

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

S.A.No.514 of 2017
and CMP.No.12386 of 2017

1.D.Ravi Chandran

2.D.Muralidharan

...Appellants/Defendants

Vs.

R.Venkataraman

...Respondent/Plaintiff

PRAYER: The Second Appeal is filed under section 100 of the Civil Procedure Code against the Judgment and Decree in A.S.No.11 of 2014 dated 04.03.2017 on the file of the learned Principal District Judge, Kancheepuram District at Chengalpet confirming the Judgment and Decree dated 14.10.2009 made in O.S.No.296 of 2009 on the file of the learned Subordinate Judge, Tambaram

For appellants

:Mr.R.Abdul Mubeen

ORDER:

According to the appellants, the appellants / defendants have entered into agreement of sale with the respondent / plaintiff for construction of flat No.B & C in Plot No.156, 5th Main Road, Nagappa Nagar, Thiruneermalai Town Panchayat, Chennai comprised in S.No.317 for an extent of 2600 square feet to be constructed with a built up area of 513 sq.ft. The respondent / plaintiff completed the construction on 25.10.2002. The cost of the construction is Rs.9,31,625/-. Due to financial crisis, the appellants / defendants expressed inability to make payment immediately and undertaking to make payment at an earliest. The defendants were allowed to take possession of the property on 17.08.2004 on the humanitarian reasons. The appellants / defendants have neglected to pay the balance amount of Rs.1,01,625/- together with the interest at the rate of 24 % per annum from 25.10.2002. Hence, the respondent / plaintiff filed a suit in O.S.No.296 of 2009. The appellants / defendants have filed a written statement denying the said averments in the plaint. On the side of the respondent / plaintiff, two witnesses were examined as PW1 and PW2 and 10 documents were marked as Exs.A1 to Ex.A10. On the defendants' side, DW1 was examined and no documents were marked. The trial court after considering the oral and documentary evidences,

decreed the suit by directing the defendants to pay a sum of Rs.81,625/- jointly and severally to the plaintiff with interest at the rate of 6% per annum on Rs.81,625/- from the date of plaint till the date of realization, and also to pay Rs.16,391.25/- to the plaintiff being the cost of the suit. Challenging the said judgment and decree, the appellants / defendants preferred an appeal in AS.No.11 of 2014 before the Principal District Court, Kancheepuram. The Appellate court, after considering the evidence adduced by both sides, confirmed the judgment and decree passed by the trial court. Challenging the said judgment and decree, the appellants / defendants have filed the present Second appeal before this Court.

2. On perusing the records, the respondent / plaintiff has filed the documents in item Nos. 2 to 21 and after deducting the payment, the balance amount of Rs.1,01,625/ is due to the respondent / plaintiff. As per Ex.A3, Rs.1,11,625/- was due and subsequently, a cheque was issued on 27.10.2004 and the same was dishonoured. The said fact was also admitted by DW1. Therefore, from the evidence of Ex.A4, the appellants / defendants has to pay the due to the respondent / plaintiff. Both the courts have concurrently held that the appellants / defendants have to pay the due amount with interest at the rate of 6% p.a. till realization.

3. There is no substantial question of law involved in the Second appeal. Hence, the Second Appeal is liable to be dismissed.

4. The Second appeal fails and the Second appeal stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Principal District Judge
Kancheepuram District at Chengalpet

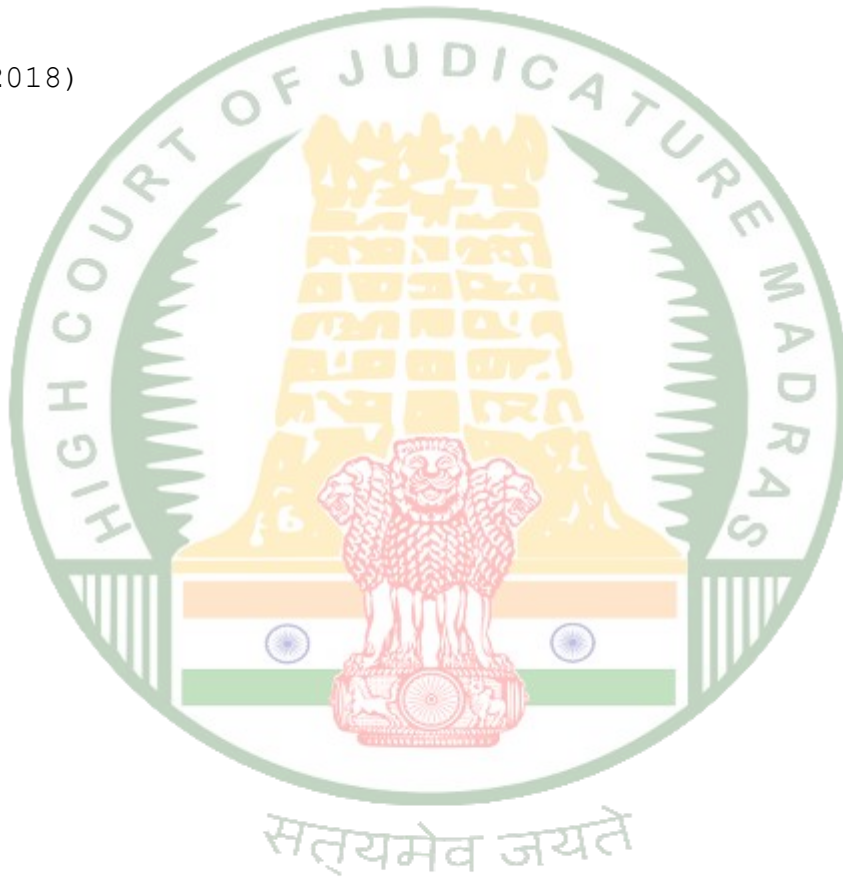
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2. The Subordinate Judge
Tambaram

+1 CC to Mr.R. Abdul Mubeen, Advocate sr 58995.

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SP (09/03/2018)



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