

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

C.S.No.1024 of 2008

1. R.Gajendran
2. M.Nagarajan
3. G.Sreenivasan
4. M.Pandurangam

.. Plaintiffs

VS

1. T.S.Azhagesan
2. A.Chandra Pushpam
3. A.Ranjani

.. Defendants

Civil Suit filed under Order IV Rule 1 of O.S.Rules read with Order VII Rule 1 of CPC, seeking Judgment and Decree against the defendants (1) directing the defendants to specifically perform their part of the Agreement dated 07.03.2007 and to do all acts necessary to execute the sale deed in favour of the plaintiffs; failing which direct one of the officers of this Court to register the Sale Deed in favour of the plaintiff in respect of premises Old Door No.45/1, New No.331, Konnur High Road, Ayanavaram, Chennai-23, detailed in the plaint schedule; (2) grant an order of permanent injunction restraining the defendants, their men, agents or any person claiming under them from alienating the suit property more fully described in the schedule hereunder; and for costs.

For Plaintiff : Mr.N.Doraikannan

For Defendant : No appearance (set exparte)

J U D G M E N T

This suit is for specific performance and permanent injunction. The defendants are the owners of the suit property. By agreement of sale, dated 07.03.2007, the defendants agreed to sell the suit property to the plaintiffs for sale consideration of Rs.30 lakhs, free of all encumbrances.

2. The plaintiffs paid Rs.16,06,067/- to the defendants and the mortgage of the suit property was discharged on 07.03.2007. The defendants also received Rs.10,000/- on 07.03.2007 and a sum of Rs.3 lakhs on 08.03.2007. Towards satisfaction of the decree in E.P.No.2168 of 2000 in O.S.No.6004 of 2003 on the file of the X Assistant City Civil Court obtained by one Mr.Patturaj, the plaintiffs paid Rs.1,87,000/- at the request of the defendants. Thus the defendants have received Rs.21,03,067/- totally and a balance of Rs.12,96,933/- is to be paid by the plaintiffs. The plaintiffs expressed readiness to pay the balance sale consideration but in spite of several repeated demands, the defendants failed to execute the sale deed. The plaintiffs also issued legal notice on 10.10.2007 but there is no response. Therefore, the present suit has been filed.

3. The defendants were called absent and set exparte. The first plaintiff has been examined as P.W.1 and 5 Exhibits have been marked on the side of the plaintiffs. Through the evidence of P.W.1 execution of sale agreement, dated 07.03.2007 has been proved. The defendants executed the sale agreement in favour of the plaintiffs with respect of the suit property. The endorsements in Ex.P.1 and also the discharge of the mortgage, payment towards settling the claim in Execution Petition have also been established through the evidence of P.W.1 and Ex.P.3 and Ex.P.4. In the legal notice issued by the plaintiffs, all the payments have been mentioned. For that the defendants have not given any reply. Therefore, from the above evidence of P.W.1 and above Exhibits, the plaintiffs have made out a case and the defendants have not performed their part of the contract, even though the plaintiffs were ready and willing to pay the balance sale consideration.

4. In fine, the suit is decreed as prayed for with costs. For deposit of balance sale consideration, one month time is granted.

17.04.2017

Speaking order
Index : Yes / No
tsvn

P.KALAIYARASAN, J

tsvn

C.S.No.1024 of 2008

17-04-2017

<http://www.judis.nic.in>