IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.04.2026**

CORAM:

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

A.S.No. 467 of 2024

Gopal
S/o. Ramalingam ... Plaintiff/Appellant

Vs

Savi Devadass
S/o. Late Savi Anthuvan @
Anuthuvan Joseph Victor Ravi
... Defendant/Respondent

PRAYER: This Appeal has been filed under Section 96 of the CPC against the Judgment and Decree dated 11.09.2023 made in O.S.No. 50 of 2023 on the file of Principal District Judge, Puducherry.

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For Appellant : Mr. A.Gouthaman

JUDGEMENT

(Order of the Court was made by **K.RAJASEKAR*, J*.**)

The unsuccessful appellant/plaintiff has filed this appeal challenging the dismissal of their suit for specific performance of the agreement dated 19.08.1998.

2. The appellant/plaintiff's case is that the defendant was allotted the suit property via a partition deed dated 12.08.1996. After taking possession, the defendant approached the appellant/plaintiff, expressing an urgent need for money. To fulfill the defendant's financial need, the appellant/plaintiff expressed willingness to purchase the property. Accordingly, a sale consideration of Rs. 35,00,000/- was agreed upon, and an agreement to that effect was entered into on 19.08.1998, with the appellant/plaintiff paying Rs. 30,00,000/- as advance. The defendant also agreed to hand over all original documents. However, upon demanding the documents, they were not provided. Instead, the defendant collected money in installments, borrowing an additional sum of Rs. 3,00,000/- as advance until 08.09.2021, leaving a balance of Rs. 2,00,000/-. Because the defendant did not hand over the title deeds or execute the sale deed, the appellant/plaintiff issued a legal notice dated 30.01.2023, which was returned. Hence, the appellant/plaintiff filed

the suit for specific performance.

3. Before the trial Court, though notices were sent to the defendant, he did not come forward to receive the notice. Consequently, the notice was served through substituted service, and the defendant was declared ex parte. The trial Court proceeded with the trial, during which the appellant/plaintiff examined himself as PW-1 and marked Exhibits A-1 to A-13. After considering the evidence, the trial Court concluded that the appellant/plaintiff was not entitled to the requested relief because the suit was not filed within a reasonable time frame, specifically 24 years after the cause of action arose, during which the property value had significantly increased. Therefore, the trial Court refused to grant the relief but ordered a refund of the advance sale consideration.

4. The appellant/plaintiff, aggrieved by the denial of specific performance of the contract, has approached to this Court to set aside the Judgment and Decree passed by the trial court.

5. The learned counsel for the appellant submitted that the trial Court has no discretionary power according to the amended provisions of Section 10 of the Specific Relief Act. He further submitted that the escalation of the value of the property is not a ground to deny specific performance, noting that nearly 90% of the sale consideration was already paid to the defendant, as evidenced by several endorsements made by the defendant. He argued that the trial Court dismissed the suit without appreciating these facts and prayed to set aside the same, citing the Hon'ble Supreme Court's judgment in ***Munishamappa Vs. M.Rama Reddy and Ors.,*** reported in ***(2023) 6 MLJ 553***.

6. The points for consideration are:-

> *"(1) Whether the appellant is proved his case for the relief of specific performance?;*
>
> *(2) Whether the appellant is entitled for specific performance of the contract dated 12.08.1996 by filing the suit in the year 2023?; and*
>
> *(3) whether the appellant is ready and*

willing to perform his part of the contract for the above 24 years."

7. We have considered the submissions made by the learned counsel for the appellant herein.

8. The learned counsel for the appellant stated that although the plaintiff paid the defendant Rs. 30,00,000/- as an advance on the sale consideration as early as 19.08.1998, an additional sum of Rs. 3,00,000/- was paid between 2001 and 2021, as evidenced by endorsements in Exs. A-2 to A-11.

