

THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 19.09.2025

Judgment pronounced on : 10.10.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S.No.88 of 2024

Solai

..Appellant

Vs.

1.Jayaraman

2.Vasudevan

..Respondent

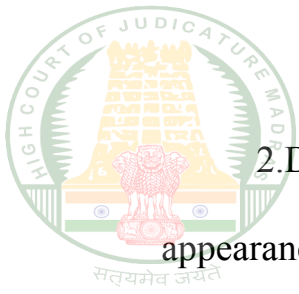
Prayer: Appeal Suit filed under Section 96 of CPC, to set aside the judgment and decree dated 07.09.2023 in O.S.No.79 of 2021 on the file of the Additional District Court, Tiruvannamalai.

For Appellant : Mr.B.Jawahar

For Respondent : No appearance

JUDGMENT

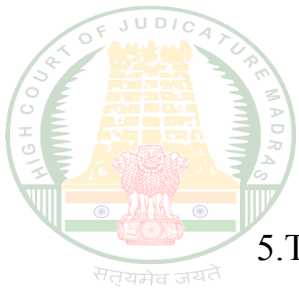
The plaintiff in O.S.No.79 of 2021 before the Additional District Judge, Tiruvannamalai, aggrieved by the disallowed suit claim, has preferred the above first appeal.



2.Despite service of notice, the respondent has not chosen to enter appearance, either in person or through counsel. In fact, I find that even before the trial Court, the defendants have remained ex-parte and have not contested the suit.

3.I have heard Mr.B.Jawahar, learned counsel for the appellant.

4.Mr.B.Jawahar, learned counsel for the appellant would state that the suit was filed by the plaintiff for recovery of Rs.11,51,971/-, being the amounts payable towards principal and interest of Rs.10,00,000/- under two conditional sale deeds dated 13.01.2020. He would invite my attention to the case of the plaintiff that the defendants had borrowed monies from the plaintiff and they had failed to repay the same and on persistent demands made by the plaintiff, the 1st defendant executed a registered conditional sale deed dated 13.01.2020 for a sum of Rs.60,000/-, which was the prevailing guideline value. However, in respect of the balance of Rs.9,40,000/-, the parties had entered into an unregistered conditional sale deed on the same day i.e 13.01.2020. The 2nd defendant has signed the documents as a witness, being the son of the 1st defendant and according to the plaintiff, both the defendants have borrowed monies for a total sum of Rs.10,00,000/-.



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5.The suit has been filed for recovery of Rs.11,51,971/-, together with future interest. The plaintiff lodged a police complaint on 17.07.2020, since the defendants were evading repayment of the huge amount borrowed from the plaintiff. However, the defendants, from their side, had issued a lawyer's notice on 10.07.2020 and according to the plaintiff, the legal notice has false and untenable allegations. The plaintiff was therefore constrained to file the suit for recovery of money due and payable from the defendants.

6.Before the Trial Court, on the side of the plaintiff, he examined himself as P.W.1 marked Ex.A1 to Ex.A6 and on the side of the defendants, no one was examined and no document was marked.

7.The trial Court, finding that the unregistered conditional sale deed was inadmissible in view of the express bar under Section 17(1)(b) of the Indian Registration Act, held that the plaintiff is not entitled to full relief and proceeded to decree the suit only in respect of Rs.60,000/- covered by the registered sale deed, Ex.A2 alone.



8. The learned counsel for the appellant would contend that the plaintiff is not claiming any right under the unregistered sale deed, Ex.A1 and the suit was only for recovery of money in respect of monies paid under the said conditional sale deed and the Court ought to have looked into the said document for collateral purposes and proceeded to decree the suit, which is the only point that arises for consideration in the present appeal, namely:

(i) whether the recitals in an unregistered sale deed, which otherwise is compulsorily registrable under Section 17(1)(b) of the Indian Registration Act, be looked into for collateral purposes to enable a party to the said document to seek recovery of monies due and payable under the said document.

9. There is no second opinion with regard to the inadmissibility of the unregistered conditional sale deed, in view of the express embargo in Section 17(1)(b) of the Indian Registration Act. However, Section 49 of the said Act enables the Court to look into a collateral transaction that is occurring in the said unregistered document and for such limited purposes, even the unregistered and inadmissible document can be looked into. The trial Court has not even considered the mandate of Section 49 of the Act, leave alone applying it to the facts of the present case.



10. The learned counsel for the appellant would only seek for the matter being remanded to the trial Court, in order to decide the issue of whether the unregistered condition sale deed in Ex.A1 for a sum of Rs.9,40,000/- can be treated as a collateral transaction for the limited purposes of enabling the plaintiff to recover the said amount of Rs.9,40,000/-. In view of the above and also considering the fact that the respondents have not chosen to appear in this appeal, I do not deem it proper to decide this issue in the appeal. It would be proper for me to remit the matter to the trial Court to decide the issue, after giving an opportunity to both the parties.

11. In view of the above, the Appeal Suit is allowed. The judgment and decree of the Additional District Court, Tiruvannamalai, dated 07.09.2023 in O.S.No.79 of 2021 is set aside, insofar as the dismissal of the claim arising under Ex.A1, unregistered sale deed alone. The trial Court shall afford an opportunity to both the plaintiff and the defendants and decide the issue as to whether the plaintiff is entitled to rely upon the payment of Rs.9,40,000/- as a collateral transaction entitling him to maintain the suit for recovery of monies. There shall be no order as to costs.

10.10.2025

Neutral Citation Case : Yes / No
Speaking / Non-speaking order
Index : Yes/No
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P.B.BALAJI.J.

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To

The Additional District Court, Tiruvannamalai.

Pre-delivery judgment made in
A.S.No.88 of 2024

10.10.2025