IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.10.2019

PRONOUNCED ON : 12.11.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

A.S.No.586 of 2011

P.S.Mani ... Appellant

Vs.

1. S.M.A. Jaleel (Deceased)
2. A.J.Rasheeda beevi
3. A.J.Raja Mohamed
4. A.J.Mohamed Ali Jinnah
5. A.J.Mohamad Asif ... Respondents

(R2 to R5 brought on record as LRs
of the deceased sole respondent vide
order of the Court dated 06.09.2019 made
in C.M.P.Nos.16341 & 16342 of 2017)

Prayer: Appeal Suit filed under Section 96 of Civil Procedure Code as against the judgment and decree in O.S. No.7439 of 2010, on the file of the Additional District Judge cum Fast Track Court No.1, Chennai, dated 30.11.2010.

For Appellant : Mr.V.Raghavachari

For R1 to R5 : Mr.Raja Kalifulla, Senior Counsel
for M/s. K.Sellathurai

*****

JUDGMENT

Aggrieved over the judgment and decree dated 30.11.2010, passed in O.S. No.7439 of 2010, on the file of the Additional District Judge, Fast Track Court No.1, Chennai, the first appeal has been preferred by the plaintiff.

2. For the sake of convenience, the parties are referred to as per their rankings in the trial Court.

3. Suit for specific performance and direction.

4. The case of the plaintiff, in brief, is that the defendant is the owner of the properties set out in the plaint schedule and offered to sell the suit properties to the plaintiff for a total sum of Rs.18,25,000/- and in pursuance to the same, an agreement of sale was entered into between the plaintiff and the defendant on 16.08.1991 and on the date of the agreement, the plaintiff paid a sum of Rs.1,01,000/- as advance. Subsequently, the plaintiff paid another sum of Rs.5,00,000/- on 09.11.1991 to the defendant towards the sale consideration and the plaintiff had been approaching the defendant several times personally and through notices, calling upon him to complete the necessary legal formalities like getting no due certificates

from the Corporation of Madras, TNEB, Revenue Authorities and Encumbrance certificate from the Registrar's office in accordance with the terms and conditions of the sale agreement. However, the defendant did not take steps with reference to the same to proceed further and complete the sale transaction. Further, the defendant is incumbent to apply for the income tax clearance certificate from the Income Tax department for the purpose of the completion of the sale and the defendant remained indifferent in proceeding further and therefore, the plaintiff was forced to cause legal notices to the defendant through his counsel on 25.05.1992 and 05.06.1992 and by way of the same, called upon the defendant to perform all the legal formalities of the sale transaction and to the same, a reply was sent by the defendant on 04.06.1992, containing wrong facts and untenable grounds. The plaintiff has been always ready and wiling to perform his part of the contract, however, the defendant has not come forward to perform his part of the contract and the balance sale consideration of Rs.12,25,000/- was ready with the plaintiff to perform his part of the contract and on the other hand, the defendant attempted to sell the suit properties to third parties suppressing the sale agreement entered into between the plaintiff and the defendant and therefore, to restrain the defendant from alienating the suit properties to third parties, the plaintiff has levied O.S.No.2174/1993 against the defendant for the relief of permanent injunction and also obtained the order of interim injunction against the defendant. Hence, the suit for appropriate reliefs.

5. The defendant resisted the plaintiff's suit contending that the suit laid by the plaintiff is not maintainable either in law or on facts. The suit in O.S.No.2174/1993 has been filed by the plaintiff against the defendant for permanent injunction from alienating the suit properties and the order of interim injunction obtained by the plaintiff in the abovesaid suit was vacated and subsequently, the suit itself was dismissed. The plaintiff did not obtain the leave from the Court for filing the present suit at the time of the earlier suit. Therefore, the plaintiff is not entitled to maintain the present suit on the same cause of action and on that ground, the suit laid by the plaintiff is barred under Order II Rule 2 C.P.C. The defendant has admitted the execution of the sale agreement dated 16.08.1991 between the parties for a sale price of Rs.18,25,000/- and also the receipt of Rs.1,01,000/- on the date of the sale agreement and Rs.5,00,000/- on 09.11.1991. However, according to the defendant, the plaintiff did not pay the balance sale consideration of Rs.12,24,000/- and also not given the draft sale deed for getting the income tax clearance certificate. The plaintiff did not show any inclination to complete the sale transaction within the time set out in the agreement. The agreement lapsed by

