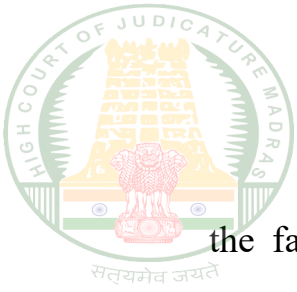


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have been entered on 20.10.2008 between the plaintiff and the first defendant, confirming the oral agreement between the parties. It is relevant to note that the plaint pleadings also had proceeded as if the plaintiff was in possession of the suit properties as part performance of the contract. It is also relevant to note that for the first time, a publication has been issued under Ex.A.15 by the plaintiff in the newspaper as if there was an agreement between the first defendant and the plaintiff which came into existence on 20.10.2008 by receiving a sum of Rs.25 lakhs. The first notice never disclosed anything about the alleged oral agreement said to have been reached between the parties on 10.09.2007 on payment of Rs.15 lakhs. Ex.A.15 publication issued by the plaintiff was proceeded as if the contract first came into existence only on 20.10.2008. Further, though it is the stand of the plaintiff that the first defendant had agreed to sell an extent of 65 acres, now the suit has been laid only for 43 acres. There was no explanation as to how there was variance in the extent of land.

11.Further, it was contended that the first defendant as the manager of the family has entered into contract on behalf of others. It is relevant to note that in the absence of any authorisation from the other members of



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the family, the first defendant alone entering into a contract with the plaintiff, on behalf of the other family members and who have also individual rights over the properties, is highly improbable.

12.A perusal of the evidence of P.W.1 would also clearly show that the name of the witnesses has been written very narrowly and interpolated and the serial number of witnesses nos.2 and 3 were included. The witnesses also very close friends of P.W.1. Further, his evidence also clearly shows that Ex.A.7 receipt filed by him was related to the licence fee. Therefore, that itself clearly probablise the case of the defendants that the plaintiff was given licence in the fishing farm run by the defendants for some time and there it appears that some amount was said to have been paid. The documents relied on by the plaintiff, namely Exs.A.7 and A.8, show that they were receipts issued by the Panchayat to the plaintiff for the licence fee, except that, the documents filed by the plaintiff do not prove anything. Though Ex.A.17 certificate issued by the Tahsildar shows that the plaintiff was in possession of the suit properties, the said certificate issued by the Tahsildar has not been proved in the manner known to law. Without examining the person who had issued the certificate, a mere filing of certificate itself is not sufficient to prove ones



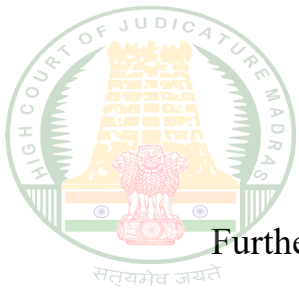
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possession in the suit properties.

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13.The other witness, namely P.W.2 is none other than the employee of P.W.1 and his cross examination clearly shows that he does not know anything about the contract and what was the nature of the sale consideration, etc. Further, P.W.2 in his evidence has spoken as if there was oral agreement agreed between the parties on 20.10.2008 and a sum of Rs.3 lakhs was paid as on the date of Ex.A.1. His evidence is totally contrary to the plea of the plaintiff, whereas the plaintiff has taken a stand as if Rs.15 lakhs was already paid on 10.09.2007. P.W.2 has never spoken in his evidence as to the payment of Rs.25 lakhs but Ex.A.1 was said to have been executed in his presence. A perusal of Ex.A.1 clearly shows that P.Ws.2 and 3 have signed in different ink in crumbled manner between the first witness and scribe's signature. Therefore, this itself clearly probabilise the defence theory that Ex.A.1 was a fabricated one.

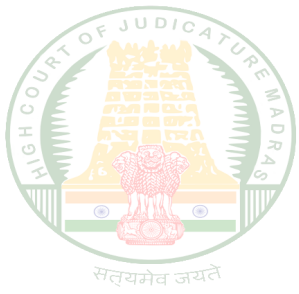
14.The evidence of P.W.3 also clearly shows that the defendants were running fishing farms and the plaintiff was permitted to harvest fishes from the fishing farm. Therefore, the alleged oral agreement to sell 65 acres of land including the government lands is highly improbable.



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Further, P.W.2 and P.W.3 are none other than the close friends of P.W.1

and the fact that their names were included later itself creates serious doubt. Further, there is absolutely no evidence to show that such a huge amount has been parted by P.W.1 to the first defendant without any document whatsoever before Ex.A.1 document came into existence. Further, the parting of such huge amount even without a scrap of paper is highly improbable. No materials whatsoever has been placed on record to prove the so-called payment also. If really Ex.A.1 is reduced into writing and there was oral agreement, there was no reason as to why the interest amount should be paid and it also creates some doubt about the genuineness of the agreement and the same is attached with artificiality. Further, the payment of such huge amount and the advance payment made without any stamp paper is against the normal human conduct. The evidences of P.Ws.2 and 3 are insufficient to establish the transaction as pleaded by the plaintiff. Significantly, despite the alleged payment of such a huge amount, not even a scrap of paper or stamped document has been produced to evidence the said transaction. In the absence of any documentary proof, the evidence on the side of the plaintiff wholly improbable and unworthy of acceptance.



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15.Further, it is the case of the plaintiff that the first defendant has sold the properties to the third party in the year 2009 itself, but the suit came to be filed by the plaintiff belatedly. The delay in approaching the court itself clearly indicate that the Ex.A.1 is not true and not valid. Further, no stamped receipt has been produced by the plaintiff even to treat the same as the receipt of the huge amount. Therefore, in the light of what is stated above, we are of the considered view that the plaintiff has failed to establish the genuineness of the document Ex.A.1 and there is serious doubt shrouded with the documents placed by the plaintiff. The documents submitted by the plaintiff are not capable enough to enforce the contract between the plaintiff and the first defendant. The plaintiff has not produced any other valid documents to prove the contract entered between the parties so as to enforce the contract. On a careful perusal of the entire oral and documentary evidence, this court finds that the plaintiff failed to establish his case for specific performance. The documents relied on by the plaintiff creates serious doubts regarding the genuineness of the plaintiff's claim and makes the case of the plaintiff a improbable one. In such view of the matter, the trial court was fully justified in holding the case against the plaintiff by dismissing the suit. This court finds no infirmity in the said judgment of the trial court.



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Therefore, we do not find any merit in the appeal. The appeal suit fails and the same is dismissed confirming the judgment and decree passed by the trial court. No costs. Consequently, connected miscellaneous petition is closed.

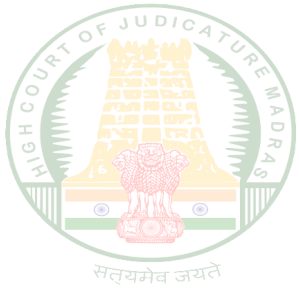
(N.S.K., J.) (M.J.R., J.)  
16.07.2026

Index : Yes / No  
Speaking Order /Non speaking order  
Neutral Citation : Yes / No  
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To

1.The Principal District Court,  
Tiruvarur.

2.Section Officer,  
VR Section,  
Madras High Court,  
Chennai.



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

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