

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

S.A.No. 947 of 2019

V.P.Venugopal

..Appellant

Vs.

R.B.Ramakrishnan

..Respondent

Prayer: Memorandum of Second Appeal filed under Section. 100 of C.P.C. against the judgment and decree dated 05.01.2019 in A.S.No. 13 of 2013, on the file of Sub-Ordinate Judge, Tirupattur confirming the judgment and decree dated 28.08.2012 in O.S.No. 351 of 2006 on the file of District Munsif Court, Tirupattur.

For Appellant : Mr. K.G.Senthilkumar

J U D G M E N T

The defendant in O.S.No. 351 of 2006 has come forward with this appeal having suffered a decree for specific performance in the said suit on the same being confirmed in A.S.No. 13 of 2013.

2. According to the plaintiff, the defendant had agreed to sell the suit property to the plaintiff for a consideration of Rs.50,000/-. An agreement of sale entered into on 14.08.2006 in and by which, the entire sale consideration was paid on the date of the agreement itself. The plaintiff would claim that he was also put in possession of the property. Claiming that he has always been ready and willing to perform his part of contract and it is the defendant who has been delaying execution. The plaintiff by his reply notice dated 17.10.2006 sought of sale deed on 03.11.2006. He also waited in the Sub-Registrar's Office on 03.11.2006. Since the defendant did not turn up to execute the sale deed, the plaintiff has come forward with this suit for specific performance.

3. The suit was resisted by the defendant. While admitting execution of the sale agreement, the defendant would contend that the suit agreement is not a stand alone contract. According to him, there were disputes with reference to

enjoyment of certain plots in the lay out between the plaintiff and the defendant. To resolve it, a Panchayat was held on 16.07.2006, wherein, an agreement was reached by the parties to have the issues settled by executing sale deeds. Apart from the defendant, three other parties namely, Vanaroja, Anusuya and Sumathi are also parties to the agreement dated 16.07.2006. As per the agreement dated 16.07.2006, the plaintiff ought to transfer the vacant lands in Plot Nos.6 and 29 in favour of the defendant and upon such execution of the sale deed, the defendant would transfer the suit property in favour of the plaintiff. Therefore, according to the defendant, unless the plaintiff comes forward to transfer the land which he ought to have transferred under the agreement dated 16.07.2006, the defendant is not obliged to specifically perform the contract. On the above contention, the defendant sought for dismissal of the suit.

4. The Courts below on appreciation of the evidence on record, found that the defendant had admitted a receipt of the entire sale consideration on the date of execution of the agreement. It is also found that the other three persons namely, Vanaroja, Anusuya and Sumathi have also executed sale deeds which have been marked as Exs. A7 to A9. The Courts below also found that the defendant is trying to wriggle out of the agreement by denying, what he has agreed to and avoid execution of sale deed. It is seen from the pleadings as well as the evidence that it is only in pursuance of the agreement dated 16.07.2006, the agreement dated 14.08.2006 was executed. Having accepted the receipt of consideration, the defendant cannot now resile from the agreement and contend that he is not bound to execute the sale deed.

5. Both the Courts below have found that the agreement is true and valid and the plaintiff has always been ready and willing to perform his part of the contract. The Courts below had exercised their discretion and decreed the suit for specific performance, based on sound reasoning. I do not see any question of law much less a substantial question of law, in order to enable this Court to entertain this appeal. Hence, this appeal fails and dismissed without being admitted. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

kkn

To

1.The Subordiante Judge,
Tirupathur.

2.The District Munsif,
Tirupathur.

+lcc to K.G.Senthil Kumar, Advocate, SR.No.79630.

S.A.No. 947 of 2019

NRL (CO)
CSR: 07.02.2020



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