



A.S.No.97 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2026

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CORAM :

The Hon'ble Mr.Justice N.SATHISH KUMAR
and
The Hon'ble Mr.Justice R.SAKTHIVEL

A.S.No.97 of 2021
and
C.M.P.No.6388 of 2021

M.C.Ravikumar

.. Appellant

Vs.

1.V.Sivapadham
2.I.Anand

.. Respondents

This appeal suit has been filed under Section 96 read with Order XLI Rule 1 of the Civil Procedure Code, 1908 seeking to set aside the decree and judgment dated 28.02.2020 in O.S.No.7921 of 2019 on the file of the learned III Additional City Civil Court at Chennai and to decree the suit as prayed for with costs throughout and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.K.Shakespeare

For Respondents : Mr.T.Tamilalagan
for Mr.R.Prabhakaran for R-1
No appearance for R-2

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JUDGMENT

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(Judgment of the court was made by N.SATHISH KUMAR, J.)

Aggrieved over the dismissal of the suit with regard to the reliefs of specific performance and declaration of sale deed executed by first defendant in favour of second defendant as null and void and also the relief of delivery of vacant possession and damages for use and occupation, the unsuccessful plaintiff has filed the present appeal suit challenging the decree and judgment of the trial court, namely, III Additional Judge, City Civil Court, Chennai. In this judgment, the parties shall be referred to as per their rankings in the trial court.

2.The facts which are necessary for disposal of this suit is as follows:

(a)The suit property originally belonged to one Samyuktha and subsequently, she sold the suit property in favour of the first defendant, who thereafter constructed superstructure and became the absolute owner of the same. The first defendant, in order to discharge certain hand loans, offered to sell the suit property to the plaintiff for total sale consideration of Rs.24,00,000/-. The first defendant has received a sum of Rs.15,00,000/- by way of cash and Rs.6,00,000/- through cheque bearing

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No.550364 dated 03.06.2005 drawn on Indian Bank, Kothawal Bazaar,

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Chennai. They had executed an agreement for sale of the property. It is agreed between the parties that the sale shall be completed within a period of three years from the date of the agreement. The first defendant also undertook to vacate the tenant who was residing in the suit property and to hand over the vacant possession of the suit property to the plaintiff. The first defendant had also handed over all the original documents relating to the suit property to the plaintiff and also had executed a general power of attorney in favour of the plaintiff and undertook that he will not revoke the said power of attorney. Despite several requests made by the plaintiff, the first defendant did not come forward to execute the sale deed and to receive the balance sale consideration of Rs.3,00,000/-, but he was giving evasive replies and was adopting dilatory tactics. However, the plaintiff was ready and willing to act upon the terms and conditions and was ready to pay the remaining sale consideration of Rs.3,00,000/-. As the defendant did not come forward to execute the sale deed, the plaintiff has issued a legal notice dated 28.09.2007 along with the draft sale deed. However, the said notice was returned as unserved. Subsequently, the first defendant had also cancelled the said power of attorney. Therefore, the plaintiff also lodged



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criminal proceedings against the first defendant.

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(b) Later, the plaintiff also came to know that the first defendant through power of attorney in favour of one Mr.Kannan has sold the suit property to the second defendant and the sale consideration set out in the sale deed in favour of the second defendant is lower than the agreement entered into between the plaintiff and the first defendant. Therefore, the plaintiff has filed the suit for declaring that the sale deed executed by the first defendant in favour of the second defendant dated 25.06.2008 is null and void and that it will not bind the plaintiff or affect his rights and to direct the defendants to execute the sale deed in favour of the plaintiff pertaining to the suit property or in alternative, to direct the first defendant to pay a sum of Rs.21,00,000/- together with interest at 24% per annum to the plaintiff and to direct defendants to pay Rs.1,00,000/- towards damages to the plaintiff for the use and occupation of the suit property and also to pay the cost of the suit and also seeking for a direction to the second defendant to quit and deliver the vacant possession of the suit property to the plaintiff.

3.It is the case of the first defendant that he had borrowed a sum of Rs.1,50,000/- from one Ms.Mallika Saravanan as hand loan. As she demanded repayment, the first defendant has approached one Auditor



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who had introduced one Mr.K.V.Mani and he had agreed to arrange the amount with 1% interest. The said Mani had introduced a group of persons, namely Ms.Fathima, Mr.Govindhasami and Mr.Nagarajan and also the plaintiff herein. All of them informed the plaintiff that Rs.15 Crores was transferred in the Reserve Bank of India in the name of a trust and for withdrawing the said amount, Rs.6,00,000/- has to be deposited in the RBI. The first defendant was informed by them that the above deposit of Rs.6,00,000/- would be returned three times in a week's time. The plaintiff had also offered to provide Rs.6,00,000/- for the purpose of the deposit as said above. The first defendant though was reluctant was induced by the above persons including the plaintiff to borrow a sum of Rs.6,00,000/- from the plaintiff in order to meet the deposit requirements with the RBI as aforesaid, so that he would get Rs.18,00,000/- in return in about a week's time.

