

S.A.(MD)No.573 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.06.2026

DELIVERED ON : 17.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

S.A.(MD)No.573 of 2019

and

C.M.P.(MD)Nos.13675 of 2025 & 11563 of 2019

1.Padmavathi

2.Subha

... Appellants

Vs.

K.Raman

... Respondent

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, praying to set aside the judgment and decree dated 12.10.2018 passed in A.S.No.19 of 2014 on the file of the learned Principal District Judge, Madurai, confirming the judgment and decree dated 28.02.2014 passed in O.S.No.214 of 2011 on the file of the learned Principal Sub Judge, Madurai.

For Appellants : Mr.T.Arul

for Mr.M.P.Senthil

For Respondent : Mr.K.Ravi Anantha Padmanathan,

Senior Counsel for Mr.M.Paraloga Vignesh



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JUDGMENT

The defendants, in a suit for specific performance, having suffered concurrent findings before the Trial Court as well as the First Appellate Court are the appellants. The Second Appeal was admitted by this Court on 29.11.2019, on the following three substantial questions of law:

“(A) Whether the Courts below committed a serious error in law in granting the equitable and discretionary relief of specific performance in favour of the respondent without advertng to the very scope and purport of Sections 16 & 20 of the Specific Relief Act, especially the suit has been laid on the last date of limitation for filing the suit and more so, no plausible explanation was offered for the delay?

(B) Have not Courts below committed an error in granting the discretionary equitable relief of specific performance without advertng that the suit has been laid on the last date of limitation ie., After 36 months from the date of performance and 33 months from the date of



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issuance of legal notice, under Ex.A.2, especially the time fixed for performance under Ex.A.1 is only three months?

(C) Whether the Courts below are right in rejecting the defence as well as the evidence of the appellants / defendants relating to the circumstances under which Ex.A.1, the sale agreement was executed, merely relying on Section 92 of the Evidence Act even without advertting to the very proviso to the said section which clearly permits as party to a contract to contend that the agreement entered was intended only as a security for the loan transaction and not actually a sale agreement?"

2.I have heard Mr.T.Arul, for Mr.M.P.Senthil, learned Counsel appearing for the appellants and Mr.K.Ravi Anantha Padmanathan, learned Senior Counsel for Mr.M.Paraloga Vignesh, learned Counsel appearing for the respondent.

3.For the sake of convenience, the parties are described as per their rank before the trial Court.



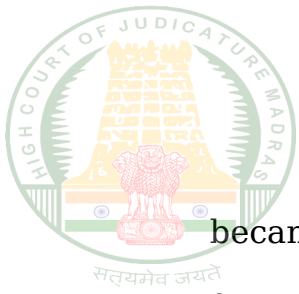
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4. Pending Second Appeal, C.M.P.(MD)No.13675 of 2025, had been taken out by the respondent / plaintiff, for adducing additional evidence. The additional documents which are sought to be produced are pertaining to a similar agreement entered into by the first defendant in respect of the southern portion of the suit property and to drive home the fact that the first defendant suffered an ex-parte decree in a suit for specific performance filed by the agreement holder in respect of the said southern portion and that not only sale deed came to be executed, but possession was also taken over by the said purchaser / agreement holder and that the attempts to set aside the ex-parte decree were also unsuccessful upto this Court. The said application was also taken up for arguments along with the Second Appeal.

5. The brief facts that are necessary for adjudicating the substantial questions of law framed by this Court as extracted hereinabove are as follows:

5.1. The suit property was originally belonging to the husband of the first defendant, one Raju, he having purchased the same on 09.08.1985, in and by registered sale deed. He died intestate leaving behind the defendants, who are his wife and daughter, who



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became entitled to the suit property absolutely and equally. The first defendant, for herself and as guardian of the minor second defendant entered into the sale agreement with the plaintiff on 07.08.1997, for selling the suit property for a consideration of Rs.7 Lakhs. A sum of Rs.4,50,000/- was paid by the plaintiff as advance. Three months time was fixed for completion of the sale transaction. The plaintiff, contending that despite repeated requests, the first defendant did not come forward to execute the sale deed and that even when the entire balance sale consideration of Rs.2,50,000/- was tendered on 01.02.1998, the first defendant refused to receive the same and instead demanded an additional consideration of Rs.3 Lakhs, which was not agreeable to the plaintiff. According to the plaintiff, the plaintiff has always been ready and willing to perform his part of the contract.

5.2.It is also the case of the plaintiff that he deposited the balance sale consideration of Rs.2,50,000/- in his bank account on 03.02.1998 and since, the defendant did not come forward to complete the transaction, he withdrew the said amount deposited by him. The plaintiff thereafter, issued a lawyer's notice on 10.02.1998, calling upon the first defendant to come forward to execute the sale deed. The first defendant admittedly, did not send



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any reply to the said notice. It is claimed by the plaintiff that the first defendant met the plaintiff at his house and promised to complete the sale deed within six months. However, the first defendant did not come forward to execute the sale deed despite expiry of six months and therefore, in the month of February, 1999, the plaintiff along with one Sahadevan, personally met the first defendant and requested for the first defendant to come forward to complete the sale transaction.

5.3.According to the plaintiff, the first defendant informed the plaintiff that she will fix a convenient date for registration. However, even after several months, no such date was proposed by the first defendant and the first defendant being a young widow and also burdened with the duty of bringing up her minor second defendant daughter, waited patiently and again met the first defendant in November 1999. According to the plaintiff, the first defendant requested six months time for completion of the sale transaction, but however, in May 2000, the first defendant demanded an additional amount of Rs.5 lakhs. Thus, the plaintiff filed the suit for specific performance, alleging that the first defendant is attempting to dispose of the suit property for higher sale consideration and reiterating that the plaintiff has always been



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ready and willing to perform his part of the agreement of sale, including deposit of the balance sale consideration as and when directed by the Court.

