



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.10.2025

PRONOUNCED ON : 07.01.2026

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

A.S.No.1091 of 2004

1.A.L.Geetha Narayanan

2.A.L.Narayanan (Died)

3.A.L.Rajesh

... Appellants

(A2-Died, A3 is brought on record as LR's of deceased A2, vide order of Court dated 08.12.2023 made in CMP.No.27864/2023 in A.S.No.1091/2004)

vs.

1.S.Sriraman

(R1-Died, RR3 to 7 are brought on record as LR's of the deceased R1 vide Court order dated 15.04.2019 made in CMP.Nos.346, 347 and 348/2015 in A.S.No.1091/2004)

2.S.Ramesh

(Respondent not necessary party in this appeal)

3.V.S.Bala (Died)

(R3-Died, R4, R5 and R7 are the LR's of deceased R3 vide Court order dated 02.09.2025 in A.S.No.1091/2004)



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4.V.S.Ramsundar

5.V.S.Sridhar

6.R.Vijayaprashant (died)

(R6-Died, RR8 and 9 are brought on record as LR's of R6 vide Court order dated 15.04.2019 made in CMP.Nos.1699, 1703 and 1709/2019 in A.S.No.1091/2004)

7.R.Ajay Karthik

8.Hemalatha

9.Adhithya (minor)

S/o. Late R.Vijayaprashant
No.10, Manivasakar Street,
Kamakottai Nagar, Valasaravakkam,
Chennai-600 087.

... Respondents

PRAYER: First Appeal is filed under Section 96 of the Civil Procedure Code, to set aside the Judgment and Decree passed in O.S.No.2673 of 1997 dated 10.06.2003 by the learned Additional District and Sessions Judge, Fast Track No.1, Chennai.

For Appellants : Mr.S.Parthasarathy
Senior Advocate
for M/s.P.Dinesh Kumar

For R4, R5 and R7 to R9 : Mr.M.Kamalanathan

For R1 and R3 : Died

For R2 : Given up



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J U D G M E N T

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The unsuccessful defendants 4 and 5 are the appellants herein. The 1st respondent herein filed a suit for specific performance of the agreement of sale dated 23.06.1983 with alternative prayer for recovery of damages. The said suit was decreed by granting primary relief of specific performance. Aggrieved by the same, the defendants 4 and 5 have come before this Court.

Plaint Averments:-

2. According to the 1st respondent/plaintiff, the suit Flat was allotted to the 1st defendant by the Tamil Nadu Housing Board. The defendants 2 and 3 are the wife and son of 1st defendant. The appellants/defendants 4 and 5 are the daughter and son-in-law of the 1st defendant. It was stated by the plaintiff that the 1st defendant represented to him that the suit Flat was allotted to him by Tamil Nadu Housing Board and he had made a total payment of Rs.32,461/- towards portion of the sale consideration and remaining amount had to be paid in monthly instalments at the rate of Rs.923/- for the next 7 years. It was further stated that the 1st defendant agreed to execute a Sale Agreement in favour of plaintiff on an understanding that the entire amount paid by the 1st defendant to Housing Board shall be repaid by the plaintiff to

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1st defendant at once and balance amount shall be paid by way of monthly installments by the plaintiff to the Housing Board directly and after payment of all instalments, the Housing Board would execute a Sale Deed in favour of the 1st defendant and thereafter, the 1st defendant should execute a Sale Deed in favour of the plaintiff. Since the plaintiff agreed for the said course, a Sale Agreement was entered into between the plaintiff and defendants 1 to 3 on 23.06.1983.

