



A.S.(MD)No.243 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.S.(MD)No.243 of 2015

and

M.P.(MD)No.2 of 2015

M.Najima Bhanu

... Appellant / Defendant

Vs.

A.Velmurugan

... Respondent /
Plaintiff

PRAYER: This Appeal Suit is filed under Section 96 of C.P.C. r/w Order 41 and Rules 1 and 2 of C.P.C. against the judgment and decree dated 24.01.2014 made in O.S.No.55 of 2013 on the file of the Additional District Court cum Sessions Court, Dindigul District.

For Appellant : Mr.R.Udhayakumar

For Respondent : Mr.R.J.Karthick



A.S.(MD)No.243 of 2015

JUDGMENT

WEB COPY

The unsuccessful defendant filed this Appeal Suit challenging the decree and judgment of the trial Court granting specific performance.

2. The appellant / defendant, who is the owner of the property, has executed a registered sale agreement for a total sale consideration of Rs.11 lakhs on 24.04.2012 and received a sum of Rs.10 lakhs as advance and it was agreed between the parties that the sale shall be completed within a period of one year. The respondent / plaintiff was always ready and willing to pay the remaining sale consideration. However, the appellant / defendant evaded to perform the part of her contract. Hence, the respondent has filed a suit for enforcement of the contract.

3. The defence set up by the appellant / defendant before the trial Court was that the agreement has been executed in a loan transaction and she has also paid interest at the rate of 1% on the amount borrowed by her and she never intended to sell the property.



A.S.(MD)No.243 of 2015

4. Based on the above pleadings, after framing necessary issues, the trial Court has found that the agreement was executed only for sale of property and granted specific performance in favour of the plaintiff. Challenging the same, the present Appeal Suit came to be filed.

5. When the Appeal Suit was taken up for hearing, the appellant and the respondent are present before this Court and both the parties stated that they have conciliated the issue and entered into a compromise. To that effect, an undertaking affidavit dated 24.04.2023 has also been filed by the appellant, in which, the appellant / defendant admitted that she will pay a sum of Rs.14 lakhs within a period of five months from today and in the event she does not pay the amount within the period of five months, as per the undertaking affidavit, the judgment of the trial Court granting specific performance will bind on her. The respondent / plaintiff is also present and he has also made an endorsement in the affidavit filed by the appellant that he is agreed to receive the amount of Rs.14 lakhs.

6. Considering the fact that since the parties reached a settlement and the appellant has also filed an undertaking affidavit before this Court, wherein the respondent / plaintiff has also agreed to receive the amount of Rs.14 lakhs and made an endorsement in the affidavit itself, this Court is inclined to dispose of the



A.S.(MD)No.243 of 2015

appeal as per the terms of the undertaking affidavit filed by the appellant dated 24.04.2023.

7. Accordingly, this Appeal Suit itself is disposed of in terms of the undertaking affidavit filed by the appellant dated 24.04.2023. The said undertaking affidavit shall form part of this judgment. The appellant shall pay a sum of Rs.14 lakhs to the respondent / plaintiff within a period of five months from today. If the appellant / defendant fails to pay the said amount within a period of five months as agreed between the parties, the decree and judgment of the trial Court is confirmed and the appellant / defendant shall execute the necessary sale deed in favour of the respondent / plaintiff. No costs. Consequently, connected miscellaneous petition is closed.

8. As the parties settled the issues outside the Court, Registry is directed to refund the Court fee to the appellant. After payment of amount, the appellant is entitled to get back the original title deeds from the Court. Thereafter, the appellant / defendant is entitled to file an application to remove the entries made in the Register Office by producing the copy of the decree and judgment of this Court. The respondent / plaintiff is also entitled to withdraw the amount, which



A.S.(MD)No.243 of 2015

was already deposited before the trial Court, towards the balance sale consideration, on proper application before the concerned Court.

26.04.2023

NCC : Yes

Index : Yes/No

vsm

To

1.The Additional District Court cum Sessions Court, Dindigul District.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



A.S.(MD)No.243 of 2015

N.SATHISH KUMAR, J.

vsm

A.S.(MD)No.243 of 2015

26.04.2023