5.4.The second defendant attained majority pending the suit and defendants filed a written statement contending that the suit is barred by limitation and that the plaintiff has never been ready and willing to perform his part of the contract. The first defendant further claimed that the parties never intended to agree to sell the property and the agreement was a nominal document, executed only for the purposes of security, for securing a sum of Rs.1 Lakh, borrowed by the first defendant from the plaintiff. According to the first defendant, the plaintiff is a money lender and the first defendant, besides the agreement had also executed a blank promissory note in favour of the plaintiff.

5.5.It is the further case of the first defendant that despite the first defendant tendering the principal amount, together with interest, the plaintiff refused to receive the same and demanded Rs. 2 Lakhs for full discharge and that the first defendant issued two cheques for Rs.1 Lakh each, drawn on Central Bank of India bearing Nos.033033341033342. It is the further case of the first



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defendant that despite the cheques being handed over, the plaintiff did not hand over the blank promissory note and further contended that the cheques were sent for collection on 21.07.1997 and as the first defendant did not have sufficient funds to meet the cheque amounts, the cheques were returned and the plaintiff started threatening the the first defendant that he would take criminal proceedings against her and it is only at this juncture that the plaintiff insisted the first defendant to execute a sale agreement as security for payment of said Rs.2 Lakhs. It is therefore, the case of the first defendant that only under such circumstances, she signed the agreement of sale dated 07.08.1997.

5.6.It is further contended that the first defendant paid a sum of Rs.2 Lakhs on 10.09.1997 and got back the two cheques from the plaintiff. However, the plaintiff did not come forward to cancel the sale agreement and has misused the said agreement by filing the present suit, to knock off the very valuable property of the defendants. It is also contended by the first defendant that at the time of sale agreement, the second defendant was a minor and no Court permission was obtained for entering into the sale agreement and the alleged advance mentioned in the sale agreement was also not received by the defendants.



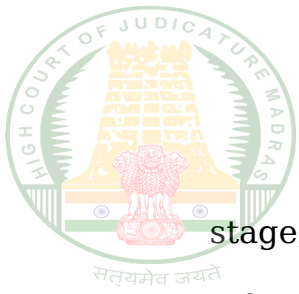
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5.7.As regards not replying to the pre-suit notice, it is contended by the first defendant that she met the plaintiff in person and that the plaintiff assured that he would not proceed legally and the sale agreement would be left to be lapsed by efflux of time. It is also contended by the first defendant that the market value of the suit property is more than Rs.30 lakhs and that the plaintiff is not entitled to the equitable relief of specific performance.

5.8.Before the Trial Court, the plaintiff examined himself as P.W.1 and one Rajendran was examined as P.W.2 and exhibits A.1 to A.6 were marked on the side of the plaintiff. The first defendant was examined as D.W.1 and exhibits B.1 to B.5 were marked on the side of the defendants.

5.9.The Trial Court, after considering the oral and documentary evidence, held that the suit is not barred by limitation. Further, addressing an objection that the suit was initially filed without proper court fee, which was made up at a much later point of time, the trial Court held that Section 149 of CPC permits deficit court fee being made up and being a discretionary order, the same cannot be called in question at a later



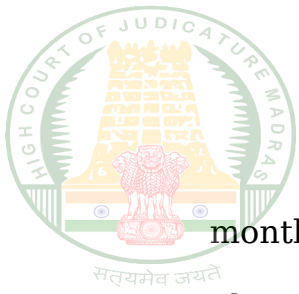
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stage, by the defendants. The Trial Court also drew an adverse inference against the defendants for not replying to the pre-suit notice and also taking note of the fact that the balance sale consideration had been deposited on 06.06.2005 vide Court Challan No.71, pursuant to an ex-parte decree initially passed in the suit, the Trial Court decreed the suit.

5.10.The defendants preferred an appeal in A.S.No.19 of 2014. The First Appellate Court affirmed the findings of the Trial Court, with regard to making up of the deficit court fee and that it was not fatal to the case of the plaintiff and the first defendant, having entered into an agreement which was also proved by examination of P.W.2 and also noticing that D.W.1 had admitted to the execution of the sale agreement also, which was a registered document, the First Appellate Court confirmed the findings of the Trial Court and dismissed the first appeal.

6.Arguments of Mr.T.Arul for Mr.M.P.Senthil, learned Counsel appearing for the appellants:

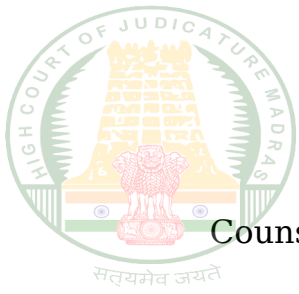
6.1.The learned Counsel appearing for the appellants would firstly contend that the suit is hopelessly barred by limitation and even going by the covenants in the suit sale agreement, only three



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months time was fixed for performance of the contract and the plaintiff has been laid back and approached the Court belatedly, at his convenience and thereby, he is disentitled to the equitable and discretionary relief of specific performance. Learned Counsel would also point out to various dates and events to contend that by his own showing, the plaintiff has failed to establish that he was always ready and willing to perform his part of the contract at all relevant points of time, when alone he can become entitled to a decree for specific performance.

6.2.It is also the submission of the learned Counsel for the appellants that even after the issuance of the pre-suit notice and despite there being no reply, admittedly, to the said notice, the plaintiff did not approach the Court immediately and there has been a considerable delay in filing the suit. Further, the suit according to the learned Counsel for the appellants was also improperly filed without necessary court fee. Therefore, the presentation of the suit itself was bad in the eye of law and consequently, according to Mr.T.Arul, on the ground of limitation, the Courts ought to have dismissed the suit as not maintainable and barred. As regards the additional documents and the agreement with regard to sale of the southern portion, learned



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Counsel for the appellants would contend that only on technical grounds, the appellants were non-suited and they did not even file a written statement in the said suit for specific performance and unfortunately, they lost their right to defend the suit on the ground of delay and therefore, according to learned Counsel for the appellants, the various proceedings and orders relating to the southern portion of the property would be totally irrelevant to the facts of the present case and the said documents are not required to be taken on record as additional evidence.