9. We have also gone through the exhibits and noted that the agreement of sale between the parties is unregistered. While, the agreement does not specify a time limit for executing the sale deed, it indicates that the defendant (the first party) must clear the encumbrance on the property. After clearing the encumbrance, the plaintiff will pay the remaining sale consideration and the sale deed will be executed.

10. The evidence presented by the plaintiff fails to clarify the nature

of the encumbrance. They referenced it in the agreement. The endorsements on the agreement indicate that every two years, there's a note stating the plaintiff paid sums ranging from Rs. 50,000/- to Rs. 15,000/- on various dates over nearly 21 years. The plaintiff offers no explanation for choosing to pay smaller amounts in installments with endorsements, nor for why they didn't take steps to register the sale deed or finalize the contract.

11. Although Section 10 of the Specific Relief Act states that the specific performance of a contract shall be enforced by the Court subject to the provisions contained in Sub-section (2) of Section 11, Section 14, and Section 16, it is well settled that, as per Section 16(c) of the Specific Relief Act, the plaintiff must establish their readiness and willingness to perform their part of the contract. No evidence has been presented by the plaintiff to show that the defendant failed to execute the sale deed. Regular endorsements over the past 20 years reveal that the plaintiff has not insisted on concluding the contract by demonstrating their readiness and willingness. The plaintiff may argue that they have paid nearly 90% of the consideration and contend that they have established readiness and willingness; however, their claim to enforce the contract has not been properly substantiated.

12. The trial Court acknowledged this, stating, albeit in different terms, that the plaintiff failed to file the suit within a reasonable time frame, waiting 24 years to do so. This implies, the plaintiff demonstrated no interest in demanding execution of the sale deed following the agreement of sale between the parties.

13. It is pertinent to note that neither the legal notice sent to the defendant nor the notices sent to the trial Court were intended for no such person. The parent document establishing the defendant's right over the suit property was also not produced before the trial Court. The endorsements marked as exhibits raise serious doubts, alleging that the defendant received Rs. 50,000/- every two years for almost 20 years. The plaintiff offered no clarification to demonstrate an encumbrance certificate on the suit property, explaining why the sale deed could not be registered due to the uncleared encumbrance certificate. These facts raise serious doubts regarding the defendant's right to execute the sale deed. Furthermore, the agreement itself is an unregistered document that lacks any documentation identifying whether the defendant is the actual owner of the suit property.

14. Considering these facts, the plaintiff is unable to produce any

document demonstrating that the defendant was alive and held title to the property in question. While the judgment of the Honorable Supreme Court, cited by the appellant's counsel, indicates that an increase in the property's value is not a valid reason to deny specific performance, and that delay in filing suit is not a valid reason to reject a suit for specific performance, the facts of that case do not apply to the plaintiff's case. Given the plaintiff's explicit admission of failing to take any action to file the suit until 24 years had passed, and lacking any explanation for this delay, it remains unclear how the encumbrance certificate hindered them from filing the suit. Furthermore, the necessity of continuously paying amounts ranging from Rs. 50,000 to Rs. 15,000 every two years for nearly 20 years, without seeking enforcement of the sale agreement, is also unexplained. Therefore, we believe that the plaintiff has not demonstrated any desire to request the execution of the sale deed from the defendant, nor has the plaintiff shown any interest in registering the property in their name. We have also carefully considered the trial court's judgment, which states that the plaintiff is entitled to a refund of the advance sale consideration. As the trial court has granted this relief, we are not inclined to interfere with it. Accordingly, the rejection of specific performance is confirmed, and we uphold the trial court's decree for the refund of the advance sale consideration.

15. Accordingly, this Appeal suit is dismissed and the Judgment and Decree of the trial Court in O.S.No. 50 of 2023 dated 11.09.2023 is confirmed. No costs.

(C.V.K.,J.) (K.R.S.,J.)
20-04-2026

Index:Yes / No
Speaking / Non-Speaking order
vsg

To

Principal District Judge, Puducherry.

C.V.KARTHIKEYAN, J.
And
K.RAJASEKAR, J.

vsg

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