

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

RSA.No. 874 of 2009 ( )

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AGAINST THE DECREE AND JUDGMENT IN AS 46/2004 of ADDL.DISTRICT COURT,  
ALAPPUZHA. DATED 08-08-2006.

AGAINST THE DECREE AND JUDGMENT IN OS 110/2002 of ADDL.SUB COURT,  
ALAPPUZHA DATED 30-08-2003.

APPELLANT(S)/APPELLANT/PLAINTIFF :

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GEORGE, S/O. THOMAS, VATTAPARMBIL,  
KUNNUMMA VILLAGE, KANNADI, KIZHAKKEMURI,  
PULINCUNNU, ALAPPUZHA.

BY ADV. SRI.A.KRISHNAN.

RESPONDENT/RESPONDENT/DEFENDANT :

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P.S.RAJAPPAN, S/O. SANKU,  
PUTHENPARAMBIL, KUNNUMMA VILLAGE, KANNADI,  
KIZHAKKEMURI, PULINCUNNU, ALAPPUZHA.

R1 BY ADVS. SRI.S.SANAL KUMAR.  
SMT.BHAVANA VELAYUDHAN.

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON  
16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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**A.HARIPRASAD, J.**

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**R.S.A No.874 of 2009**  
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**Dated this the 16<sup>th</sup> day of February, 2015.**

**J U D G M E N T**

Second appeal by defeated plaintiff, who approached the trial court with a suit for specific performance of a contract. Both the courts concurrently found that the appellant is not entitled to get specific performance of the contract.

2. Heard the learned counsel for the appellant and the learned counsel for the respondent.

3. Relevant pleadings are as follows :

Appellants contended that the respondent entered into an agreement for sale on 25-06-2001 agreeing to sell his 20 cents of property for a total consideration of Rs.1,50,000/-. It is further alleged by the appellant that the respondent committed breach of contract and hence the appellant was driven to file a suit for specific performance. The contention raised by the respondent is that there was no such agreement between the appellant and the respondent. According to the respondent, the

agreement is concocted on a blank signed stamp paper given by the respondent when he availed a loan for a sum of Rs.7,000/- from the appellant.

4. Learned trial Judge after considering the oral and documentary evidence found that execution of Ext.A1 agreement was not proved properly and it is shrouded by mystery. Therefore, it was found that the plaintiff/appellant is not entitled to get specific performance of the contract.

5. Lower appellate court re-appreciated the evidence and concurred with the finding of the trial court that execution of Ext.A1 agreement was not properly proved and the respondent's case is more probable. On going through the impugned judgment, I am of the view that there is no substantial question of law arising in this matter. Purely factual issues have been raised and there is no irregularity and illegality committed by the courts below. The appeal is devoid of any merit.

In the result, the regular second appeal is dismissed.

All pending interlocutory applications will stand dismissed.

Sd/-  
**A.HARIPRASAD,**  
**JUDGE.**

**//True copy//**

**P.A to Judge**

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