6.3.It is further contended by the learned Counsel for the appellants that insofar as the present suit as well, though initially the defendants were set ex-parte and subsequently, after passing of the decree alone, the plaintiff deposited the balance sale consideration, the appellant's application for setting aside the ex-parte decree came to be allowed, pursuant to which they were given an opportunity to defend the suit and therefore, the proceedings with regard to a different property even though, it may be adjoining, would have no relevance to the facts of the present case. Learned Counsel therefore, prays for the Second Appeal being allowed and also for dismissal of the CMP.



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6.4.In support of his submissions, learned Counsel for the appellants has relied on the following judgments:

1) *Ogirala Gouri Sankar and another Vs. Siri Konda Veera Sameera Kumar Deve and another*, reported in 1996 SCC Online AP 607.

2) *K.S.Vidyanadam and others Vs. Vairavan*, reported in 1997 (1) CTC 628.

3) *Govind Das Purushotham Das and another Vs. Shaw Wallace and Co. Ltd., Madras and 4 others*, reported in 2001 (1) CTC 601.

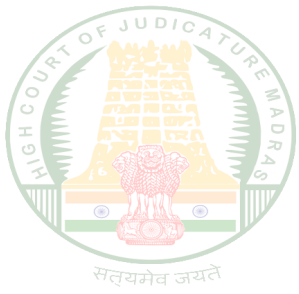
4) *Kamireddi Sattiaraju and others Vs. Kandamuri Boolaeswari*, reported in 2007 (1) LW 309.

5) *Munusamy Vs. Nava Pillai*, reported in 2008 (3) LW 252.

6) *Renuka Vs. Cenakeasavalu Naidu*, reported in 2008 (4) LW 504.

7) *Vimal Chand Ghervarchan Jain and others Vs. Ramakant Eknath Jadoo*, reported in 2009 (5) SCC 730.

8) *Lakshmi and others Vs. Muthusamy*, reported in 2012 (1) CTC 53.



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9) P.Arumugam Vs. M.Shanmugam Pillai, reported in **2013 (3) MWN (Civil) 110.**

10) V.P.Murugesan Vs. P.Shiek Mideen, reported in **2016 (1) LW 332.**

11) P.Vaidyanathan Vs. K.Sundaram, reported in **2017 (1) MWN (Civil) 187.**

12) Jayakantham and others Vs. Abaykumar, reported in **2017 (2) CTC 647.**

13) G.Subramanian Vs. V.T.Patilingam, reported in **2020 (1) CTC 540.**

14) Atma Ram Vs. Charanjit Singh, reported in **2020 (2) CTC 118.**

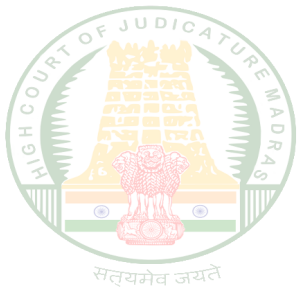
15) Prabakaran Vs. Geetha, reported in **2022 (3) CTC 650.**

16) S.Duraivelu (Deceased) and others Vs. N.Thangamani and another reported in **2022 (3) LW 18.**

17) J.Dhanapal Vs. V.Manimala, reported in **2023 (1) CTC 298.**

18) G.Nagaraj Vs. R.J.Anandmul and another, reported in **2023 (4) LW 520.**

19) T.K.T.G.Srinivasan Vs. A.Murthy, reported in **2024 (1) CTC 595.**



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20) Mahaveer Hemanth Bhandhari and Sons Vs. P.Srinivasalu, reported in 2024 (2) CTC 204.

21) Rajesh Kumar Vs. Anand Kumar and others, reported in 2024 SCC Online SC 981.

22) Palanivel Vs. Balasubramanian, reported in 2025 (1) MWN (Civil) 623.

23) Selvaraj Vs. Pappathi, reported in 2025 (2) CTC 79.

24) C.Kuppusamy Vs. P.Vijaya, reported in 2025 (3) MLJ 437.

25) Dr.Mohammed Thaslim (Died) and another Vs. E.Abdul Naseer in A.S.No.514 of 2011 dated 02.06.2025.

26) Kannan Vs. Venkatesan, reported in 2025 MHC 1257.

27) A.Shahul Hameed Vs. N.Mallgarjuna, reported in 2025 (3) LW 577.

7.Arguments of Mr.K.Ravi Anantha Padmanathan learned Senior Counsel for Mr.M.Paraloga Vignesh, learned Counsel appearing for the respondent:

7.1.Per contra, Mr.Ravi Anantha Padmanaban, learned Senior Counsel would firstly contend that the defendants had come to Court with a false case as if the agreement of sale was executed



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only for securing an alleged amount of Rs.2 Lakhs agreed to be paid by the first defendant to the plaintiff. The said plea was not established by adducing any credible evidence and in fact, the Courts below had rightly held that the agreement of sale was in fact executed only by the first defendant only for sale of the property to the plaintiff, to meet family necessities and also to educate the minor second appellant. It is therefore, the submission of Mr.Ravi Anantha Padmanaban, learned Senior Counsel that the defence taken by the appellants having not been established, it was not open to the appellants to contend that the plaintiff has not been ready and willing and on that score, they should not be granted the relief of specific performance.

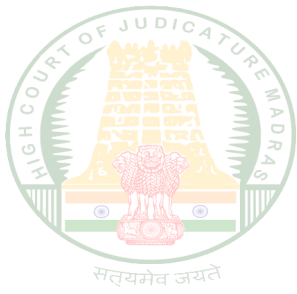
7.2.As regard the arguments with regard to limitation, Mr.Ravi Anantha Padmanaban, learned Senior Counsel would contend that Article 54 of the Limitation Act refers to two parts. When there is a definite date specified for performance of the contract, then limitation would be three years from the said date fixed for performance. However, in terms of second part of Article 54, when no date was fixed for performance, then the plaintiff can take the benefit of notice of refusal by the defendants and file a suit within a period of 3 years from the date of noticing refusal to



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perform the contract. In any event, it is the contention of Mr.Ravi Anantha Padmanaban, learned Senior Counsel that the suit agreement being executed on 07.08.1997 and the suit having been filed on 06.11.2000, the suit was very much in time and cannot be held to be barred on the ground of limitation.

