



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 01.10.2024

CORAM:

THE HON'BLE MR.JUSTICE A.A.NAKKIRAN

C.S.No.451 of 2015

1.G.Saravanan (Deceased)

2. S. Rekha

3. Minor S. Hashavardhan

Rep by his next friend mother Rekha

(Plaintiffs 2 & 3 brought on record as the

LR's of the deceased plaintiff G.Saravanan

as per order dt 10.10.2023 in A.Nos.5272 to 5274/2023

and time extended as per order dt 17.11.2023

... Plaintiffs

vs.

Hema Ramanathan

... Defendant

Prayer: Civil Suit filed under Order IV Rule 1 of O.S Rules read with

Order VII Rule 1 of Civil Procedure Code praying for the following reliefs:

a) to pass a Judgment and decree in favour of the plaintiff and against the defendant for the specific performance of the suit agreement of sale dated 08.11.2012 and directing the defendant to receive the balance sale consideration of Rs.5,00,000/- (Rupees Five Laksh only) from the plaintiff and execute and register the sale deed in favour of the plaintiff



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with regard to the property described in the schedule below within a stipulated time frame; and grant liberty to the plaintiff to get such a sale deed executed and registered through the process of court in the event of the defendant failing to do so within the stipulated time frame and

b) grant costs of the suit to the plaintiff as against the defendant.

For Plaintiffs : Mr.S.Subramanian

For Defendant : Set exparte on 19.10.2022

J U D G M E N T

This Civil Suit has been filed for the specific performance of the suit agreement of sale dated 08.11.2012 and directing the defendant to receive the balance sale consideration of Rs.5,00,000/- and for costs.

2. The brief facts of the case of the plaintiffs are as follows:

The plaintiff, entered into an agreement of sale on 08.11.2012, with the defendant, who is the absolute owner of the lands comprised in S.No.19/1A Dry. Hec.0.51.5 Asst.0.56 and in S.No.20/1A1 Dry Hec.0.66.5. Asst 0.72 measuring to an extent of 2.91 acres situated in Konanginaickanahalli Village, Palacode Taluk, Dharmapuri District



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agreeing to purchase the same for a total sale consideration of Rs.30,00,000/- and paying an advance of Rs.5,00,000/- through her power agent. The period fixed for the payment of the balance sale consideration was three years. In pursuant to the same, the plaintiff has paid a sum of Rs.10,00,000/- to the defendant on 10.06.2013 and on 25.08.2014 for which endorsements were made by the defendant on the back of the original agreement of sale totalling to a sum of Rs.25,00,000/-. All these payments and the original agreement of sale and the endorsements relating to the subsequent payments have been witnessed and attested by respectable witnesses. The balance sale consideration remains to be paid to the defendant is Rs.5,00,000/-.

2.1. Based on the factum of major part of the sale consideration having been paid by the plaintiffs, the possession of the above said lands was delivered to him by the defendant on 26.08.2014 for which an endorsement has been made on the back of the original agreement of sale. Thus the plaintiff is in possession of the said lands in part performance of the said agreement in his favour. A photostat copy of the deed of power of attorney executed by the principal Hema Ramanathan on 26.08.2008 in



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favour of her power agent D.P.Singaram was furnished to the plaintiff. He contacted the defendant on 20.03.2015 and 21.03.2015 demanding completion of sale tendering the balance sale consideration amount to him. But he postponed in an evasive manner. Thereafter, he issued legal notice to the defendant on 16.04.2015, even after receiving the same, the defendant failed to comply with till date. Hence the suit.

3. Though sufficient opportunity given to the defendant for filing written statement, he did not chosen to file the same and hence, he was set exparte on 19.10.2022.

4. Heard the learned counsel for the plaintiffs and perused the records.

5. The PW1 has deposed that on 08.11.2012, the 1st plaintiff and the defendant entered into a suit agreement of sale after receiving Rs.5,00,000/- as an advance amount and Ex.P1 is marked for the same. Later a sum of Rs.10,00,000/- was paid on 10.06.2013 towards the sale consideration and



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the same was marked as Ex.P2. Thereafter, a sum of Rs.10,00,000/- was paid on 25.08.2014 towards the sale consideration and the same was marked as Ex.P3. On 26.08.2014, the defendant handed over the possession to the plaintiff and endorsement of delivery of possession was marked as Ex.P4. On 16.04.2015, legal notice was sent by the plaintiff to the defendant along with postal receipt and the same was marked as Ex.P5.

6. As far as this case is concerned, the depositions of PW1 and exhibits are taken into consideration, wherein she clearly deposed about that execution of agreement and payment of balance sale consideration and handing over the possession to the 1st plaintiff. Hence, her evidence is acceptable and believable. Furthermore, there is no refutable evidence against the case of the plaintiffs. Hence, the plaintiffs have proved their case.

7. In the result, the suit is decreed as prayed for. No costs. Consequently, connected applications are closed, if any.



8. In view of the above, the plaintiffs shall pay the balance of sale consideration and thereafter, the defendant shall execute the sale deed within a period of two months from the date of receipt of a copy of this order.

01.10.2024

Index : Yes/No
Speaking/Non-speaking order
gv

Witnesses examined on the side of the plaintiff:

P.W.1. - S.Rekha

P.W.2 - T. Kamalakannan



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Exhibits produced on the side of the plaintiffs:

<i>Sl.No.</i>	<i>Exhibits</i>	<i>Date</i>	<i>Description of documents</i>
1	P1	08.11.2012	Original Sale agreement in favour of the plaintiff executed by the defendant
2	P2	10.06.2013	Endorsement of payment in the reverse page of Ex.P1
3	P3	25.08.2014	Endorsement of payment in the reverse page of Ex.P1
4.	P4	26.08.2014	Endorsement of delivery of possession in the reverse page of Ex.P1
5	P5	16.04.2015	Office copy of the legal notice sent by the plaintiff to the defendant along with postal receipt.

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A.A.NAKKIRAN,J.

gv

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