3. It was also stated that the 1st defendant was the allottee of the Housing Board and the property should be treated as his self-acquired property. However, by way of abandon caution, the defendants 2 and 3 were added as signatories in the Sale Agreement. As per the terms of the Sale Agreement, the plaintiff paid a total sum of Rs.32,461/- to the 1st defendant by way of cheque, dated 23.06.1983. He also paid the entire balance sale consideration by way of monthly instalments at the rate of Rs.923/- for the next 7 years. It was also stated that on the date of agreement itself, the 1st defendant executed an irrevocable General Power of Attorney in favour of the plaintiff and put him in possession of the property. Though the plaintiff had completed payment of entire amount due to the Board by June-1992, the 1st defendant failed to execute the Sale Deed in favour of the plaintiff. In the

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meantime, the 4th defendant/daughter of 1st defendant sent a communication to Canara Bank, a tenant inducted by the plaintiff in the suit property claiming right over the same. Then only, the plaintiff acquired knowledge about the Sale Deed executed by Housing Board in favour of 1st defendant and the subsequent Settlement Deed executed by 1st defendant in favour of 4th defendant, his daughter. Since the defendants failed to act as per the terms of Sale Agreement, the plaintiff was constrained to file a suit for Specific Performance of the Agreement. Alternatively, the plaintiff also sought for recovery of the amount paid by him and also the amount spent by him by way of various amenities to the suit property.

4. The defendants 1 to 3 remained *exparte*. Pending suit, the defendants 1 and 2 also died. The defendants 3 and 4 are their legal representatives, already on record. The defendants 4 and 5 alone filed written statement and resisted the suit. According to them, the Suit Sale Agreement was not a legally enforceable one as the same was executed in contravention of the specific condition in the Lease-cum-Sale Agreement entered between 1st defendant and Housing Board, which prohibits alienation of the property to the third party till the execution of absolute Sale Deed. It was also stated that there was an understanding between the 1st defendant



and plaintiff that the plaintiff should reside in the suit property as a tenant and he agreed to pay the entire amount paid by 1st defendant to Housing Board and the same shall be treated as advance amount for the rental agreement. It was further stated that plaintiff agreed to pay the future instalments to Housing Board in lieu of payment of rent for occupying the premises. It was further stated that to enable the plaintiff to pay further instalments to Housing Board, a Power Deed was executed in his favour and at that point of time the plaintiff obtained the signature of the 1st defendant in the blank papers and stamp papers and the same had been used to concoct the Suit Sale Agreement. The 4th defendant also stated that subsequent to execution of Sale Deed in favour of 1st defendant, he executed a Settlement Deed in her favour and hence, she was the owner of the property. Therefore, the defendants 4 and 5 resisted the suit mainly on the ground that there was no agreement to sale in favour of the plaintiff and the suit agreement was concocted one.

5. Based on the above pleadings, the Trial Court framed the following issues:-

“1. வாதிக் கு ஆதரவாக 1 முதல் 3 பிரதிவாதிகள் 23.06.83ஆம் தேதியிட்ட கிரய

ஒப்பந்தம் எழுதிக் கொடுத்தது உண்மையா?



2. வாதி ஏற்றதை ஆற்றுதல் பரிகாரம் பெறுவதற்கு தகுதியுடைவரா?
3. வாதிக்கு வேறு என்ன பரிகாரம் கிடைக்கத் தக்கது?"

6. During trial, the plaintiff was examined as PW.1 and the Attestor to the Suit Sale Agreement-Ex.A2 was examined as PW.2. On behalf of the plaintiff, 12 documents were marked as Exs.A1 to A12. On the side of the defendants, the 4th defendant was examined as DW.1 and 16 documents were marked on their side as Exs.B1 to B16.

7. The Trial Court based on the evidence available on record, came to the conclusion that the Suit Sale Agreement was a genuine one and granted relief of specific performance. Aggrieved by the same, the defendants 4 and 5 have come before this Court.

8. The learned Senior Counsel appearing for the appellants would contend that the suit Sale Agreement is opposed to public policy as the same was executed in violation of bar contained in the Lease-cum-Agreement between the Housing Board and the 1st defendant. He also referred to the Allotment Manual of the Housing Board in this regard. It is further submitted that when there is a prohibition against the alienation, the 1st



defendant ought not to have entered into agreement of sale with the plaintiff and hence, the Sale Agreement shall be treated as void. He further submitted that on the date of entering into Sale Agreement, the 1st defendant had no title over the suit property and hence, the agreement entered into by him to convey the property which was not belonged to him on the date of agreement is invalid in law. In support of his contention, the learned Senior Counsel for the appellants relied on the following judgments:-

- (i) ***G.T.Girish vs. Y.Subba Raju (Dead) by Legal Representatives and another*** reported in ***(2022) 12 SCC 321***.
- (ii) ***Narayanamma and another vs. Govindappa and others*** reported in ***(2019) 19 SCC 42***.
- (iii) ***P.M.Thangavel vs. M.Ramamoorthy and others*** reported in ***2019-4-L.W. 512***.