efflux of time. It is false to state that the plaintiff had approached the defendant several times personally and through notices calling upon the defendant to complete the necessary legal formalities from the various authorities as set out in the plaint and the defendant had been not proceeding further with reference to the same. On the other hand, it is only the defendant who has been always ready and willing to execute the sale deed in favour of the plaintiff as per the agreement and contacted the plaintiff on several occasions and impressed upon him the need to complete the sale transaction within the time stipulated in the agreement. However, the plaintiff has been evasive and avoiding the completion of the sale deed. In such circumstances, the defendant was constrained to issue the legal notice on 12.05.1992, calling upon the plaintiff to complete the sale transaction within 2 weeks from the date of receipt of the notice. Without complying with the terms of the notice and paying the balance sale consideration, further, the defendant also put the plaintiff on notice that failure to comply with the abovesaid demand, the agreement of sale would stand revoked without any further notice to the plaintiff and the advance amount would stand forfeited, however, without complying with the terms of the said notice, the plaintiff sent a reply on 25.05.1992 containing false and untenable allegations. The defendant sent a rejoinder to the same on 04.06.1992 denying the allegations projected by the plaintiff and calling upon the plaintiff to pay the balance sale price and complete the sale on or before 11.06.1992. Even thereafter, the plaintiff was not eager to complete the sale transaction and hence, the plaintiff stands to lose the advance amount of Rs.1,01,000/- paid on the date of the sale agreement and the defendant is not bound by the sale agreement and not liable to sell the suit properties to the plaintiff. The claim of the plaintiff that he is possessed of sufficient means for the payment of the balance sale consideration and other expenses for the registration of the sale deed is false and denied and hence, according to the defendant, the plaintiff has no cause of action to lay the suit and the suit is therefore liable to be dismissed.

6. On the basis of the abovesaid pleas set out by the respective parties, the following issues were framed by the trial Court for consideration:

> ***1. Whether the plaintiff is entitled for the specific performance of the agreement of sale dated 16.08.1991 in respect of all the three items of the suit property?***
>
> ***2. Whether the plaintiff is entitled to vacant possession of the suit property?***
>
> ***3. What relief, the plaintiff is entitled***

to?

7. In support of the plaintiff's case, PW1 was examined, Exs.P1 to P5 were marked. On the side of the defendant, DW1 was examined, Exs.D1 and D2 were marked.

8. On a consideration of the oral and documentary evidence adduced by the respective parties and the submissions made, the trial Court was pleased to dismiss the suit with costs. However, directed the defendant to pay the sum of Rs.6,01,000/- to the plaintiff within one month from the date of the judgment. Impugning the same, the present first appeal has been preferred.

9. The following points arise for determination in this first appeal:

> ***1. Whether the plaintiff has been always ready and willing to perform his part of the contract?***
>
> ***2. Whether the plaintiff is entitled to the relief of specific performance in respect of the sale agreement dated 16.08.1991 as prayed for?***

3. To what relief the plaintiff/appellant is entitled to?

4. To what relief the defendant is entitled to?

Point Nos.1 and 2:

10. It is not in dispute that the defendant is the owner of the plaint schedule properties. It is also not in dispute that the defendant had offered to sell the suit properties in favour of the plaintiff for a sum of Rs.18,25,000/- and following the same, the plaintiff and the defendant had entered into the sale agreement on 16.08.1991. The sale agreement has been marked as Ex.P1. It is also not in dispute that the plaintiff has paid a sum of Rs.1,01,000/- to the defendant on the date of the sale agreement as advance and subsequently also paid a sum of Rs.5,00,000/- on 09.11.1991 to the defendant towards the sale consideration. It is also not in dispute that the parties had fixed the time limit of three months from 16.11.1991 to pay the balance sale consideration and complete the sale transaction. The abovesaid time limit expires on 16.02.1992. As per the terms of sale agreement Ex.P1, it is found that the defendant has to obtain the no due certificates from the Corporation of Madras, TNEB and also required to obtain Income tax clearance certificate from the Income Tax department and on the abovesaid terms set out in the agreement, the

parties had entered into the contract for sale of the suit properties.