7.3.With regard to the arguments of the learned Counsel for the appellants that suit was filed without proper court fee and therefore, it should not amount to proper filing, to account the period of limitation and bring the suit within time, Mr.Ravi Anantha Padmanaban, learned Senior Counsel would contend that an application was taken out under Section 149 of CPC and the same having been allowed by the Court, the delay in payment of deficit court fee has been condoned and the said order will relate back to the date of filing of the suit and therefore, the said argument of the learned Counsel for the appellants is of no avail. That apart, he would also state that admittedly, there was a protest by the stamp vendors and necessary court fee was not available on the date of filing of the suit and in such circumstances alone, the suit was filed without applicable court fee and in any event, accepting the reasons assigned by the plaintiff, the Court had also extended the time for payment of Court fee, which order has become final.



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7.4.It is the further submission of Mr.Ravi Anantha Padmanaban, learned Senior Counsel that the period of three months fixed in the agreement Ex.A.1 was qualified in the sense that three months period would run only from the date on which the first defendant was ready to execute the sale deed. He would therefore, state that it cannot be construed as a specific date being fixed for performance of the contract and in such circumstances, the plaintiff can certainly, take the benefit of part 2 of Article 54 and bring the suit within the period of limitation, after noticing refusal of the first defendant to complete the sale transaction.

7.5.As regards readiness and willingness, learned Senior Counsel would state that the financial capacity of the plaintiff was never questioned and even according to the defendants, the plaintiff was a money lender and he had in fact lent money to the first defendant. Further, the plaintiff had shown his readiness by depositing the entire sale consideration in his bank account and further, after the ex-parte decree as well, in compliance with the directions of the Trial Court, the entire balance sale consideration was also deposited. He would therefore, state that the plaintiff had



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clearly established both readiness and willingness and was certainly entitled to the discretionary and equitable relief of specific performance.

7.6.As regards the minor's interest involved, Mr.Ravi Anantha Padmanaban, learned Senior Counsel would contend that even pending trial of the suit, the second defendant has become major and in fact, written statement came to be filed only after the second defendant attained the age of majority and the agreement entered into by her mother and natural guardian was never questioned by the second defendant. More so, when the agreement itself clearly indicated that the sale was for the betterment and welfare of the minor and for her education and career advancement, it is not open to the second respondent to belatedly take a plea that Court permission was not obtained and therefore, the agreement of sale has to fail.

7.7.Mr.Ravi Anantha Padmanaban, learned Senior Counsel would also state that the plaintiff had paid almost 2/3rd of the total sale consideration even on the date of the agreement of sale and the delay was only on account of the conduct of the first defendant, who kept changing the date of execution of the sale and for



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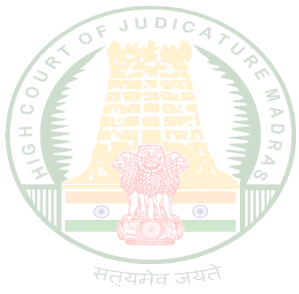
showing indulgence to the first defendant being a young widow, the plaintiff should not be made to suffer.

7.8.As regards the additional evidence, Mr.K.Ravi Anantha Padmanathan, learned Senior Counsel would contend that the conduct of the first defendant is equally relevant in a suit for specific performance and therefore, when the first defendant had entered into an agreement of sale in respect of the southern portion of the very same property, originally forming a larger extent, the defence taken by the first defendant was clearly improbable and exposes the *malafide* intentions of the defendants. He would therefore, state that the additional evidence should be taken on record to notice the conduct of the appellants / defendants.

7.9.Learned Senior Counsel in support of his submissions has relied on the following decisions.

1) *Mothlal Jain Vs. Ramdasi Devi (Smt)*, reported in (2000) 6 SCC 420.

2) *Narinderjit Singh Vs. North Star Estate Promoters Limited*, reported in (2012) 5 SCC.



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3) *R.Lakshmikantham Vs. Devaraji* reported in (2019) 8 SCC 62.

4) *A.Shahul Hameed Vs. N.Malligarjuna and others*, reported in 2026 INSC 573.

5) *A.Prabhakar Vs. R.Vijaya*, in S.A.(MD)No.82 of 2026 dated 09.03.2026.

6) *Madina Begum and another Vs. Shiv Murti Pandey and others* reported in (2017) 4 CTC 99.

7) *Shri Manik Chand and another Vs. Shri Ramachandra son of Chawiraj* reported in (2000) 6 SCC 420.

8) *Puvaneswary Balachandran and others Vs. Vijayalakshmi and others*, in A.S.No.183 of 2016 dated 19.04.2023.

8.I have carefully considered the submissions advanced by the learned Counsel on either side.

9.Firstly, I will take up the defence raised by the defendants and also the requirement of any additional evidence to decide the substantial questions of law that have been framed by this Court, in view of the C.M.P.(MD)No.13675 of 2025, taken out by the



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respondent / plaintiff. The case of the first defendant is that she had borrowed a sum of Rs.1 Lakh from the plaintiff in respect of which, she had signed a promissory note and despite paying the amounts due the plaintiff, he demanded Rs.2 Lakhs in full quits and the first defendant agreed to pay the sum of Rs.2 Lakhs, for which she issued two cheques, for one lakh each. She was not in a position to honour the said cheques and cheques were dishonoured and the plaintiff, according to the first defendant, threatened to launch criminal prosecution. At that juncture, in order to avoid criminal prosecution, the first defendant claims that she agreed to the plaintiff's request to enter into a sale agreement for sale of the suit property for a sum of Rs.7 lakhs and it is her definite case that the sale agreement was a nominal document not intended to be acted upon, but executed only as a security for the amount of Rs.2 Lakhs.