9. Per contra, the learned counsel appearing for the respondents 4, 5 and 7 to 9 would submit that the execution of Suit Sale Agreement was duly proved by examination of attesor to the document and hence, genuineness of the same has been rightly accepted by the Trial Court. He further submitted that the Allotment Manual of Housing Board relied on by the learned Senior Counsel for the appellants will not have statutory force and

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therefore, the same cannot be pressed into service against the Suit Sale Agreement. The learned counsel also submitted that as per the terms of agreement, the amount already paid by the 1st defendant to the Housing Board was repaid by the plaintiff to 1st defendant and the balance amount due to the Housing Board was also paid by the plaintiff by way of monthly instalments for 7 years and in such circumstances, the plaintiff discharged his obligations under the agreement scrupulously and hence, he is entitled to specific performance of the agreement.

10. Based on the pleadings of the parties and submission made by the learned counsel appearing for either side, the following points are taken up for consideration in this appeal:-

- (a) Whether the Suit Sale Agreement is valid and enforceable in law?
- (b) Whether the plaintiff is entitled to Specific Performance of Suit Sale Agreement?

Discussion on Point Nos.(a) and (b):-

11. It is the case of the plaintiff that the suit property was allotted to 1st defendant by the Tamil Nadu Housing Board and he paid part of the Sale Consideration due to the Housing Board and was unable to pay the

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remaining part of the Sale Consideration, which was to be paid in monthly instalments for 7 years. In such circumstances, he entered into agreement with the plaintiff and as per the terms of agreement, plaintiff agreed to pay the 1st defendant the portion of the sale consideration paid by him to the Housing Board and also agreed to pay the balance sale consideration to the Housing Board directly. The plaintiff paid the amount already paid by 1st defendant by way of cheque and with regard to that there is no dispute. Likewise, the plaintiff paid the entire balance monthly instalments to the Housing Board and entire amount payable to the Housing Board had been discharged. With regard to these facts, there is no dispute between the parties.

12. The prayer for specific performance was mainly opposed on the ground that Suit Sale Agreement is against the prohibition contained in the Allotment Manual of Housing Board, which restrains alienation of the property by the allottee in favour of a third party till he gets Pacca Sale Deed from the Housing Board. Now, the main question to be decided is whether the act of 1st defendant in entering into an agreement of sale with the plaintiff would amount to a violation of prohibition contained under the Allotment Manual of Housing Board.



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13. First of all, the Allotment Manual of Housing Board cannot be equated with Statute or Rules framed under the Statute. Therefore, the prohibition contained in the Allotment Manual of Housing Board cannot be treated as statutory one. It was contended on behalf of the appellants/defendants 4 and 5 that there is a prohibition in the Lease-cum-Sale Agreement entered between 1st defendant and Housing Board and the same has been violated. The Lease-cum-Sale Agreement has not been marked as an exhibit in the suit. Therefore, we are unable to find out the exact prohibition contained therein. Even assuming there is a prohibition against alienation in the Lease-cum-Sale Agreement entered between the 1st defendant and the Housing Board, the same is contractual one and it cannot be equated with prohibition under the statute.

14. Even though, the Lease-cum-Sale Agreement entered between 1st defendant and the Housing Board has not been marked, the learned Senior Counsel appearing for appellant by relying on Allotment Manual of Housing Board submitted it prohibits 1st defendant from assigning or transferring his or her interest in the property to 3rd party till he gets sale deed from Housing Board. It is settled law that Sale Agreement *per se* does not create any interest in an immovable property. Even according to the appellants, the

