

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**SATURDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND**

THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI

CITY CIVIL COURT APPEAL NO: 330 OF 2004

(Appeal Under Section 96 of C.P.C against the Judgment and Decree Dated 06/08/2004 made in O.S.No.1247 of 1996 on the file of the Court of the Additional Judge, City Small Causes Court, Hyderabad.)

Between:

1. Ved Prakash, S/o. Anand Swaroop, aged about 45 years, Business, R/o. H.No. 8-2-686/B/1/4, Road No.12, Banjara Hills, Hyderabad- 500 034.
2. Smt. Sumitra Devi, W/o. Sri. Anand Swaroop (Died)
3. Smt. Sashikala, W/o. Sri. Vind Anand, aged about 39 years, Occ: Housewife, R/o. H.No. 8-2-686/B/1/4, Road No.12, Banjara Hills, Hyderabad- 500 034.
4. Smt. Anju Devi, S/o. Vivekanand, aged about 3 years, Occ: Housewife, R/o. H.No. 8-2-686/B/1/4, Road No.12, Banjara Hills, Hyderabad- 500 034.
5. Smt. Renu Devi, W/o. Sri. Visesh Anand, aged about 31 years Occ: Housewife, R/o. H.No. 8-2-686/B/1/4, Road No.12, Banjara Hills, Hyderabad- 500 034.
6. Sri. Vipul Anand, S/o. Anand Swaroop, aged about 31 years Occ: Business, R/o. H.No. 8-2-686/B/1/4, Road No.12, Banjara Hills, Hyderabad- 500 034

...APPELLANTS/PLAINTIFFS

AND

1. Narender T.Thakkar, S/o. late T.M. Thakkar, aged about 48 years, Occ: Business, R/o. H.No.3-6-69/B/20/4/2, Avanthinagar, Basheerbach, Hyderabad-29.
2. Smt. Sitaben T.Thakkar, W/o. late T.M. Thakkar, aged about 68 years, Occ: Household, R/o. 316, Balkeshwar Road Mumbai pin-6.
3. Sri. Harish T. Thakkar, S/o. late Sri. T.M. Thakkar, aged about 45 yrs, Occ: Business, R/o. 316, Balkeshwar Road Mumbai-6.

...RESPONDENTS/DEFENDANT

Counsel for the Appellants: SRI. VEDULA VENKATARAMANA

Counsel for the Respondents 1 & 2: SRI. T. SHARATH, ADVOCATE

Counsel for the Respondent No.3: SMT. C. SINDHU KUMARI, ADVOCATE

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI**

CITY CIVIL COURT APPEAL No.330 OF 2004

JUDGMENT: (Per AKS,J)

This City Civil Court Appeal is filed by the appellants/plaintiffs aggrieved by the judgment and decree, dated 06.08.2004, rendered in O.S.No.1247 of 1996 by the learned Additional Judge, City Small Causes Court-cum-VI Senior Civil Judge, City Civil Court, Hyderabad.

2. Heard Sri Vedula Venkata Ramana, learned Senior Counsel appearing for the appellants and Sri T. Sharath, learned counsel appearing for the respondent Nos.1 to 3.

3. Learned Senior Counsel appearing for the appellants had contended that the appellants/plaintiffs filed the subject Suit for specific performance of contract. Respondent Nos.1 to 3/ defendant Nos.1 to 3 are the joint owners of the suit schedule property. The appellants paid Rs.5,00,000/- to the respondent No.1 under Ex.A1-original receipt, dated 26.09.1993, for purchasing the suit schedule property. When the respondents refused to execute Sale Deed in favour of the appellants, the appellants approached the Court below by filing the subject Suit

seeking specific performance of contract, on the strength of Ex.A1. The Court below, *vide* impugned judgment and decree, dated 06.08.2004, holding that respondent Nos.2 and 3/defendant Nos.2 and 3 are not signatories to Ex.A1 and only respondent No.1/defendant No.1 has received the said amount, dismissed the claim of the appellants in respect of specific performance of contract and directed the respondent No.1 to return the amount received by him from the appellants. Aggrieved by the same, the present appeal is filed by the appellants.

