



S.A.(MD) No.130 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.08.2025

CORAM:

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

S.A.(MD) No.130 of 2021

and

C.M.P.(MD)No.2016 of 2021

Sekaran (M/65),
S/o.Natarajapillai.
No.2928, Keela 4th street,
Pudukottai Town,
Pudukottai District.

... Appellant/Respondent/Plaintiff
Vs.

Arumugam (M/50),
S/o.Chinnaiah,
Karunkalikollai,
Kuppakudi Village,
Alangudi Taluk,
Pudukottai District.

...Respondent/Appellant / Defendant

PRAYER in S.A.: Second Appeal filed under Section 100 of Civil Procedure Code, to set aside the Judgment and Decree passed in A.S. No.6 of 2015 dated 13.06.2018 on the file of Principal District Court, Pudukottai, by reversing the judgment and decree passed in O.S.No.235 of 2009 dated 01.02.2014 on the file of the Sub court, Pudukottai and pass such or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the above case and thus render justice.



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PRAYER in C.M.P:

To grant an order of interim stay of the Judgment and Decree passed in A.S. No.6 of 2015 dated 13.06.2018 on the file of Principal District Judge, Pudukottai, by reversing the judgment and decree passed in O.S.No.235 of 2009 dated 01.02.2014 on the file of the Sub court, Pudukottai, pending disposal of the Second Appeal and thus render justice.

For Appellant : Mr. J.Jeyakumaran, Advocate

For Respondent : Mr. M.Suresh, Advocate

JUDGMENT

Heard.

2. This Second Appeal challenges the judgment and decree dated 13.06.2018 in A.S. No. 6 of 2015 on the file of the learned Principal District Judge, Pudukkottai, whereby the decree for specific performance granted by the learned Subordinate Judge, Pudukkottai, in O.S. No. 235 of 2009 dated 01.02.2014 was reversed.



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3. For the sake of convenience, the parties would be referred to as per their ranks before the trial Court.

4. The plaintiff's case is that the defendant, as the owner of the suit property, agreed to sell it for a consideration of Rs.2,10,000/-. On 23.10.2007, the defendant received an advance of Rs.2,00,000/- and executed a registered agreement of sale (Ex.A-1), stipulating that the sale deed would be executed within six months upon payment of the balance amount of Rs.10,000/-. The plaintiff contends that despite repeated demands, the defendant failed to perform, compelling the issuance of a lawyer's notice on 19.09.2009. The defendant replied on 12.10.2009, following which the plaintiff instituted O.S. No. 235 of 2009 seeking specific performance.

5. The defendant, while admitting the execution of Ex.A-1, contended that the document was never intended to operate as a sale agreement. According to him, the plaintiff was a moneylender, and Ex.A-1 had been obtained merely as security for a loan availed by the



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defendant's brother-in-law. The defendant further expressed his readiness to repay the sum of Rs.2,00,000/- along with interest.

6. The trial court decreed the suit for specific performance, finding that Ex.A-1 was a genuine agreement of sale and not a mere security for a loan. However, on appeal, the first appellate court reversed this finding, setting aside the decree for specific performance and instead directing the refund of the advance amount together with interest.

7. The first appellate court observed that under Ex.A-1, the balance sale consideration was required to be paid within six months, i.e., on or before 23.04.2008. However, the plaintiff issued the first demand notice only on 19.09.2009, after an inordinate and unexplained delay of nearly two years. On this basis, the appellate court concluded that the plaintiff had failed to prove continuous readiness and willingness as mandated under Section 16(c) of the Specific Relief Act, 1963. The court further noted that the disproportion between the substantial advance amount of Rs.2,00,000/- and the meagre balance of



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Rs.10,000/- lent credence to the defence plea that Ex.A-1 was executed merely as a security for a loan.

8. Since specific performance is a discretionary relief, the first appellate court exercised its discretion by granting only the alternative relief of refund with interest. No error of law has been demonstrated so as to give rise to any substantial question of law within the meaning of Section 100 CPC.

9. Accordingly, the Second Appeal stands dismissed. There shall be no order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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Copy to:

- 1.The Principal District Court,
Pudukottai.
- 2.The Sub court,
Pudukottai.
- 3.The Section Officer
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.A.D.MARIA CLETE, J.

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