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prohibition in the Housing Board Manual is against the alienation of the property by the allottees, till Pacca Sale Deed is executed in their favour. In the case on hand, before execution of Sale Deed in favour of 1st defendant, he entered into a Sale Agreement with the plaintiff. Mere agreement of sale will not amount to alienation of the property or transfer of interest thereon as the Agreement Holder will not acquire any interest under the agreement in respect of the agreement mentioned property. In such circumstances, the act of entering into the Sale Agreement cannot be treated as an alienation or transfer of the property by the 1st defendant in favour of the plaintiff. Therefore, the prohibition contained in Allotment Manual of Housing Board restraining alienation is not at all violated. The plaintiff seeks specific performance of the agreement only after execution of Pacca Sale Deed in favour of 1st defendant. Alienation after Sale Deed in favour of 1st defendant is not prohibited by the Allotment Manual. In such circumstances, I am unable to accept the contention raised by the learned Senior Counsel appearing for the appellants that the agreement entered into between the plaintiff and the 1st defendant is prohibited by law and hence, unenforceable.

15. In *Narayanamma vs. Govindappa* case cited supra, the Apex Court came to the conclusion that agreement therein was hit by Section 61 of

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the Karnataka Land Reforms Act, 1961. Since agreement was held to be hit by Statute, the Apex Court came to the conclusion that the agreement of sale could not be enforced and confirmed the dismissal of the suit. Hence, the said decision is not applicable to the facts of the present case, where there is no statutory prohibition.

16. In ***G.T.Girish vs. Y.Subba Raju*** case cited supra, the agreement was held to be violative of statutory rules framed under City of Bangalore Improvement Act, 1945. Again in that case factually it was held that the agreement entered into between the parties was violative of statutory rules. Hence, the said decision is also not applicable to the facts of the present case.

17. In ***P.M.Thangavel vs. M.Ramamoorthy*** case cited supra, this Court came to the conclusion that agreement entered into between the parties was hit by restriction imposed by allotment letter prohibiting alienation and therefore, the agreement was unenforceable in law.

18. As we discussed above, the Agreement of Sale does not create any interest in an immovable property, merely because 1st defendant entered



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into an Agreement of Sale with the plaintiff, we cannot come to the conclusion that there was alienation of the property. However, there is no prohibition in the allotment manual for alienation of the property after execution of the Sale Deed in favour of the 1st defendant. Here 1st defendant agreed to sell the property only after execution of Sale Deed in his favour. In such circumstances, I do not think the execution of mere agreement which does not create interest in the property would amount to alienation of the property in violation of the prohibition contained in allotment manual. Hence, I am unable to accept the view expressed in ***P.M.Thangavel*** case.

19. I had an occasion to consider the enforceability of Sale Agreement like this in ***S.Rajeshwari and others vs. P.Selvi and others*** reported in ***MANU/TN/6931/2023***, the relevant observation reads as follows:-

“6. It is the specific contention of the learned counsel for the appellants that the suit sale agreement which was entered into prior to execution of sale deed in favour of Sreerangam is a void document as Sreerangam had no title to convey to the 1st respondent/plaintiff on the date of agreement. Though it was submitted by the learned counsel for the appellants that in the Lease-cum-Sale agreement entered between Sreerangam and Tamil Nadu Housing Board, there



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was a prohibition restraining the allottee from alienating property to third parties, the said Lease-cum-Sale agreement has not been marked by the appellants before the Courts below. Therefore, this Court is not in a position to come to the conclusion that what was the nature of prohibition contained in the said Lease-cum-Sale agreement between Sreerangam and Tamil Nadu Housing Board. Even assuming that there was a prohibition as mentioned by the learned counsel for the appellants, it will only enable the Housing Board to cancel the allotment in favour of Sreerangam. However, as per the admitted facts in this case, the Tamil Nadu Housing Board has not taken any steps against the said Sreerangam. However, proceeded to execute pucca sale deed in favour of 1st appellant, wife of Sreerangam under Ex.B1 subsequent to the death of Sreerangam. In such circumstances, the contention raised by the learned counsel for the appellants that sale agreement entered into between Sreerangam's power agent and 1st respondent is not a valid contract in view of the prohibition contained in the Lease-cum-Sale agreement entered with Housing Board is not acceptable to this Court.

