

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

C O R A M

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

S.A.Nos.420 and 421 of 2008
and
M.P.Nos.1, 1 of 2008 and 1 of 2012

K.Govindasamy ... Appellant/Defendant in both Appeals

Versus

1. Chellammal ... Sole Respondent in S.A.No.420 of
2008/Plaintiff
and R-1 in S.A.No.421 of 2008.

2.K.Vadivelu ... R-2 in S.A.No.421 of 2008.

Prayer in S.A No.420 of 2008

Second Appeal, filed under Section 100 of Civil Procedure Code against the judgment and decree, dated 10.09.2007 made in A.S.No.56 of 2006 on the file of Subordinate Court, Tiruvallur, in confirming the judgment and decree dated 29.06.2006 made in O.S.No.215 of 2000 on the file of District Munsif Court, Tiruvallur.

Prayer in S.A No.421 of 2008

Second Appeal, filed under Section 100 of Civil Procedure Code against the judgment and decree, dated 10.09.2007 made in A.S.No.57 of 2006 on the file of Subordinate Court, Tiruvallur, confirming the judgment and decree dated 29.06.2006 made in O.S.No.292 of 2000 on the file of District Munsif Court, Tiruvallur.

For Appellant ... Mr.Adinarayana Rao
in both appeals

For Respondents ... Mr.N.Nagusah
in both appeals

COMMON JUDGMENT

The appellant K.Govindasamy and the respondent Chellammal are brother and sister. On 17.12.1988 the appellant entered into a sale agreement with the respondent in respect of suit property, and the sale consideration was fixed as Rs.25,000/-, and on the same day, he has received a sum of Rs.10,000/- as advance, and handed over the possession of the suit property, but later, due to other intervening factors, the sale agreement could not be fructified into sale deed, inspite of paying part of the sale consideration. Therefore, a panchayat was held on 04.01.2000, in which, both the parties appeared, and it was agreed that the plaintiff-Chellammal shall receive a sum of Rs.46,000/- from the defendant/appellant, and hand over the possession of the suit property back to the defendant. However, the defendant-Govindasamy did not pay the money to the plaintiff before 10.03.2000 as agreed. Hence, a suit OS. 215 of 2000 for specific performance of the agreement of sale was filed by the plaintiff/respondent.

2. On his part the appellant filed OS 292 of 2000 for permanent injunction challenging that his sister the respondent herein and one Mr.Vadivelu are trying to disturb his peaceful possession. Both the suits OS.No.215 of 2000 and 292 of 2000 were tried together. While specific performance suit was decreed against the appellant, the permanent injunction suit filed by him was dismissed. Aggrieved by the common judgments the appellant for two appeals AS.No 56 of 2006 and AS.No.57 of 2006. Both appeals were dismissed by the Lower Appellate Courts. This two appeals SA 420 of 2008 and SA 421 of 2008

3. Aggrieved by a decree of specific performance passed in favour of the plaintiff/respondent, the appellant has preferred the Second Appeal 420 of 2008 before this Court, raising various grounds, including the validity of Ex.A1, viz., the agreement of sale entered into between the parties, wherein, the plaintiff ought to have expressed her readiness and willingness to perform the contract within a time prescribed but failed to do so.

4. Whereas SA 421 of 2008 is directed against the dismissal of the bare injunction suit filed by the appellant herein in respect of the suit property in which the present respondent and one Vadivelu were arrayed as Defendants. Both the Courts below negated the claim of the defendant through the common judgments.

5. This Court before admitting the Appeals issued notice to the respondent regarding admission of these Appeals. Both

the parties appeared before this Court through their counsels, and the matter was kept for consideration till date. On hearing the learned counsel for the appellant on 06.10.2016 this Court found that there is no substantial question of law involved in this case.

6. At that juncture this Court suggested to the counsels to explore the possibility of compromise since parties are blood related and adjourned the case.