4. Learned Senior Counsel appearing for the appellants further contended that the Court below ought to have decreed the subject Suit in favour of the appellants, as admittedly, the respondent No.1 has received the amount on behalf of respondent Nos.2 and 3 also. Therefore, appropriate orders be passed in the present appeal by setting aside the impugned judgment and decree, dated 06.08.2004, and further direct the respondents to register the suit schedule property in favour of the appellants, after accepting the balance sale consideration.

5. On the other hand, learned counsel for the respondents had contended that the respondent Nos.2 and 3 have never accepted any amount from the appellants and therefore, the question of directing respondent Nos.2 and 3 to execute Sale Deed in favour of

the appellants would not arise. Further, as admittedly, there is no agreement entered into between the appellants and the respondents, the question of executing Sale Deed in favour of the appellants would not arise. As there is no privity of contract between the appellants and respondents Nos.2 and 3, the Court below has rightly dismissed the subject Suit in respect of specific performance of contract and rightly directed respondent No.1 to refund Rs.5,00,000/-, which he has received from the appellants. Therefore, there are no merits in the appeal and the same is liable to be dismissed.

6. This Court, having considered the rival submissions made by the learned counsel for the parties, is of the view that there is no privity of contract between the appellants and the respondent Nos.2 and 3. Therefore, the Court below has rightly dismissed the claim of the appellants in respect of specific performance of contract and rightly directed respondent No.1 to return the amount received by him from the appellants, as admittedly, there is no agreement of sale between the appellants and the respondents. Hence, this Court is not inclined to interfere with the impugned judgment and decree, dated 06.08.2004.

7. Accordingly, the City Civil Court Appeal is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this appeal, shall stand closed.

SD/- K. SRINIVASA RAO
JOINT REGISTRAR

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sr
SECTION OFFICER

To,

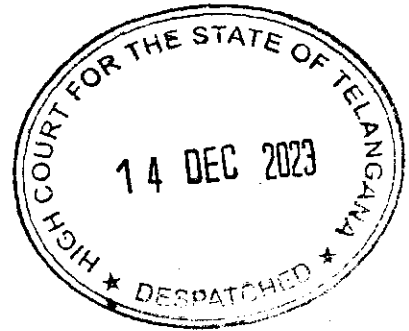
1. The Additional Judge, City Small Causes Court, Hyderabad (With Records)
2. One CC to Sri. T. SHARATH, Advocate [OPUC].
3. One CC to Smt. C. SINDHU KUMARI, Advocate [OPUC]
4. Two CD Copies.

V. S.

HIGH COURT

DATED:19/08/2023

JUDGMENT



CCCA.No.330 of 2004

DISMISSING THE CCCA

⑥ vvw
1/12/23

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...RESPONDENTS/DEFENDANT

Appeal Under Section 96 of C.P.C against the Judgment and Decree of the Court of the Addl. Judge, Judge, City Small Causes Court, Hyderabad in O.S.No.1247 of 1996 dated 06/08/2004.

ORDER: This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the lower Court and the material papers in the Suit and upon hearing the arguments of Vedula Venkata Ramana for the Appellant and of Mr. T. Sharath, Advocate for the Respondent No.1 & 2 and of Smt. C. Sindhu Kumari, for Respondent No.3.

This Court doth Order and decree that the decree of the lower court be and hereby is confirmed and this CCCA is dismissed.

This Court doth further order that there shall be no order as to costs in this CCCA.

//TRUE COPY//

SD/- K. SRINIVASA RAO
JOINT REGISTRAR


SECTION OFFICER

To,

1. The Additional Judge, City Small Causes Court, Hyderabad (With Records)
2. Two CD Copies.



HIGH COURT

DATED:19/08/2023

DECREE

CCCA.No.330 of 2004

DISMISSING THE CCCA

④ VW
11/12/23