7. Section 13(1)(a) of the Specific Relief Act, 1963 reads as follows:-

13. Rights of purchaser or lessee against person with no title or imperfect title.

(1) Where a person contracts to sell or let certain immovable property having no title or only an imperfect title,



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the purchaser or lessee (subject to the other provisions of this Chapter), has the following rights, namely:-

(a) if the vendor or lessor has subsequently to the contract acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

8. A reading of the above act makes it clear that in a case where a person enters into a sale agreement with another person having imperfect or no title over the subject matter of the agreement and the agreement vendor acquires any interest in the property subsequent to the agreement, the agreement vendee can very well compel him to make good the contract out of such interest acquired by him subsequently. Therefore, in the case on hand though on the date of suit sale agreement Sreerangam did not have any right to convey in respect of subject matter of the agreement, subsequently, on 05.03.2013, the Housing Board executed pucca sale deed in favour of 1st appellant, wife of deceased Sreerangam. In such circumstances, the 1st appellant, who is a legal representative of the deceased Sreerangam, acquired good title over the subject matter of the agreement subsequently by execution of pucca sale deed in her favour. In such circumstances, by virtue of Section 13(1) (a) of Specific Relief Act, the 1st respondent/plaintiff is entitled to compel specific performance of the agreement by one of the legal representatives of the deceased Sreerangam who acquired good title.”



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20. In view of the above, I hold the Suit Sale Agreement is legally enforceable one and Point No.(a) is answered in favour of the respondents and against the appellants.

21. As per the terms of agreement, the plaintiff agreed to pay a sum of Rs.32,461/- paid by the 1st respondent to the Board and he also agreed to pay the balance Sale Consideration in monthly instalments at the rate of Rs.923/- per month for the next 7 years. The plaintiff paid the entire amount as per the agreement of sale and there is no default on his part. With regard to this aspect, there is no dispute between the parties. Therefore, it is clear the plaintiff performed his obligation under the agreement scrupulously and thereby, proved his readiness and willingness to perform his part of the agreement. In the light of the above admitted position, I hold plaintiff proved his continuous readiness and willingness from the inception of the agreement and hence, he is entitled to specific performance of agreement as prayed for. The Trial Court rightly appreciated the same and rightly decreed the suit.

22. Yet another contention raised by the defendants was with regard to the genuineness of the agreement. It was the case of the defendants that at

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the time of executing Power Deed in favour of the plaintiff to enable him to make payment to the Housing Board, the plaintiff got the signature of the 1st defendant in blank stamp papers and the same could have been used to create the Suit Sale Agreement.

23. A perusal of Ex.A2-Sale Agreement would indicate the same was signed by defendants 1 to 3. In the written statement filed by appellants/defendants 4 and 5, they pleaded that the signature of 1st defendant was obtained in blank stamp papers. But they have not stated anything about the signature of defendants 2 and 3.

24. Curiously, the defendants 1 to 3, who subscribed their signature in the Suit Sale Agreement failed to deny the same by filing written statement and they remained *exparte*. Though defendants 1 and 2 died pending suit, the 4th defendant did not take any steps to call the surviving 3rd defendant as a witness on her side. The plea raised by the defendants that signature of the 1st defendant was obtained in blank stamp papers was supported by evidence of 4th defendant. She was not signatory to Ex.A2-Sale Agreement and based on her evidence, we cannot safely come to the conclusion that signature was obtained in blank papers. The plaintiff, who



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was signatory to Ex.A2-Sale Agreement entered box and deposited in favour of his case. Further the first attesting witness in Suit Sale Agreement was examined as PW.2 and deposed about the due execution of sale agreement. In such circumstances, the plea raised by the defendants as if, the suit Sale Agreement was prepared by using the signature of the 1st defendant obtained in blank papers could not be accepted and I hold the execution of Suit Sale Agreement is duly proved by plaintiff by leading cogent evidence. In view of the discussion made earlier, the Point No.(b) is answered against the appellants and in favour of the respondents.

25. Accordingly, the first appeal fails and the same is dismissed by confirming the judgment and decree passed by the Trial Court. No costs.

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Index :Yes
Speaking order :Yes
Neutral Citation :Yes
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To

The Additional District and Sessions Judge,
Fast Track No.1, Chennai.



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S.SOUNTHAR, J.

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Pre-delivery judgment made in
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