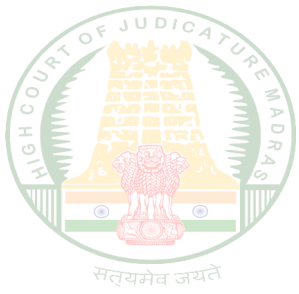
10. If really the first defendant has executed the agreement as a security for repayment of a sum of Rs.2 lakhs, there was no necessity for the first defendant to agree to sell the suit property for a sum of Rs.7 lakhs and that too, claim that an advance of Rs. 4,50,000/- had been paid. It is a farfetched story to be bought. The Courts below have rightly held that such defence was not tenable



and more so, the first defendant, while being examined as D.W.1 has also candidly admitted to the agreement of sale and in the said circumstances, the findings that the registered sale agreement in Ex.A.1 was indeed a sale agreement, intended to be acted upon and not executed for the purpose of security are perfectly in order and do not call for any interference.

11.However, in a suit for specific performance, the plaintiff, even in the absence of any defence on the side of the vendor, has to satisfy the mandatory requirements of Section 16(c) and Section 20 of the Specific Relief Act, before becoming entitled to a decree of specific performance. In this regard, I proceed to examine the facts of the present case. It is not in dispute that the property originally belonged to one Raju, the husband of the first defendant and father of the second defendant. The Ex.A.1 agreement was entered into and registered on 07.08.1997. It has been agreed that the transaction would be completed within a period of three months. At this juncture, it would be relevant to address the arguments advanced by Mr.K.Ravi Anantha Padmanathan, learned Senior Counsel appearing for the respondent / plaintiff. He would point out to the covenants in the agreement which reads as follows:

“ஆகையால் நாளது தேதி முதல் 3 மூன்று மாத
வாய்தாவிற்றுகள் இதன் முகப்பில் குறிப்பிட்டபடி



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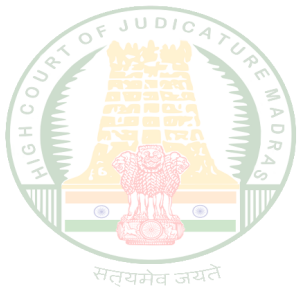


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கீழ்க்காணும் சொத்தை நம்மில் 2 வது பார்ட்டி சுத்தக் கிரையம் செய்து கொடுக்க தயாராவதும், நம்மில் 1 வது பார்ட்டியின் சொந்தச் செலவில் 1 வது பார்ட்டி பெயரிலோ அல்லது அவர் குறிப்பிடும் நபர் பெயரிலோ கிரையம் பத்திரம் தயார்செய்து கொண்டு ஹை பத்திரப் பணப்பற்று விவரப்படி பாக்கிக் கிரையத் தொகை ரூபாய் 2,50,000/- (ரூபாய் இரண்டு லட்சத்து ஐம்பதாயிரம்) மட்டும் கொடுப்பதை 2 வது பார்ட்டி பெற்றுக்கொண்டு ஹை கிரையப் பத்திரத்தை பதிவுசெய்து கொடுக்க வேண்டியதென்றும்

12.Relying on the said clause, Mr.K.Ravi Anatha Padmanathan, learned Senior Counsel would contend that the time period fixed namely three months cannot be assumed from the date of the agreement, since the parties have contemplated three months from the date on which the first defendant got ready for registration. Though such an argument appears to be attractive at first blush, on a reading of the entire agreement, I am unable to make out any special reason for such a covenant, regarding execution of the sale deed within three months from the date of the first defendant getting ready for registration. In fact, in the very same agreement, at Page No.2, it is agreed as follows:

“kidtPL tifawhtpy; tlg[uk;
gFjpahd ,jdoapw; fz;l brhj;ij vt;tpj tpy;yq;fKk;
ghj;jpaf;Fiwt[k; ,y;yhky; brhj;jpd; RthjPdk;



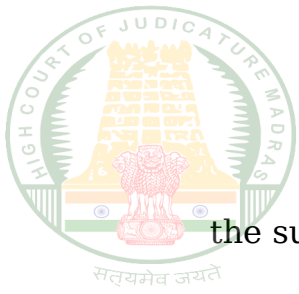
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kw;Wk; Mjut[j];jhntR rfpjk; ehsJ njjp Kjy; 3
K:d;W khj tha;jhtpw;Fs; ek;kpy; 1tJ ghh;l;of;F
2tJ ghh;l;o U:gha; 7>00>000/- (U:gha; VG
yl;rj;J)f;F fpiuak; bra;Jju”

13.Ex.A.1 agreement has to be read as a whole and it clearly indicates that the parties had fixed a period of three months from the date of execution of the agreement of sale. Nothing remained to be executed or done on the part of the vendors, namely first defendant, for herself or as guardian for her minor daughter, to give any weightage or importance to the later part of the agreement stating that three months period would commence from when the first defendant gets ready for registration. It is in this context that the filing of the suit on 06.11.2000 and the arguments with regard to deficit court fee assumes significance. Admittedly, the date on which the suit has been filed is the last date for filing the suit, taking into account the date of agreement of sale. If the suit was not properly presented, then as contended by learned Counsel for the appellants, certainly the plaint cannot be brought within the period of limitation. However, an application has been taken out under Section 149 of CPC, to condone the delay in payment of deficit Court fee, citing a reason that stamp vendors were on strike and Court fee could not be procured in order to file

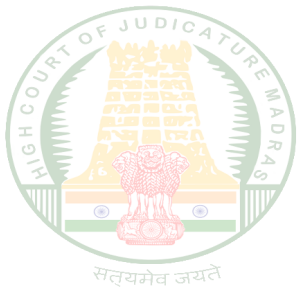


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the suit with proper and applicable fee on the said date.

