



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
(Civil Appellate Jurisdiction)
Wednesday, the First day of March Two Thousand Twenty Three
PRESENT

The Hon`ble Mr.Justice SUNDER MOHAN

WEB COPY

SA(MD) . No.418 of 2017

ARUMUGAM

... Appellant/1st Respondent/Plaintiff

Vs

1 G. KRISHNAVENI ...1st Respondent/Appellant/Defendant

2 TUTICORIN CIRCLE
CO-OPERATIVE HOUSE, BUILDING SOCIETY LTD.,
1644/5, PALAYAMKOTTAI ROAD, TUTICORIN-3,
THROUGH ITS SECRETARY / SPECIAL OFFICER.
(2nd Respondent Given Up)

... 2nd Respondent/2nd Respondent/2nd Defendant

Prayer:- This Second Appeal is filed under Section 100 of the Code of Civil Procedure, 1908 against the Judgment and Decree of the Court of the Principal District Judge, Thoothukudi dated 29.04.2017 passed in A.S.No.1 of 2017 reversing the Judgment and Decree of the Subordinate Judge, Thoothukudi dated 16.09.2008 passed in O.S. No.102 of 2004.

DECREE:- This Second Appeal coming on for hearing on Tuesday, the Twenty First day of February Two Thousand Twenty Three upon perusing the grounds of Appeal, the judgments and decrees of the Lower Appellate Court and the Court of First Instance and the material papers in the Suit and upon hearing the arguments of Mr.H.Lakshmi Shankar Advocate for the Appellant and of 1st Respondent not appeared either in person or by an Advocate , and having stood over consideration till this day, and this Court Allowing the Appeal in part this Court doth order and decree as follows:-

1) that the appellant/Plaintiff is not entitled to the relief of specific performance, the property has to be restored to the first respondent/first defendant

(2) That the Appellant herein /Plaintiff be and hereby is entitled to the relief as per the amendment in the prayer, namely

(a) direction to the first Respondent to refund a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty five thousand only)with interest at the rate of 6% from 27.05.2003 till the date of repayment:

b)that the direction to the first respondent to repay a sum of



Rs.3,20,232/- (Rupees Three Lakhs Twenty thousand a hundred thirty two only) with interest at the rate of 6% from 27.09.2008 till the date of repayment.

(3) that the appellant herein /Plaintiff be and hereby is not entitled to the interest rate as prayed for in the amended prayer.

(4) That there be no costs in this Appeal.

Sd/-

Assistant Registrar (CS.III)

// True Copy //

/03/2023

Sub Assistant Registrar(CS)

Enclosure: Xerox Schedule of Property.

SKN

TO

- 1.The Principal District Judge, Thoothukudi
- 2.The Subordinate Judge, Thoothukudi

COPY TO:

The Section Officer,
V.R. Section,

Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-11961/2023)

Dated: 01.03.2023

DECREE

SA(MD) No. 418 of 2017

Nature of Decree: Partly Allowing the Second Appeal preferred against the Judgement and decree dated 29.04.2017 in AS.No.1/2017 on the file of the Principal District Judge, Thoothukudi reversing the Judgement and decree Dt.16.09.2008 in O.S.No.102 of 2004 on the file of the Subordinate Judge, Thoothukudi and etc., as stated therein