4.As the first defendant was in need of finance was constrained to agree to the same. In order to get Rs.6,00,000/- from the plaintiff, he had executed a general power of attorney in favour of the plaintiff and appointed him as his power agent with all powers to deal with the suit property including to sell the same. The said deed of general power of attorney was executed on 03.06.2005 and registered as document



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No.1003/2005/IV on the file of the Sub Registrar Office, Kundrathur. In

addition to the above, some signatures of the first defendant were obtained in blank stamp papers and also in green and white papers. The plaintiff also took the original sale deed dated 06.11.2001. Only after getting the above document, the plaintiff had issued a cheque for Rs.6 Lakhs in the name of the first defendant and also another cheque of Rs.1,50,000/- in the name of Mrs,Mallika Saravanan. The said cheque of Rs.6 Lakhs was taken by Ms.Fathima who along with other persons accompanied the first defendant to the Bank in Kothalwalchavadi for drawing the cash. After receiving the said amount, they all took the same for deposit with the RBI. Later, the first defendant cancelled the general power of attorney executed in favour of the plaintiff vide document No.1435/2005/IV dated 28.07.2005 registered at Sub Registrar Office, Kundrathur. He had also informed about the cancellation to the plaintiff. The first defendant had also executed a rectification deed dated 31.07.2007 and registered as document No.2503/2007 in Sub Registrar Office, Kundrathur for rectifying and clarifying certain typographical errors made in the document No.1435/2005/IV.

5.On coming to know the cancellation of the said power deed, K.V.Mani who was a broker to the plaintiff started giving threats to the



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first defendant seeking return of money with 30% interest. In this regard, the first defendant had also given a police complaint. Thereafter, the plaintiff himself started giving physical threats and also demanded high interest for the return of the original documents. He had also threatened to sell the suit property using the power deed even after knowing the cancellation. It is the further case of the first defendant that a complaint has also been registered against the plaintiff by CCB, Chennai. The power of attorney given in favour of the plaintiff was fraudulently used by one Ansari with active collusion of the plaintiff and the said Ansari had sold the suit property to one Thiagarajan on 11.08.2005. The said Thiagarajan had mortgaged the suit property to one Velmurugan vide document No.7329/2005 dated 23.08.2005.

6.It is the further case of the first defendant that during the police investigation, the plaintiff had admitted the fraudulent deeds and the plaintiff cancelled all fraudulent deeds and made the suit mentioned properties free from all encumbrances. The cancellation deeds were registered in the Sub Registrar Office, Kundrathur. Thereafter, the criminal case has been dropped and the police authorities directed the first defendant to approach the civil court to get back the original sale deed and other documents. The first defendant's case is that due to



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financial difficulties, he had sold the property to the second defendant vide sale deed dated 25.06.2008. The second defendant is a bona fide purchaser of the suit property and is in possession of the property as absolute owner. The present suit has been filed only after the sale of the property and hence, the entire allegations of the plaintiff are denied.

7. According to second defendant, the suit property is a vacant land and there is no tenant when the property was purchased through the power agent of the first defendant by sale deed dated 25.06.2008. The second defendant had verified the encumbrances and he is the bona fide purchaser for valid consideration. On the date of purchase of the suit property, there is no valid agreement subsisting and the suit is also barred by limitation.

8. Based on the above pleadings, the following issues are framed:

(i) Whether the plaintiff is entitled to a decree of declaration with regard to the sale deed executed by the first defendant herein in favour of the second defendant?

(ii) Whether the sale deed dated 25.6.2008 would bind the plaintiff?

(iii) Whether the plaintiff is entitled to a decree of specific performance?



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(iv) Whether the plaintiff is entitled to a decree of

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(v) To what other Relief the plaintiff is entitled ?

9. On the side of the plaintiff, the plaintiff was examined as P.W.1 and Exs.P.1 to P.13 were marked. On the side of the defendants, D.W.1 was examined and Exs.D.1 to D.10 were marked.