7. Today, the counsel for the respondent proposed that respondent/plaintiff has already deposited Rs.40,000/- in the Court below in compliance with the appellate court decree for execution of sale deed and the respondent is willing to offer additional sum of Rs.1,50,000/- to the appellant. The appellant and his daughter who were present in this Court agreed to the proposal and has made the following endorsement.

"The appellant agrees to withdraw the amount deposited before the lower Courts by the respondent apart from Rs.1,50,000/- (One Lakh Fifty Thousand) agreed to be paid by the respondent towards full and final settlement and withdraws the above appeal".

8. In view of the said endorsement, S.A.No.420 of 2008 is disposed of on the following terms.

The respondent shall tender Rs.1,50,000/- to the appellant within 45 days from the receipt of the judgment copy and on such tender the appellant shall forthwith register the sale deed in favour of the respondent.

The appellant K.Govindasamy is permitted to withdraw Rs.40,000/- deposited in the suit account by the respondent Tmt.Chellammal.

9. The parties are entitled to bear their own cost. Consequently, connected Miscellaneous Petitions are closed. In so far as S.A.No.421 of 2008 is concerned, in view of the endorsement made by the learned counsel for the appellant in S.A.No.420 of 2008, nothing survives. Hence, dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dpq
To

1. The Subordinate Court,
Tiruvallur.
2. The District Munsif,
Tiruvallur.

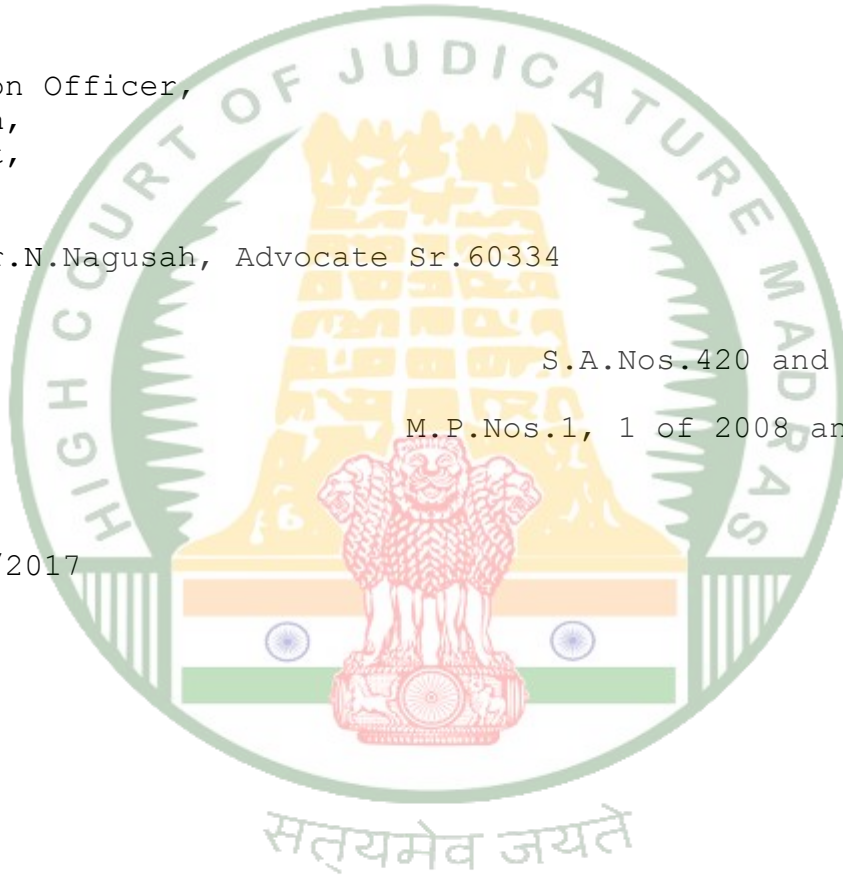
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The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.N.Nagusah, Advocate Sr.60334

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and
M.P.Nos.1, 1 of 2008 and 1 of 2012

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