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14.Though it is contended by learned Counsel for the appellants that they have brought on record the evidence to show that on the very same day, court fees were very much available in the vicinity, since the order passed in Section 149 application has been allowed and has become final, I am not inclined to now reopen this issue and delve deeper into the question whether the suit was properly presented or not and whether the suit was barred by limitation. Therefore, giving the benefit of doubt to the plaintiffs to hold that the suit had been admittedly filed within the period of limitation. In a suit for specific performance, even though a period of limitation is prescribed for enabling the plaintiff to come to Court seeking relief, merely because the suit is in time, it does not in any manner further the cause of the plaintiff. The plaintiff has to satisfy the requirements of Section 16(c) and Section 20 of the Specific Relief Act. In other words, unless the plaintiff shows “readiness and willingness” to perform his obligations at all relevant points of time, he will not be entitled to the relief of specific performance.



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15.In this context, certain dates assume significance. The suit sale agreement was entered into on 07.08.1997, fixing a period of three months. Therefore, the plaintiff should have taken effective steps to pay the balance sale consideration and conclude the sale transaction by 06.11.1997. The plaintiff, as seen from the plaint, offered to pay the balance sale consideration only on 01.02.1998. However, according to the plaintiff, the first defendant refused to receive the same and in fact, demanded an additional sale consideration of Rs.3 lakhs. Therefore, according to the plaintiff, in order to record his readiness and willingness, he deposited the balance sale consideration in his bank account on 03.02.1998 and called upon the first defendant to execute the sale deed by issuing a lawyer's notice on 10.02.1998.

16.Admittedly, there was no reply to the said lawyer's notice dated 10.02.1998. Even thereafter, the plaintiff has not taken any steps to seek specific performance of the agreement of sale. It was the first instance when the plaintiff had noticed that the defendant was evading the execution of the sale deed. Surprisingly, it is alleged by the plaintiff that in May 1998, the first defendant met the plaintiff at his house and promised to execute the sale deed within six months. Even assuming such a contention can be taken



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into account, the plaintiff did not take any steps immediately after expiry of the six months period, but claims to have met the first defendant again along with one Sahadevan in February 1999 and even at that point of time, the first defendant had expressed to the plaintiff that she will inform a convenient date for the execution of the sale deed. It is thereafter, only in November, 1999, that the plaintiff along with P.W.2 once again approached the first defendant, when it is again claimed that the first defendant wanted a further six months time. Thereafter, the plaintiffs' version is that in May 2000, the plaintiff, along with P.W.2, met the first defendant, at which point of time, the first defendant demanded an additional sum of Rs.5 Lakhs. Atleast then, the plaintiff should have immediately rushed to Court, but the suit was filed only on 06.11.2000, alleging that the defendants were not coming forward to perform their part of the contract.

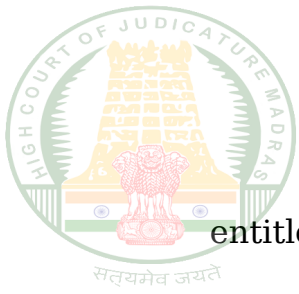
17. Having not taken steps to have the agreement specifically performed, despite the expiry of three months and having chosen to issue a lawyer's notice on 10.02.1998, after the expiry of three months from the time fixed for performance and even thereafter, not filing the suit for a period of 2 years and 9 months, the conduct of the plaintiff clearly smacks of not being ready and willing. The



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story weaved by the plaintiff as if the first defendant being a widow, the plaintiff was very patient and indulgent cannot be believed, for the simple reason that atleast in February, 1998, the plaintiff had noticed refusal of the first defendant to come forward to execute the sale agreement. In fact, it is alleged by the plaintiff himself that the first defendant refused to receive the balance sale consideration on 01.02.1998 and insisted on an additional amount of Rs.3 Lakhs. The plaintiff had the benefit of legal advise even in February, 1998, while issuing a pre-suit notice and it is totally strange and unbelievable that when the first defendant had refused to receive the balance sale consideration and instead demanded additional sale consideration, the plaintiff still believed the first defendant and kept waiting for months together.

18.As already pointed out, even assuming the plaintiff's theory that the first defendant kept postponing the date and never refused to come forward to execute the sale deed can be true, still it has already been seen, as discussed above, that the plaintiff has never been adhering to the time lines even according to his own version. Even assuming that the plaintiff is a man of means and even prior to the commencement of trial, he has deposited the entire balance sale consideration on 06.06.2005, that alone will not



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entitle the plaintiff to the relief of specific performance, which requires the plaintiff to establish not only readiness but also willingness. Financial readiness may have been proved by the plaintiff in the present case, however, the mental element of willingness has been totally lacking and in such circumstances, the plaintiff is not entitled to the relief of specific performance.

19.Insofar as CMP for additional evidence is concerned, I do not see any requirement to permit production of additional documents at this Second Appellate Stage, since both the Courts have firstly disbelieved the defence taken by the first defendant that the suit sale agreement was only a security for borrowing and therefore, I do not see how documents pertaining to the adjacent portion of the property and proceedings relating to the same would have any bearing in the present case. I do not therefore, find the said documents required to be received as additional evidence. Accordingly, C.M.P.(MD)No.13675 of 2025 stands dismissed.

20.Coming to the decisions that have been relied on by the learned Counsel for the appellants, in ***T.K.T.G.Srinivasan's*** case it has been held that when the plaintiff does not take appropriate steps within the period stipulated in the agreement, then the plaint



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is hit by the embargo under Section 16 of the Specific Relief Act and not entitled to the relief of specific performance. The Court in **T.K.T.G.Srinivasan's** case have also held that when the pre-suit notice itself came to be issued after the expiry of time stipulated in the sale agreement, that by itself would show that the plaintiff is not ready and willing to perform his part of the contract.

21.In **Selvaraj's** case, this Court held that mere deposit of balance sale consideration after obtaining an ex-parte decree would by itself not sufficient to establish readiness and willingness.

22.In **Prabakaran's** case, this Court held that readiness and willingness of the plaintiff should be continuous at all stages, right from the date of agreement, till the date of decree in the suit.

23.In **G.Subramanian's** case, **Atma Ram's** case and **Prabakaran's** case, it has been held that the filing of the suit for specific performance beyond the agreement period and at the fag end of the limitation period of three years establishes lack of readiness and willingness on the part of the plaintiff.