10. Based on the evidence and materials, the trial court has come to the conclusion that the execution of sale agreement Ex.P.1 has not been established thereby dismissed the suit for specific performance and also dismissed the suit in respect of declaration sought by the plaintiff. However, the trial court had granted relief directing the first respondent to pay a sum of Rs.7,50,000/- to the plaintiff with interest at the rate of 12% from the date of suit till the date of judgment and thereafter at the rate of 6% per annum till the realization with cost of the suit to the plaintiff.

11. The learned counsel appearing for the appellant would submit that when admittedly Ex.P.1 came to be executed, the finding of the trial court rejecting the Ex.P.1 sale agreement on the ground that the execution has not been established is without any basis. Once the first defendant has admitted the agreement and received the sale consideration, the plaintiff



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is certainly entitled for specific performance. Though the first defendant has also executed a power of attorney on the same day in favour of the plaintiff, the same has been subsequently cancelled. Later in the year 2008, the first defendant has executed another power of attorney through a power agent, the property has been sold to the second defendant. Hence, according to the appellant, the first defendant only in order to defeat the rights of the parties, namely the plaintiff, has adopted such tactics. Therefore, it is the contention of the plaintiff that the plaintiff is certainly entitled for the relief of specific performance. The plaintiff was always ready and willing to perform his part of the contract and the loan transaction as alleged by the first defendant has not been established. But the trial court has negatived the relief on an erroneous consideration. Therefore, the learned counsel for the appellant submitted that the judgment and decree of the trial court have to be reversed.

12.The learned counsel appearing for the first respondent submitted that Ex.P.1 has not been executed between the parties. The plaintiff had obtained the signatures of first defendant in blank stamp papers for a loan transaction. The manner in which several documents were executed on the same day including the registered power of attorney in favour of the plaintiff on the same day, giving absolute power to sell



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the properties itself proves the fact that it is nothing but the loan transaction. Having paid the substantial amount of Rs.21 Lakhs, out of total sale consideration of Rs.24 Lakhs, no ordinary prudent man would wait for three years to complete the sale despite having obtained the power of attorney in his favour. It is the further submission of learned counsel for the first respondent that Ex.D.1, sale deed dated 11.08.2005 makes it clear that one Ansari has executed the sale deed in favour of one Thiagarajan. Later, the said sale deed has been deposited by way of Ex.D.2 deposit of title deed executed by said Ansari in favour of one Velmurugan. Subsequently, after the police complaint lodged in this regard, the sale deed executed by Ansari in favour of Thiagarajan has been cancelled under Ex.D.4, dated 07.09.2007. All these documents clearly show that Ex.P.1, sale agreement is not a genuine one and was obtained by fraud and misrepresentation and taking advantage of the adversity of the first defendant who was in dire need of funds. The trial court has rightly disbelieved the agreement for sale and negatived the claims made by the plaintiff.

13.In the light of the above submissions, the points that arise for consideration in this appeal are as follows:



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(i)Whether Ex.P.1 sale agreement dated 03.06.2005

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(ii)If Ex.P.1 is true and genuine, whether the plaintiff was ready and willing to perform his part of contract to obtain equitable relief of specific performance?

(iii)Whether the suit filed by the plaintiff is barred by limitation; and

(iv)To what other relief, the plaintiff is entitled to?

14.The plaintiff laid the suit for specific performance based on an unregistered sale agreement Ex.P.1 dated 03.06.2005. According to the plaintiff, on the date of the agreement, the first defendant received a sum of Rs.21,00,000/- out of total sale consideration of Rs.24,00,000/- as agreed between the parties and the plaintiff to pay the remaining Rs.3,00,000/- within three years as agreed between the parties. It is relevant to note that it is the case of the first defendant that when he was in dire need of funds, he has availed loan of Rs.1,50,000 from one Mrs.Mallika Saravanan. When the said Mallika Saravanan has asked for repayment of loan amount, he had approached one auditor, who introduced one Mr.K.V.Mani and in turn, he had introduced a group of



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persons, namely Fathima, Govindhasami, Nagarajan and also the plaintiff. According to the first defendant, he was induced to receive Rs.6,00,000/- from the plaintiff and to deposit the same in the RBI account, so that the first defendant would get Rs.18,00,000/- in return in a week's time. As the first defendant was in dire need of funds, he fell prey to the inducement and executed the power of attorney in the name of plaintiff, besides he signed blank stamp papers and green papers. According to him, the amount of Rs.6,00,000- was given through cheque and that was also taken by the aforesaid group of persons. In the light of the above specific denial of execution of the agreement, the burden to prove the execution of the agreement lies on the plaintiff. The plaintiff was examined as P.W.1 and except stating that Ex.P.1 sale agreement has been executed, there was no other evidence available on his side to prove the execution. Even assuming that the signatures of the first defendant are admitted, the mere signatures in the document, in the view of this court, would not amount to execution implying that the contents in the documents are read out, understood and signed. No other witnesses have been examined to show that the first defendant has signed the documents after reading the contents and understanding the same. Therefore, in the light of the specific defence, unless the execution of the document is



