



S.A.(MD)No.42 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated	:	25.06.2025
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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

S.A.(MD)No.42 of 2018

and

C.M.P.(MD).Nos.720 of 2018 & 9134 of 2023

1.Pandi

2.Murugan

3.Muthiah

4.Chinnamuthu

Appellants

Vs.

Kodiarasan

Respondent

PRAYER:- Second Appeal has been filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 07.08.2017 passed in A.S.No.6 of 2016 on the file of the Additional District cum Sessions Court, Theni at Periyakulam, reversing the Judgment and Decree dated 23.07.2015 passed in O.S.No.29 of 2012 on the file of the Sub-Court, Theni by allowing this Second Appeal.



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For Appellants :Mr.V.Meenakshisundaram

For Respondent :Mr.D.Balamurugapandi

J U D G M E N T

The appellants are the plaintiffs in O.S.No.29 of 2012 on the file of the Sub-Court, Theni, have filed this appeal challenging the judgment and decree passed in A.S.No.6 of 2016, on the file of the Additional District and Sessions Court, Periyakulam, Theni dated 07.08.2017, reversing the judgment and decree passed by the Sub Court, Theni, in O.S.No.29 of 2012, dated 23.07.2015.

2. For the sake of convenience and brevity, the parties herein after will be referred to as per their status/ranking before the trial Court.

3.1. The brief averments made in the plaint are as follows:-

The appellants herein are the plaintiffs who had filed the original suit in O.S.No.29 of 2012 before Sub-Court, Theni as against the respondent herein for the relief of specific performance of the agreement dated 16.08.2011 in respect of the property in Survey No.380/1



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measuring 4 Acres in Mayiladumparai Village, Periyakulam Taluk, Theni District. As per the plaint, the first and the second plaintiffs are brothers, third and fourth plaintiffs are brothers. They jointly entered into a sale agreement with defendant on 16.08.2011, in respect of the suit scheduled property for a total sale consideration of Rs.7,00,000/- and an advance amount of Rs.6,80,000/- was paid on the date of the agreement and balance sale consideration of Rs.20,000/- was agreed to be paid within a period of 6 months ie., on or before 15.02.2012. The suit scheduled property belonged to the defendant as per sale deed dated 18.12.2003. As the defendant evaded the performance of the agreement, the plaintiffs issued notice 02.02.2012 in which, the plaintiffs expressed their readiness and willingness to complete the sale transaction on 10.02.2012 at Kadamalaikundu Sub Registrar Office. The said notice was received by the defendant on 06.02.2012. Thereafter, there was no reply from the defendant. Therefore, they filed the said suit seeking the prayer as mentioned above.



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4. The brief averments of the written statement filed by the defendant are as follows:-

The defendant filed written statement and he specifically stated that the document dated 16.08.2011 is relating to the sale and purchase between the plaintiffs and defendant and the same was not written with an intention of selling the property to the defendant. But, it was document with a reservation clause that it would be cancelled once the amount is paid back. The defendant avers that the document dated 16.08.2011, is not a sale agreement. It is said that the sale agreement for a sum of Rs.7,00,000/- was entered into, in which, Rs.6,80,000/- was paid as an advance amount and balance sum of Rs.20,000/- was to be paid within a period of 6 months, which shows that the above said document is only a exchange agreement and not sale agreement. The plaintiffs in this case are the relatives of the defendant ie., the first and second plaintiffs are the brothers-in-law of the wife of the defendant and the third and fourth plaintiffs are the brothers of the defendant's wife. The plaintiffs and defendant being relatives, there was money transaction between their and due to some dispute in the payment and purchase between the plaintiffs and the defendant, the plaintiffs have lodged a



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complaint at Kadamalaikundu Police Station against the defendant.

Hence, he seeks for dismissal of the appeal by holding that the suit was filed without any cause of action.

5. After analyzing the evidence adduced on both sides, the trial Court has decreed the suit in favour of the plaintiffs. Aggrieved over the said judgment and decree, the defendant filed an appeal before the learned Additional District cum Sessions Court, Periyakulam, Theni, in A.S.No.6 of 2016. The learned Appellate Judge allowed the appeal suit by reversing the judgment and decree passed by the trial Court in favour of the plaintiffs. Aggrieved by the same, the present appeal has been preferred by the plaintiffs.

6. During the pendency of this Second Appeal, the respondent/defendant settled the issues with the appellant Nos.2 and 3 and repaid the advance amount. Subsequently, after lengthy hearing, parties entered into a compromise and the respondent filed an undertaking affidavit dated 22.04.2024, which reads as follows:



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4. I humbly submit that, Now the issue has been Amicably settled between myself and the appellants, both parties entered into compromise with terms of respondent/myself will pay Rs.3,25,000/- to 1" and the 4'h Appellants Each with the duration of 60 days from today ie., 20.06.2025 through Demand Draft, this Hon'ble Court May please to record my undertaking Affidavit and pass further order and thus render justice.

7.As per the undertaking affidavit, he has paid the entire amount by way of Demand Draft dated 21.06.2025 drawn in the name of the appellant Nos.1 and 4. In view of the compromise made during the pendency of the Second Appeal and the respondent/defendant also paid the agreed amount, this Court is inclined to dispose the Second Appeal with direction to give refund of Court fee.

8.Accordingly, the Second Appeal is disposed of on the following terms:

8.1.In view of the receipt of the advance amount by the plaintiffs, the judgment and decree passed in A.S.No.06 of 2016 dated 07.08.2017 on the file of the Additional District cum Sessions Court, Theni at



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Periyakulam, reversing the judgment and Decree dated 23.07.2015 passed in O.S.No.29 of 2012 on the file of the Sub-Court, Theni is hereby confirmed.

8.2 The appellants are entitled to refund of the Court fee.

There shall be no order as to costs. Consequently, Civil Miscellaneous Petitions are closed.

25.06.2025

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

To

- 1.The Subordinate Court,
Sankarankovil.
- 2.The District Munsif-cum-Judicial Magistrate,
Sivagiri.
- 3.The Section Officer,
Madurai Bench of Madras High Court,
Madurai.



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