

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 19.02.2018****CORAM****THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN****C.S.No.531 of 2013**

Mrs.V.S.Usha

... Plaintiff

..Vs..

Mr.R.Stephen Raj

... Defendant

Plaint filed under Order VII Rule 1 of O.S. Rules r/w Order XXXVII Rule 1 of C.P.C. praying to pass a judgment and decree:-

a)For recovery of a sum of Rs.25,65,000/- (principal together with interest at the rate of 12 percent per annum from March 2012 to May 2013), along with further interest at the rate of 12 percent, on the principal amount of Rs.22,50,000/- (Rupees Twenty Two Lakhs Fifty Thousand only) from the date of plaint till the date of realization of the amounts in full and thereafter, interest as applicable under Section 34 of CPC.

b)For costs of the suit.

For Plaintiff : Mr.K.Lenin Raj
for M/s.T.Mathi

For Defendant : No Appearance

J U D G M E N T

The suit has been filed for recovery of a sum of Rs.25,65,000/- along with interest at the rate of 12% p.a. on the principal amount of Rs.22,50,000/- from the date of suit till the date of realisation.

2.The case of the plaintiff is that the defendant herein who was doing Real Estate business had represented to her that a residential plot in S.No.61/1 in one part at Adayalampattu Village was available for sale and agreed to sell 2100 Sq.ft. of land out of 3644 Sq.ft. The sale price was fixed at Rs.52,00,000/-. Out of the said amount, the plaintiff had paid a sum of Rs.22,50,000/- in several installments. The plaintiff had also obtained demand draft for Rs.10,00,000/-, each in the name of the owners of the property Bhuvana and Sivakumar. When the demand drafts were to be handed over to the above said owners, it was found that the property was poramboke land, and it does not belong to the above said owners. Hence, the defendant returned the drafts to the plaintiff. He also executed a letter undertaking to repay the sum of Rs.22,50,000/- within a period of 90 days on 07.10.2012. Since the defendant failed to repay the amount, the plaintiff has come forward with the suit.

3.The defendant was served on 10.09.2013, and he had entered appearance through counsel. No written statement was filed. Hence, the defendant was set ex-parte on 22.11.2017. The plaintiff was examined as PW-1, before the learned Additional Master-I. She has filed proof affidavit along with the documents. The undertaking given by the defendant has been marked as Ex.P-2. The cheques issued by the defendant along with the return memos have been marked as Exs.P-6 and P-7. From the above documents, it is seen that the plaintiff established her case. There is no contra evidence available, since the defendant has not chosen to appear and defend the suit.

4.Hence, the suit is decreed as for a sum of Rs.25,65,000/- with interest on Rs.22,50,000/- at 12% from the date of suit till date of realisation with costs. It is seen that the property belonging to the defendant was attached before judgment by order dated 04.09.2017 in A.No.3786 of 2013, the attachment was also effected through Court. Since the suit is decreed, the attachment will continue for a further period of 12 months from today.

19.02.2018

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List of the witnesses examined on the side of the plaintiff:

PW1 - V.S.Usha

List of Exhibits marked on the side of the plaintiff:

<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>
1.	Ex.P1	Certified copy of the settlement deed dated 23.11.2010 in favour of defendant in respect of 1 st floor.
2.	Ex.P2	Confirmation letter dated 07.10.2012 given by the defendant.
3.	Ex.P3	Photo copy of the petition for Anticipatory Bail dated 10.04.2013.
4.	Ex.P4	Photocopy of the order dated 16.04.2013.
5.	Ex.P5	Photo copy of the report by the plaintiff to V-5 Police Station dated 20.04.2013.
6.	Ex.P6	Cheque issued by defendant along with return memo dated 20.04.2013.
7.	Ex.P7	Cheque issued by defendant along with return memo dated 20.04.2013.
8.	Ex.P8	Encumbrance Certificate dated 29.05.2012.
9.	Ex.P-9	Photo copy of Guideline value and Classification dated 20.06.2013.