11. It is thus found that as per the terms of the sale agreement Ex.P1, a specific time limit has been fixed therein for completing the sale transaction. As per the terms set out in the sale agreement, the plaintiff has to pay the balance sale price on or before 16.02.1992. Furthermore, the defendant is also required to get no due certificate from the Corporation of Madras and TNEB as well as the income tax clearance certificate from the Income Tax department. Now, according to the plaintiff, though he had been always ready and willing to perform his part of the contract and had been approaching the defendant several times in person and by way of notices, calling upon him to perform his obligations stipulated in the agreement, according to the plaintiff, the defendant had been delaying the matter for one reason or the other and on the other hand, sent a notice on 12.05.1992 with false allegations. It is not the case of the plaintiff that he is not aware of the terms and conditions set out in the sale agreement as pointed out above. As per the terms of the sale agreement, the plaintiff has to pay the balance sale consideration on or before 16.02.1992. No doubt, the defendant is also required to obtain the no due certificate from the various authorities as well as the income tax clearance certificate from the Income Tax department

before the time limit fixed under the sale agreement. However, the plaintiff claiming that he has been always ready and willing from the inception and it is only the defendant who had been avoiding the transaction one way or the other, if the abovesaid case of the plaintiff is true, on noticing the attitude of the defendant, as a prudent person, the plaintiff should have endeavoured to cause a legal notice to the defendant expressing his readiness and willingness to pay the balance sale consideration and complete the sale transaction. With reference to the claim of the plaintiff that he had been approaching the defendant and reminding him through phone as well as in person and also by issuing notices directing him to obtain the no due certificate and income tax clearance certificate, however, other than the *ipse dixit* claim of the plaintiff, there is no other reliable and acceptable material forthcoming on the part of the plaintiff. If the abovesaid case of the plaintiff has any semblance of truth, on seeing the delaying tactics adopted by the defendant, the plaintiff should have atleast thereupon endeavoured or caused the issuance of legal notice to the defendant expressing his readiness and willingness to pay the balance sale consideration and complete the sale transaction by obtaining the execution of the sale deed from the defendant. On the other hand, it is found that till the expiry of the time limit i.e. till 16.02.1992, it is found that the plaintiff has not even moved his little finger to express his readiness and willingness in paying the balance sale consideration to the defendant and obtain the sale deed executed from the defendant. On the other hand, as could be seen from the materials placed on record, it is found that it is only the defendant who had caused the first legal notice to be sent to the plaintiff on 12.05.1992, marked as Ex.D1, whereunder, the defendant had reminded the plaintiff that he has failed to perform his part of the contract despite the readiness and willingness on the part of the defendant in receiving the balance sale consideration and execute the sale deed and also pointed out that the plaintiff has not furnished the draft sale deed for enabling the defendant for getting the income tax clearance certificate and accordingly called upon the plaintiff to pay the balance sale consideration within two weeks from the date of the receipt of the notice, failing which, the sale agreement dated 16.08.1991 would stand revoked and the defendant would forfeit the advance amount of Rs.1,01,000/-. Only thereafter, it is found that the plaintiff has chosen to send the reply to Ex.D1 on 25.05.1992, marked as Ex.P3. It is thus found that only on 25.05.1992, the plaintiff has expressed his readiness and willingness to pay the balance sale consideration. However, the plaintiff, for not paying the balance sale consideration within the time limit, would put forth the blame on the defendant that he had failed to obtain the no due certificate from the concerned authorities as well as the income tax clearance certificate from the Income Tax department and would put forth the case that he had already given a draft sale deed to the defendant and accordingly, called upon the defendant to fulfil his part of the contract for proceeding further. To Ex.P3 reply notice, the defendant had sent a rejoinder on 04.06.1992 marked as Ex.P4, wherein the defendant had repudiated the allegations set out by the plaintiff in the reply notice Ex.P3 and further informed the plaintiff that he had obtained the no due certificate from the authorities concerned and also the income tax clearance certificate from the Income Tax department and accordingly, called upon the plaintiff to perform his part of the contract on or before 11.06.1992, failing which he would be constrained to proceed further as per the notice dated 12.05.1992. it is found that to the abovesaid rejoinder, the plaintiff has sent a reply on 05.06.1992, marked as Ex.P5, still insisting upon the defendant to perform his obligations i.e., obtainment of the no due certificate and the income tax clearance certificate from the Income Tax department. Thereafter, it is found that the plaintiff had chosen to levy the suit against the defendant for the relief of permanent injunction restraining him from selling the suit properties to third parties in O.S. No.2174/93 and subsequent thereto, it is found that the plaintiff has chosen to levy the suit for specific performance against the defendant on 17.08.1993 before the High

Court, Madras and the said suit had been subsequently transferred to the City Civil Court, Chennai.