24.In **Shahul Hameed's** case, this Court held that even if

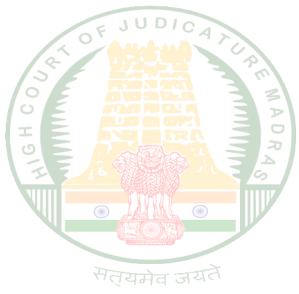


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there is no specific plea raised by the defendant, yet the plaintiff has to prove the readiness and willingness to perform his part of the contract.

25.In ***Palanivel's*** case and ***Selvaraj's*** case, it has been held that the burden of proof is upon the plaintiff to establish readiness and willingness. In ***Mahaveer Hemanth Bhandhari's*** case, this Court held that mere possession of funds to meet the balance sale consideration would not imply readiness and willingness. In ***Selvaraj's*** case, this Court held that mere factum of non-replying to the pre-suit notice will not absolve the plaintiff to establish readiness and willingness. In ***Jayakantham's*** case, this Court held that the Court is not bound to grant the relief of specific performance merely because it is lawful to do so, if it is hit by embargo under Section 20.

26.In ***Kannan's*** case, ***P.Vaidyanathan's*** case and ***Selvaraj's*** case, the Courts held that the conduct of the plaintiff and all attendant circumstances will have to be considered, while deciding the defence taken that the agreement was a security for a loan transaction.



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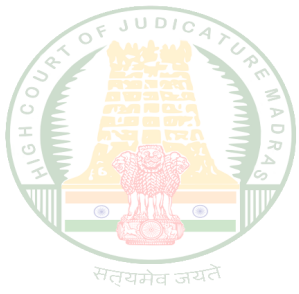
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27.In ***Govind Das Purushotham Das's*** case and ***Ogirala Gouri Shankar's*** case, Courts held that the mother cannot enter into a sale agreement in respect of a minor daughter's share, without prior permission of the Court.

28.In ***Atma Ram's*** case, the Hon'ble Supreme Court held that dubious plaint without paying proper stamp duty will not save limitation.

29.In ***Munusamy's*** case and ***S.Duraivelu's*** case, Courts held that if the agreement is surrounded by suspicious circumstances, specific performance cannot be granted.

30.In ***C.Kuppusamy's*** case, ***Lakshmi's*** case, ***Renuka's*** case, ***V.P.Murugesan's*** case, ***Dr.Mohammed Thaslim's*** case, ***Vimal Chand Ghervarchan Jain's*** case and ***Kamireddi Sattiaraju's*** case, Courts have held that if the agreement was brought about by exercising undue influence or fraud, then such an agreement cannot be specifically enforced.



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31.Coming to the decisions that have been relied on by the learned Counsel for the respondents, in ***Mothlal Jain's*** case, the Hon'ble Supreme Court held that the payment of 2/3rd of sale consideration on the date of agreement of sale establishes readiness on the part of the plaintiff to pay the balance sale consideration.

32.In ***Narinderjit Singh's*** case, the Hon'ble Supreme Court held that readiness and willingness will have to be determined from the facts and circumstances of the case, evidence on record and conduct of both parties.

33.In ***R.Lakshmikantham's*** case, the Hon'ble Supreme Court held that mere filing of the suit towards the fag end of the limitation period cannot be put against the plaintiff and it would not by itself imply lack of readiness and willingness.

34.In ***Shahul Hameed's*** case, the Hon'ble Supreme Court held that when substantive defence of loan transaction has been concurrently found to be not proved, the High Court could not interfere and refuse specific performance and merely because notice was sent after the agreement period will not militate against

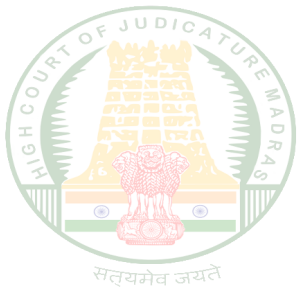


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the plaintiff and imply lack of readiness and willingness, especially when such notice was not replied to. In **Shahul Hameed's** case, in fact, the Hon'ble Supreme Court set aside the decision of this Court reported in **2025 3 L.W. 577**, which has been relied on by the learned Counsel for the appellants as well.

35.In **Prabhakar's** case, I held that a purchaser is not under any obligation to deposit the balance sale consideration, to show readiness on his part.

36.In **Madina Begum's** case, the Hon'ble Supreme Court, interpreting the 'date fixed' under Article 54 Schedule I of the Limitation Act, held that the expression 'date fixed for the performance' is a crystalized notion. When a date is fixed, it means that there is a definite date fixed for doing a particular act and only in the absence of a specific date being fixed for performance, the second part of Article 54 would come into play and the plaintiff is entitled to bring up a suit within three years from the date on which he has noticed that performance is refused.

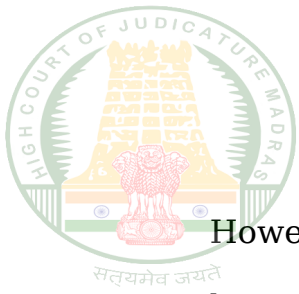


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37.In *Shri Manik Chand's* case, the Hon'ble Supreme Court held that natural guardian is entitled to enter into a contract on behalf of the minor as long as the sale is for necessity and for the benefit of the minor.

38.In *Puvaneswary Balachandran's* case, the Division Bench of this Court to which I was a party, held that a minor has to necessarily repudiate the contract entered into on the minor's behalf, if aggrieved by the same.

39.Having discussed the propositions for which the various decisions have been relied on, there is no quarrel with regard to the fact that insofar as limitation, the plaintiff cannot be non-suited citing Article 54 of the Limitation Act. The suit was admittedly filed within three years, in fact, on the last date available to the plaintiff. The only contention to take it out of the period of limitation is that the suit was filed without proper Court fees. If at all the application under Section 149 CPC had not been entertained or allowed by the Trial Court, there is some merit in the arguments of the learned Counsel for the appellants to contend that mere filing of the suit on the last date to save the limitation without proper Court fee, the same would not give the benefit of limitation to the plaintiff.



