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O.S.A.No.65 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM  
AND  
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**O.S.A.No.65 of 2023**  
**and**  
**C.M.P.No.6703 of 2023**

X.Deniz (Deceased)

1.Deepak Joseph Dniz

2.Malaika Maria Deniz

...Appellants

Vs.

R.Janaki (Deceased)

1.R.Ravichandran

2.R.Sneha

3.R.Minor Swetha

4.R.Minor Vishu Vijayanth

[Minors represented by 1<sup>st</sup> respondent]

...Respondents

**PRAYER:** This Original Side Appeal filed under Clause 15 of the Letters Patent read with Order XXXVI Rule 1 of Madras High Court Original Side Rules, praying to set aside the judgment and decree made in A.No.1417 of 2022 in C.S.No.516 of 2011 dated 10.08.2022 and eschew the Exhibit – P1 Agreement of Sale dated 19.02.2011.



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For Appellants : Dr.Edwin Jesudoss  
For Respondents : Mrs.Ambili Menon. P

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## **J U D G M E N T**

(Judgment of the Court was delivered by MOHAMMED SHAFFIQ, J.)

Present Original Side Appeal is filed challenging the order of learned Judge, whereby, application filed by appellant to eschew evidence of PW.1 in respect of Ex.P1 was dismissed.

2. It is the case of appellants that suit was filed for specific performance. However, original agreement of sale, which ought to have been filed before Court was not filed. Instead colour photocopy of agreement of sale dated 19.02.2011 was filed, which according to learned counsel for appellant, is contrary to mandate contained under Sections 63 and 65 of the Evidence Act.

3. We find on a perusal of the order of learned Judge that above application has been dismissed on a finding that the document viz., colour photocopy of agreement of sale has already been marked before learned Master.

4. After hearing learned counsel for appellants on facts for some time, we would make it clear that it is open to raise question of admissibility before



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trial Court and the same would be decided at appropriate stage, if such question is raised. The same was agreed to by both counsel for appellants and respondents.

**5. Recording the same, this Original Side Appeal stands disposed of.**

No costs. Consequently, the connected miscellaneous petition is closed.

**(S.M.S., J.) (M.S.Q., J.)**  
04.11.2025

dsa

Internet :Yes/No

Index :Yes/No

Neutral Citation :Yes/No

Speaking/Non-speaking order



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**S.M.SUBRAMANIAM, J.**  
**and**  
**MOHAMMED SHAFFIQ, J.**

dsa

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**04.11.2025**