12. The plaintiff examined as PW1, during the course of cross examination, has admitted that before entering into Ex.P1 sale agreement, he had seen the encumbrance certificate and the other title deeds of the suit properties and also further deposed that the at the time of Ex.P1 sale agreement, there were formalities like clearance of electricity charges and corporation charges between him and the defendant and the said formalities were discussed orally and assurance for clearance of the abovesaid formalities was given by the defendant and it is also stated that the said assurance finds place in the agreement. Further, the plaintiff would claim hat he had given a draft sale deed to the defendant at the time of making the payment of Rs.5,00,000/- to the defendant, however, the same has been denied by the defendant. Furthermore, during the course of cross examination, PW1 has admitted that he had not written any letter to the defendant prior to 16.02.1992 informing him that he had the balance sale consideration with him and been ready for the registration of the sale deed. Further, he would also testify that by stating legal formalities in para 8 of the plaint, he meant that the defendant has to obtain the income tax clearance certificate if the property is worth

above ten lakhs and he should also furnish the legal opinion and he should also clear the Corporation charges, water tax and the electricity charges and the Sub Registrar Office would register the sale deed even without the abovesaid formalities and as per the agreement, he would accept the same, only if the abovesaid formalities are complied with. Further, he would also testify that he had not deposited the balance sale consideration in the Court. The defendant had disputed the means and capacity of the plaintiff to pay the balance sale consideration in the written statement and also puts suggestion to that effect to PW1 at the time of cross examination.

13. Considering the abovesaid evidence of the plaintiff, it is found that as admitted by the plaintiff, he had not chosen to send any notice/letter to the defendant expressing his readiness and willingness to pay the balance sale consideration on or before 16.02.1992 and it is also found that the plaintiff is aware that even without the completion of the formalities required to be performed on the part of the defendant, the execution of the sale process could be proceeded further and however, according to the plaintiff, he would go for the execution of the sale deed only if the formalities are complied with. Therefore, when it is found that the plaintiff had chosen to enter into the sale agreement with the defendant on being satisfied that it is only

the defendant who is the owner of the suit properties and furthermore, even though the defendant has assured to obtain the no due certificate from the Corporation of Madras, TNEB and income tax clearance certificate from the Income Tax department before the stipulated period, however, further had also admitted that the suit properties are not subjected to any encumbrance and also assured to clear of any encumbrances, if any, in respect of the suit properties at his own costs, in such view of the matter, when the plaintiff is required to pay the balance sale consideration within a particular time limit and when it is seen that the plaintiff has not moved his little finger to express his readiness and willingness to pay the same within the stipulated period and even thereafter and even after the issuance of the legal notice on the part of the defendant, marked as Ex.D1, it is evident that the plaintiff had not come forward to pay the balance sale consideration as stipulated in Ex.D1 notice and also failed to come forward to pay the balance sale consideration within the time limit stipulated under Ex.P4 notice, on the other hand, had been only insisting upon the defendant to obtain the no due certificate and the income tax clearance certificate for proceeding further. In the light of the abovesaid factors, it is found that the plaintiff is not eager and anxious to complete the sale transaction by paying the balance sale consideration and obtain the execution of the sale deed from the defendant despite the readiness and willingness on the part of the defendant with reference to the same. When it is found that the plaintiff has failed to express his readiness and willingness before the stipulated period i.e., on or before 16.02.1992 and also failing to express his readiness and willingness within the time limit stipulated under Ex.D1 notice and also failed to express his readiness and willingness before the time limit fixed under Ex.P4 notice, however had been only insisting for the production of the no due certificate and income tax clearance certificate, but, at the same time, when the plaintiff is aware that without the abovesaid certificates, the sale transaction can be processed further and when it has been clearly pointed out and made out by the defendant in Ex.P4 notice that he had obtained the no due certificate and income tax clearance certificate and would provide the same at the time of the execution of the sale deed and that the income tax clearance certificate is required only for the purpose of the registration of the sale deed as such, in such view of the matter, the conduct of the plaintiff would only go to show that he is totally not interested to proceed further in the completion of the sale transaction by exhibiting his readiness and willingness to pay the balance sale consideration and obtain the sale deed from the defendant and in such view of the matter, the relief of specific performance, being the discretionary relief, as held by the trial Court, the plaintiff is found to be not entitled to obtain the said relief as prayed for.

