



A.S.No.397 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

A.S.No.397 of 2022 &

CMP.Nos.14065 & 14067 of 2022 &

CMP.Nos.16200 & 16203 of 2024

1. S.Seenivasan [died]

2. S. Jai Kumari

3. S.Deepa

4. S.Chandrika

[Appellants 2 to 4 are brought on record as
LRs of deceased 1st appellant vide Order
of this Court dated 21.04.2023 made in
CMP.No.2742 of 2023 in A.S.No.397 of 2022]

... Appellants

Versus

P.N.Annamalai

... Respondent

PRAYER : Appeal Suit filed under section 96 of Code of Civil Procedure to
set aside the fair and decretal Order dated 20.04.2022 in I.A.No.2 of 2022 in



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O.S.No.106 of 2021 on the file of the Additional District Court, [FTC], Vellore.

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For Appellants : Mr.D.Sivakumaran

For Respondent : Mr.N.Sivaprakash

JUDGMENT

Challenging the fair and decretal of the trial Court rejecting the suit filed by the plaintiff for a direction to the defendant to reconvey the suit property to the plaintiff on receiving the suit amount within a specified time at the expenses of the plaintiff failing which this Court may execute the sale deed on behalf of the defendant in favour of the plaintiff at his own expenses, the present appeal has been filed.

2. The suit has been filed by the plaintiff interlia contending that the defendant advanced a sum of Rs.5 lakhs as a loan for interest at the rate of 2% per hundred per month. In view of the same, he was compelled to execute a sale deed on 28.02.2002. Besides he has also executed an agreement to



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re-convey the property on the same day. That apart, 10 promissory notes for the value of Rs.50,000/- has also been taken by the defendant. There is no sale consideration for the two sale deeds dated 22.08.2002 and 13.01.2003. Therefore, the sale deeds did not convey any title to the defendant. The defendant is bound to transfer the property to the plaintiff as per the agreement entered between them on the same day. Therefore, he had issued a legal notice to the defendant on 12..05.2021. Hence, the suit for a direction to the defendant to re-convey the property.

3. The trial Court based on the application filed by the defendant, rejected the suit itself. Challenging the same, the present appeal has been filed.

4. The learned counsel appearing for the appellants would submit that on the date of sale on 22.08.2002, there was a separate agreement entered between the parties to reconvey the property in the event entire amount has been paid by the plaintiff. The said document has also been filed. Whether there is a re-conveyance agreement or not has to be decided only during the trial. Therefore, the trial Court rejecting the suit is not proper.



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5. Whereas, the learned counsel appearing for the respondent would contend that the very agreement is not admissible in the evidence and it is only written in a white paper and signed by the family members of the plaintiff, viz., his wife and children as witnesses. At any event, the suit is barred by limitation and the said agreement cannot be enforced.

6. Now the point that arises for consideration is

Whether the plaintiff can seek re-conveyance of the property as per the agreement dated 22.08.2002.

7. Point :

It is not in dispute that the plaintiff has executed two registered sale deeds dated 22.08.2002 and 13.01.2003. Though it is his contention that he had borrowed a sum of Rs.5 lakhs from the defendant' and in lieu of the said loan, the above sale deeds have been executed, the fact remains that the sale deeds are absolute sale deeds. It is not a mortgage by conditional sale. There is no recitals found in the sale deed to the effect that it is a mortgage by conditional



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sale. Though it is contended by the plaintiff that another agreement came to be executed on the same day, it is relevant to note that if really there was an agreement executed on the same day, the same ought to have been written in a 20 rupees stamp paper. In fact plaintiff has gone to the registration office, if really there was a re-conveyance agreement, the agreement ought to have been written in a stamp paper, which has not been done so. Whereas, it is written in a white paper and witness to the agreement are only the family members of the plaintiff, viz., his wife and children. Be that as it may.

8. The alleged agreement for re-conveyance has been entered in the year 2002. In such case, it ought to have been enforced within a period of three years. It is relevant to note that as far as agreement for re-conveyance is concerned, such an agreement can be enforced strictly within the period of limitation. But, it has not been done so. Therefore, filing the suit in the year 2021, after almost 19 years of the agreement, is nothing but futile exercise. Hence, the very suit itself is barred by limitation. The very pleadings of the plaintiff clearly indicate that the suit is barred by limitation. In such view of the matter, I do not find any merits in this appeal. The point is answered



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accordingly.

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9. During the pendency of this appeal, petitions have been filed to implead the respondents 2 and 3, who are alleged trespassers of the suit property and to amend the plaint to incorporate the additional pleadings, CMP.Nos.16200 & 16203 of 2024 have been filed. As the Appeal Suit itself is dismissed, these petitions are also liable to be dismissed.

10. In the result, this Appeal Suit is dismissed. The Order and decretal Order of the trial Court in I.A.No.2 of 2022 in O.S.No.106 of 2021 dated 20.04.2022 is confirmed. No costs. Consequently, CMP.Nos.16200 & 16203 of 2025 are also dismissed. Consequently, connected miscellaneous petitions in CMP.Nos.14065 of 2022 and 14067 of 2022 are closed.

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Index : Yes / No

Internet: Yes

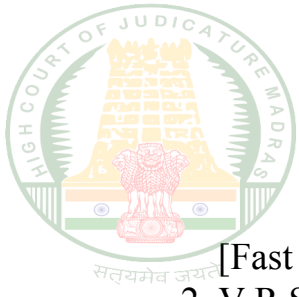
Speaking/non speaking order

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To,

1. The Additional District Judge,

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[Fast Track Court], Vellore.
2. V.R.Section, High Court, Madras.

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N. SATHISH KUMAR, J.

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