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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.1220 of 2012
and M.P.No.1 of 2012

Kannammal @ Janaki

...Appellant/3rd Defendant

Vs.

1.Varadaraj

2.Selvam

3.C.Venkatesan

...Respondents/Plaintiffs/1st Defendant/
& 2nd Defendant

PRAYER: Second Appeal filed under Section 100 of C.P.C., against the Judgment and Decree dated 20.06.2012 passed in A.S.No.19 of 2011 on the file of Subordinate Judge at Vaniyambadi, Vellore District confirming the judgment and decree dated 18.09.2010 passed in O.S.No.297 of 2004 on the file of the District Munsif-cum-Judicial Magistrate, Vaniyambadi, Vellore District.

For Appellant : Mr.R.Bharathkumar

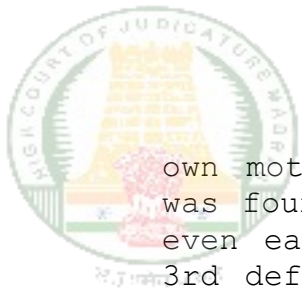
For Respondents : Mr.P.A.Sudeshkumar for R1

No Appearance for R2 & R3

JUDGMENT

The 3rd defendant is the appellant in the present second appeal.

2.The 1st respondent/plaintiff filed a suit for specific performance based on the Sale Agreement dated 22.10.2003 executed by the 2nd defendant who was the Power of Attorney Agent for the 1st defendant. According to the plaintiff, the total consideration was fixed at Rs.56,000/- and an advance of Rs.5,000/- was received from the plaintiff. Even though the plaintiff was ready and willing to perform his part of the contract, the 2nd defendant did not come forward to execute the sale deed. In the meantime, the 2nd defendant executed a Sale



own mother-in-law who is the 3rd defendant and on evidence it was found that the 3rd defendant was a daily coolie who was not even earning Rs.50/- as wages. It is quite surprising that the 3rd defendant had paid a sum of Rs.40,000/- for purchasing the property. It is under these circumstances, both the Courts below held that the Sale Deed itself has been created to defeat the rights of the plaintiff.

7.The Appellate Court has substantially complied with the requirements of Order 41 Rule 21 of C.P.C while discussing the various issues raised in the appeal. The appellant who is the subsequent purchaser, cannot question the readiness and willingness at this stage and in any case both the Courts below found that the plaintiff was ready and willing to perform his part of the conduct.

8.This Court finds that there are no grounds to interfere with the judgments and decrees of both the Courts below and there are no substantial questions of law involved in the present second appeal.

9.In the result, the second appeal stands dismissed. Considering the facts and circumstances of the case, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(I)

// True Copy //

Sub Assistant Registrar

ssr

To

1.The Subordinate Judge at Vaniyambadi,
Vellore District.

2.The District Munsif-cum-Judicial Magistrate,
Vaniyambadi, Vellore District.

+1cc to Mr.R.Bharath Kumar, Advocate SR.No.9630

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KK(CO)
CB(08/03/2022)