

S.A. No.35 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

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THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

S.A.No.35 of 2025
and
CMP.No.733 of 2025

G.Manoharan

...Appellant

Vs

1.Vidhya

2.Ms.Kalaivani

... Respondents

PRAYER: Second Appeal filed Under Section 100 of the Civil Procedure Code, against the Judgment and decree in A.S.No.4 of 2022 dated 14.02.2023 on the file of the Additional District Judge, Dharmapuri, by reversing the decree and judgment dated 01.11.2021 in O.S.No.23 of 2019 on the file of the Subordinate Judge, Palacode.

For Appellant : Mr.R.Venkata Varathan

JUDGMENT

The appellant has filed this appeal to set aside the judgment and decree in A.S. No. 4 of 2022, dated 14.02.2023, on the file of the Additional District Judge, Dharmapuri, reversing the decree and judgment dated



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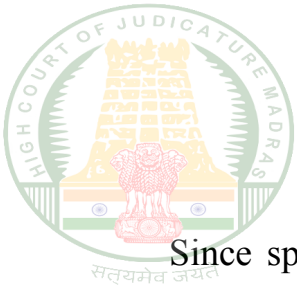
01.11.2021 in O.S.No.23 of 2019 on the file of the Subordinate Court,
Palacode.

2. For a sake of convenience, the parties herein are referred to as they were ranked in the suit.

3. Challenging the reversal findings of the first appellate court, the plaintiff has preferred this appeal.

4. Before the trial court, the plaintiff failed to prove that he was ready and willing to execute the sale deed as per the terms of the agreement. After the completion of the third year, at the end of the day, he approached the court, which itself shows that he had not demonstrated his readiness and willingness. This was rightly observed by the learned trial judge, and therefore, it requires no interference.

5. The learned first appellate judge rightly granted the alternative relief of refund of the advance amount. Though the defendants did not appear before the trial court, the burden lay on the plaintiff to prove his case.



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Since specific performance is an equitable remedy under Section 16(c) of the Specific Relief Act, and the plaintiff failed to comply with its requirements, the learned first appellate judge correctly observed that he was not entitled to such relief.

6. Accordingly, there is no merit in this appeal, and it is dismissed. The findings of the first appellate judge, including the order for the refund of the advance amount, are confirmed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

24.01.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order

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To

1. The Additional District Judge, Dharmapuri.
2. The Subordinate Judge, Palacode.
3. The Section Officer, VR Section, High Court of Madras.

T.V.THAMILSELVI, J.

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