14. The counsel for the defendant, in support of his contentions, placed reliance upon the decision reported in ***(1993) 1 SCC 519 Chand rani (dead) by Lrs. Vs. Kamal rani (dead) by Lrs.,*** wherein, it has been held that, as a general proposition of law, there is no presumption as to time being the essence of the contract in the case of sale of immovable properties and further held that even if the same is not the essence of the contract, the Court may infer that it is to be performed in a reasonable time if the conditions are evident. The position of law with reference to the same has been detailed in the abovesaid decision of the Apex Court as follows:

> ***Specific Relief Act, 1963 – Ss.9 &10 and 16 – Vendee's suit for specific performance of contract for sale of immovable property – Whether time was essence of the contract – No presumption exists – Can be ascertained from express provisions of the contract, nature of the property and surrounding circumstances - Contract stipulating 'Rs.98,000 (rupees ninety-eight thousand only) will be paid by the second party to the first party within a period of ten days only' – Despite notices of vendor to perform vendee's part of payment of the stipulated amount, vendee not willing to pay the same unless***

vacant delivery of possession of part of the property given – In view of the express term of the contract coupled with the conduct of vendee, held, time was essence of the contract and vendee was not ready and willing to perform the contract – Hence High Court justified in setting aside decree for specific performance granted by trial court – Contract Act, 1872, S.55

Held:

As a general proposition of law, in the case of sale of immovable property there is no presumption as to time being the essence of the contract. Even if it is not of the essence of the contract the Court may infer that it is to be performed in a reasonable time if the conditions are evident:

(i) from the express terms of the contract;

(ii) from the nature of the property; and

(iii) from the surrounding circumstances, for example: the object of making the contract.

Gomathinayagam Pillai V. Pallaniswami Nadar, AIR 1967 SC 868: (1967) 1 SCR 227; Hind Construction Contractors V. State of Maharashtra, (1979) 2 SCC 70; (1979) 2 SCR 1147; Govind Prasad Chaturvedi V. Hari Dutt Shastri, (1977) 2 SCC 539; Indira Kaur (Smt) v. Sheo Lal Kapoor, (1988) 2 SCC 488: AIR 1988 SC 1074, relied on.

15. Furthermore, in the abovesaid decision, considering the facts

and circumstances in the said decision, the Apex Court has held that though the sale agreement involved in the said decision also necessitated the vendor to obtain the income tax clearance certificate and also deliver the vacant position of the property concerned, proceeded to hold that the insistence of the vendee upon the delivery of possession as a condition precedent for making the payment of balance sale consideration would only exhibit his absence of readiness and willingness in performing his part of the contract and further, held that the obtainment of the income tax certificate was necessary for the completion of the sale and the abovesaid obligation on the part of the vendor could not be insisted upon for the payment of the balance sale consideration. The abovesaid aspects of the matter had been discussed by the Apex Court in the abovesaid decision in the following manner.

> ***28. Therefore, having qualified the amount there was no further need to qualify the same unless it be the intention of the parties to make time as the essence of the contract.***
>
> ***29. The analysis of evidence would also point out that the plaintiff was not willing to pay this amount unless vacant delivery of possession of one room on the ground floor was given. In cross-***

examination it was deposed that since income tax clearance certificate had not been obtained the sum of Rs. 98,000 was not paid. Unless the property was redeemed the payment would not be made. If this was the attitude it is clear that the plaintiff was insisting upon delivery of possession as a condition precedent for making this payment. The income tax certificate was necessary only for completion of sale. We are unable to see how these obligations on the part of the defendant could be insisted upon for payment of Rs. 98,000. Therefore, we conclude that though as a general proposition of law time is not the essence of the contract in the case of a sale of immovable property yet the parties intended to make time as the essence under clause (1) of the suit agreement. From this point of view, we are unable to see how the case in Nathulal could have any application to the facts of this case

30. The next question is whether the plaintiff was ready and willing? The notices which were exchanged between the parties have to be looked into in determining readiness and willingness. On September 10, 1971 the plaintiff would say through the registered notice that ready money was

available for purchase of the property which was followed up by a telegram. The stand is taken by the defendant that within 10 days from August 26, 1971, the sum of Rs. 98,000 was not paid; hence, the sum of Rs. 30,000 stood forfeited. The redemption of the mortgage would be done and the income tax clearance also would be obtained after the purchase of stamp paper. Where, therefore, the plaintiff was put on notice as to the stand of the defendant with regard to payment of Rs. 98,000 which again was reiterated in the notice dated September 16, 1973, nothing would have been easier for the plaintiff than to pay the said sum. Instead of adopting that course what is stated in the notice dated September 24, 1971 by the plaintiff is as follows:

5. That as per agreement, your client has to pay all taxes, rates, municipal taxes up to the date of registration and that the previous and other documents pertaining to the said plot No. 30, Block 'K', sanctioned plan and completion certificates from Municipal Corporation of Delhi in respect of the superstructure built on the said plot shall be handed over along with the vacant possession of first floor by September 30,

1971.

