



A.S.No.583 of 2022

C.M.P.No.29407 of 2023

in

A.S.No.583 of 2022

and

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M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

[Order of the Court was made by M.SUNDAR. J]

Captioned main Appeal i.e., 'A.S.No.583 of 2022' [hereinafter 'AS' for the sake of convenience and clarity] is a regular First Appeal under Section 96 / Order XLI Rule 1 of 'the Code of Civil Procedure, 1908 (5 of 1908)' [hereinafter 'CPC' for the sake of convenience and clarity].

2. AS is directed against judgment and decree dated 13.07.2022 in O.S.No.07 of 2016 (CNR No.TNTM01-000052-2016) on the file of the Principal District Judge's Court, Tiruvannamalai. This '13.07.2022 judgment and decree' shall be referred to as 'impugned judgment' and 'Principal District Judge's Court, Tiruvannamalai' shall be referred to as 'said trial Court' for the sake of convenience and clarity.



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3. As regards the aforementioned suit, dates of presentation of the plaint in the said trial Court are 19.01.2016 / 20.01.2016 and the date of filing of the suit is 02.02.2016. The suit was filed with a prayer for specific performance pertaining to an 'immovable property in Karungalikuppam Village, Tiruvannamalai Taluk, Tiruvannamalai District within Keelpennathur Sub-Registration District jurisdiction, comprised in eight different survey numbers admeasuring a total extent of 1.79 acres (78044 square feet) or thereabouts of land and RCC superstructure therein' [hereinafter 'suit property' for the sake of convenience and clarity]. The specific performance suit is predicated on a registered sale agreement dated 09.05.2012 (Ex.A1) wherein according to the plaintiffs, defendant agreed to sell the suit property and RCC structure which is a School for a total sale consideration of Rs.40 Lakhs and received advance and part of sale consideration. After full contest, the said trial Court in and vide impugned judgment did not grant the prayer as regards the specific performance but granted alternate relief of repayment of advance/part of sale consideration. To be noted, the said trial Court in and by impugned judgment directed the defendant to pay Rs.15 Lakhs to the plaintiffs with interest at 9% per annum from the date of sale agreement (09.05.2012) to the date of plaint



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(07.01.2016) and subsequently, at the rate of 6% per annum from the date of
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plaint till the date of realization.

4. The two plaintiffs are on appeal in the captioned AS and obviously,
the lone defendant is the sole respondent in captioned AS.

5. Parties shall be referred to by their respective ranks in the said trial
Court for the sake of convenience and clarity.

6. Captioned 'Civil Miscellaneous Petition' [hereinafter 'CMP' for the
sake of convenience and clarity] has been taken out by sole defendant with a
prayer for depositing the aforementioned Rs.15 Lakhs with 9% and 6%
interest for the pre-suit period and post-suit decree respectively as set out
supra.

7. Ms.D.Ramya, learned counsel on record for petitioner (defendant)
and Mr.S.Kishore Kumar, learned counsel on record for respondents
(plaintiffs) in captioned CMP are before us.



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8. Learned counsel for plaintiffs very fairly submitted that he is not standing in the way of defendant depositing the aforementioned amount but learned counsel only wants the rights and contentions of the plaintiffs to be protected / preserved. In other words, learned counsel submits that the deposit (together with interest) qua advance / part of sale consideration received by the defendant as per impugned judgment of said trial Court now should not prejudice the rights and contentions of the plaintiffs in the appeal i.e., appellants in AS. This is a fair request and this request is acceded to.

9. In the light of the narrative thus far, the prayer of defendant in the captioned CMP is acceded to albeit with the aforementioned rider. However, learned counsel for defendant (petitioner in CMP) requests for two weeks time for making the deposit. This request is also acceded to.

10. Let the deposit of Rs.15 Lakhs together with 9% and 6% interest per annum for the pre and post suit periods respectively be deposited on or before 04.03.2024 to the credit of captioned AS. Registry is directed to ensure that the sums so deposited are kept in an interest bearing Deposit in a nationalized bank.



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11. Captioned CMP is ordered as prayed for.

12. List the captioned AS on 28.02.2024.

[M.S., J]

[K.G.T., J]

19.02.2024

mk

P.S. I: *Upload forthwith*

P.S.II : *All concerned including the Registry, High Court, Madras, to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water marked, besides being QR Coded.*



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