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However, admittedly, the application under Section 149 of CPC has been entertained and allowed by this Court and the order has also become final. In such circumstances, I do not see any ground to hold that the suit is barred by limitation.

40.Even with regard to the entering into the agreement of sale by the mother on behalf of the minor daughter, the agreement clearly indicates that the sale was for the benefit of the minor, especially, to meet her educational expenses and in such circumstances, as held by the Hon'ble Supreme Court, there is no requirement for any Court permission to enter into the agreement of sale on behalf of the minor. However, the minor herself did not repudiate the act of the mother in agreeing to sell the minor's share as well, by bringing any suit, challenging the agreement of sale. Therefore applying the ratio laid down in the relevant cases discussed hereinabove, I do not see this ground also being available to the appellants.

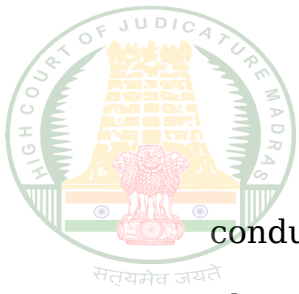
41.This leaves us with “readiness and willingness” on the part of the plaintiff. I have already discussed elaborately as to how the plaintiff has not been in a position to establish readiness and willingness, despite alleging that the first defendant never refused



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to perform her part of the contract and was only evading the plaintiff and postponing the date for registration. The plaintiff's version that even after issuance of lawyer's notice and demand of additional sale consideration on two occasions, to expect a bonafide purchaser to contend that he waited patiently, on account of the vendor being a young widow is clearly unacceptable and unsustainable. Though, a recent decision of this Court in ***Shahul Hameed's*** case has been reversed by the Hon'ble Supreme Court, recently in May 2026, that was a case where the Hon'ble Supreme Court found that the pre-suit notice was issued within four [4] months from the time stipulated in the agreement and in such circumstances, held that by itself it cannot lead to an inference that the plaintiff was not ready and willing to perform the contract.

42. Even in the facts of this case, very similar to the facts of the present case, plaintiff had pleaded that he approached the defendants for completion of the transaction and that the defendant sought for further time and after noticing in December 2010, that defendants became evasive and demanded additional money as in the present case, the plaintiff issued lawyer's notice on 01.02.2011 and suit came to be filed immediately thereafter, in O.S.No.35 of 2011, before the Subordinate Court, Hosur. This



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conduct was held to be demonstrating continuous willingness of the plaintiff to perform his part of the contract. Therefore, in the said case, there was no delay after issuance of the pre-suit notice and the suit came to be filed immediately, since there was no reply. However, in the present case, there has been an inordinate delay even after issuance of the lawyer's notice, which was issued after the expiry of the time period stipulated in the sale agreement. Therefore, I do not see how this decision can be applied to the facts of the present case.

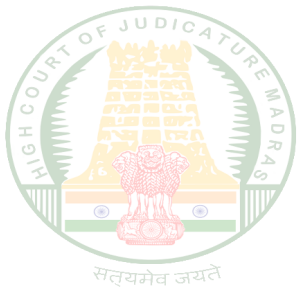
43.In all the cases that have been relied on by Mr.K.RAvi Anantha Padmanathan, learned Senior Counsel, where the Courts leaned in favour of the plaintiff, I am able to notice that the delay was very short and that was not put against the plaintiff. However, in the present case, at every stage, I have found that the plaintiff has not been diligent and despite several opportunities for filing of the suit for specific performance, the plaintiff only chose to plead that he met the first defendant and that the first defendant expressed readiness to conclude the contract and therefore, the plaintiff again started waiting patiently. Such a fanciful version pleaded by the plaintiff has to be totally disbelieved, considering the case pleaded by the plaintiff himself, that too, after noticing not



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only refusal on the part of first defendant, but also there being a demand for additional sale consideration after the lawyer's notice came to be issued, the plaintiff ever has not been able to demonstrate “readiness and willingness” by approaching the Court at the earliest possible time.

44.Further, one another compelling reason for me to interfere with the concurrent findings rendered by the trial Court is that both the Trial Court as well as the First Appellate Court have merely proceeded to reject the contentions of the defendants with regard to the defence raised by them that the agreement was a security for the loan transaction and that the suit was not filed properly and therefore, barred by limitation and had not proceeded to render a finding, leave alone the findings with regard to readiness and willingness on the part of the plaintiff. Readiness and willingness is the foremost consideration for entitling a plaintiff to the relief of specific performance. For all the above reasons, I am compelled to interfere with the judgment of the Courts below. Accordingly, the substantial questions of law are answered in favour of the appellants.

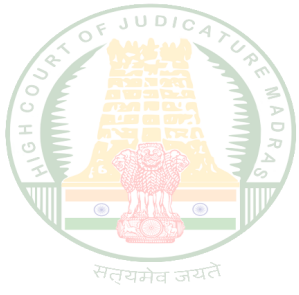


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45. Accordingly, this Second Appeal stands allowed, with costs and the judgment and decree of the First Appellate Court in A.S.No.19 of 2014 dated 12.10.2018, on the file of the Principal District Judge, Madurai, confirming the judgment and decree in O.S.No.214 of 2011 dated 28.02.2014, on the file of the Principal Sub-Judge, Madurai, are set aside and the suit in O.S.No.214 of 2011, stands dismissed. C.M.P.(MD)No.13675 of 2025, stands dismissed. C.M.P.(MD)No.11563 of 2019 is closed.

17.07.2026

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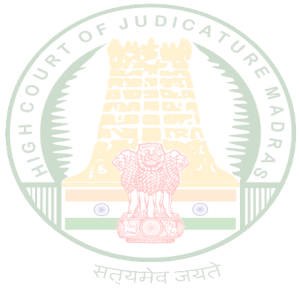
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To

1.The Principal District Judge,
Madurai.

2.The Principal Sub-Judge,
Madurai.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI, J.

MR

PRE-DELIVERY JUDGMENT MADE IN

S.A.(MD)No.573 of 2019

17.07.2026