You know that September 30, 1971 is fast approaching and your clientess is still to comply with these requirements besides mentioned in para Nos. 2 and 3 of the agreement.

I, therefore, call upon you to advise your clientess to comply with the requirements well before September 30, 1971 or latest by September 30, 1971 and obtain the further part consideration of Rs. 98,000 from my clientess."

31. Therefore, even as late as September 24, 1971 the plaintiff was never willing to make the payment of Rs. 98,000. In this connection, we have already seen the oral evidence. It shows there was no readiness and willingness. We are in agreement with the conclusion of the Division Bench.

32. In view of the foregoing discussion, civil appeal is dismissed with costs.

16. Considering the facts and circumstances of the case

involved in the decision of the Apex Court and applying the same to the case at hand, it is found that the failure of the plaintiff to pay the balance sale consideration within the time limit and even within the extended time limit as set out in Exs.D1 and P4 notices by insisting that the defendant should obtain and produce the no due certificate and income tax clearance certificate, would only go to show that as determined by the Apex Court that the plaintiff is not eager and anxious in proceeding further and accordingly, not exhibited his readiness and willingness to pay the balance sale consideration within the abovesaid stipulated period even after the defendant has made clear that he had obtained the no due certificate and income tax clearance certificate and would produce the same at the time of execution of the sale deed. Furthermore, when the abovesaid certificates are not compulsorily required for going ahead with the performance of the sale agreement, particularly, with reference to the performance of the obligation on the part of the plaintiff, the vendee, and as held by the Apex Court, the income tax clearance certificate was necessary only for the completion of the sale deed i.e., for the purpose of the registration, all put together, would only go to disclose that there has been no readiness and willingness on the part of the plaintiff in paying the balance sale consideration and proceed further with the execution of the sale transaction and accordingly, it is found that as contended by the defendant, inasmuch as the plaintiff had not been possessed of sufficient funds, he had, from the inception, not endeavoured to pay the balance sale price of Rs.12,24,000/- within the time limit or even within the extended time limit as set out in Exs.D1 and P4 notices and in such view of the matter, considering the facts and circumstances of the case, the discretionary relief of specific performance cannot be extended in favour of the plaintiff and therefore, it is found that the trial Court is justified in declining the relief of specific performance in favour of the plaintiff.

17. The defendant's counsel, in support of his contentions, also placed reliance upon the decisions reported in ***(2002) 9 SCC 582 (Pushparani S.Sundaram and others Vs. Pauline Manomani James (deceased) and others) and (2008) 8 MLJ 873 (Ramnath Publications Pvt Ltd., rep by its Managing Director K.Natarajan and another Vs. A.R.Madana Gopal and others)***. The plaintiff's counsel in support of his contentions, placed reliance upon the decision reported in ***(2009) 16 SCC 1 (Steel Authority of India Limited Vs. Sutni Sangam and Others)***. The principles of law outlined in the abovesaid decisions are taken into consideration and followed as applicable to the case at hand.

18. In the light of the abovesaid discussions, I hold that the

plaintiff has never been ready and willing to perform his part of the obligation of the sale agreement. I therefore hold that the plaintiff is not entitled to obtain the relief of specific performance in respect of the sale agreement dated 16.08.1991. Accordingly, the point Nos.1 & 2 are answered.

Point Nos.3 & 4:

19. For the reasons aforestated, the judgment and decree dated 30.11.2010, passed in O.S. No.7439 of 2010, on the file of the Additional District Judge, Fast Track Court No.1, Chennai are confirmed and resultantly, the first appeal is dismissed with costs. Consequently, connected miscellaneous petition, if any, is closed.

12.11.2019

Index : Yes/No
Internet:Yes/No
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To:

The Additional District Judge,
Fast Track Court No.1, Chennai.

Copy to:

The Section Officer,
V.R.Section,
High Court, Madras.

T.RAVINDRAN,J.

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Pre-delivery Judgment in A.S.No.586 of 2011

12.11.2019