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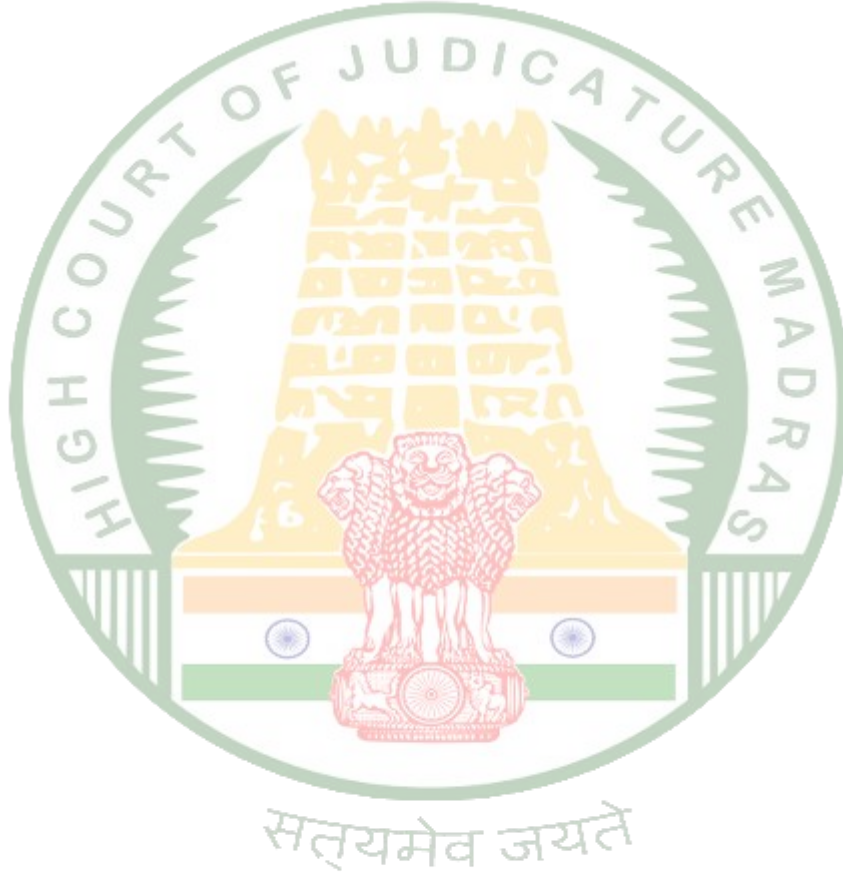
Index : No

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Speaking Order

To

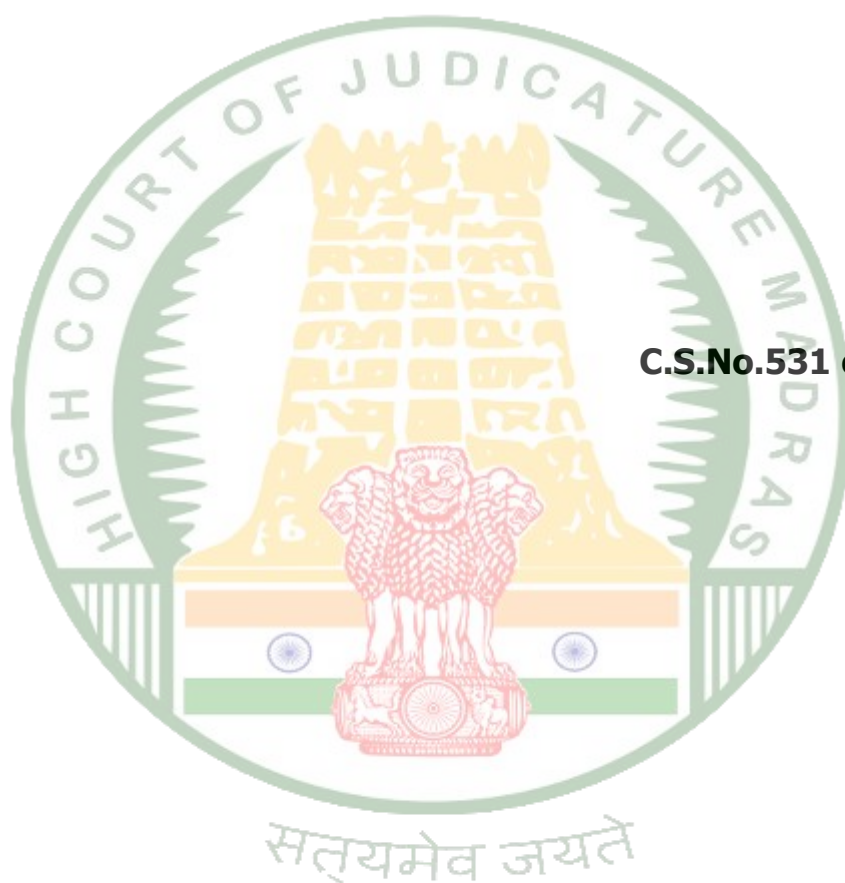
The Sub Assistant Registrar,
Original Side,
High Court,
Madras.



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R.SUBRAMANIAN,. J.

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