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proved in the manner known to law, merely on the basis of signatures said to have been obtained in stamp papers, the execution of document cannot be presumed, be that as it may. Though the first defendant has received Rs.6,00,000/- through cheque and it was encashed, it is the specific case of the first defendant that the said cash has also been taken by the group of persons including the plaintiff. It is relevant to note that normally any agreement relating to a transaction, at that relevant point of time, would be entered into stamp paper valuing Rs.20/- till the recent amendment in the Indian Stamp Act, 1899 and the same has been enhanced to Rs.200/- by Tamil Nadu Act No.13 of 2024 [the Indian Stamp (Tamil Nadu Amendment) Act, 2023]. There was no reason whatsoever to enter into the Ex.P.1 agreement in a Rs.50/- stamp paper, be that as it may.

15. When the plaintiff has admittedly paid the substantial amount of Rs.21,00,000/-, out of the sale consideration of Rs.24,00,000/-, it is hard to believe that to pay the remaining Rs.3,00,000/-, one will wait for three more years to complete the sale transaction. That apart, it is relevant to note that on the date of the agreement, a registered power of attorney was also executed in favour of the plaintiff and a certified copy of the same was also marked as Ex.P.2. The said power of attorney was in force and



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the same has been cancelled by the first defendant only on 28.07.2005. If really the plaintiff has in fact intended to purchase the property having obtained the power of attorney registered in his name, he could have registered the sale on the basis of the power of attorney but he has not done so. This fact clearly creates a serious doubt about the very genuineness of the agreement, whereas the property was sold by one Ansari in favour of one Thiagarajan under Ex.D.1, dated 11.08.2005. The said Ansari claimed to be the power agent of the first defendant. It is relevant to note that in the said sale deed, the plaintiff was also one of the attesting witnesses and the identification witnesses. This fact is also admitted by D.W.1 in the cross examination. Immediately, the buyer under Ex.D.1 has also mortgaged the property in favour of one Velmurugan under Ex.D.2. In the said document also, the plaintiff was one of the attesting witnesses. Later, finding that the property of the first defendant has been dealt with by one Ansari and the sale deed has been executed in favour of Mr.Thiagarajan, a police complaint came to be filed by the first defendant. Subsequently, realizing the fact that the property has been dealt with wrongly, the sale deed executed by Ansari under Ex.D.1 was cancelled under Ex.D.4, a certified copy of the same was marked. These facts clearly show that if really the plaintiff has intention



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to purchase the property and got the agreement in his favour, there was no need whatsoever for him to be the attesting witness in the sale deed executed by a person who has no title to the property and that the plaintiff was also the attesting witness for Ex.D.2, deposit of title deed also. This fact creates serious doubt about genuineness of the agreement.

16.Further, after the subsequent cancellation of sale deed in the year 2007 itself by said Ansari, the plaintiff remained silent without taking any action to enforce his part of the performance which itself creates a serious doubt about the very genuineness of the agreement. When the court entertains even a slightest doubt about the genuineness of the contract of a person coming to the court for equitable relief, such contract cannot be enforced in the court of law. It is relevant to note that even assuming that Ex.P.1 document has been entered into between the parties, having paid the substantial amount towards sale consideration, no normal prudent man would wait for another three years to get the same executed. According to the plaintiff, he has also issued legal notice Ex.P.5 dated 28.09.2007 but the same was not received by the first defendant. Later, a police complaint has also been given. Subsequently, a sale deed was executed by one Ansari in favour of one Thiagarajan where the plaintiff was the attesting witness and that document has also been



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cancelled by said Ansari under Ex.D.4. Even then, the plaintiff has not approached the court in time. Therefore, even assuming that Ex.P.1 is validly executed and it is an enforceable contract, when the plaintiff was also aware of the fact that the first defendant is refusing to execute the document, the plaintiff should have at least filed the suit within a period of three years. It is relevant to note that the limitation for filing the suit for specific performance is three years. When the date is fixed for the performance or if no such date is fixed, when the plaintiff has noticed that performance is refused, the suit ought to have been filed within a period of three years. Admittedly, as per Ex.P.1, the three years time period is fixed to enforce the contract. The three years time fixed in the agreement expired on 02.06.2008. The suit should have been filed within three years. Of course, the plaintiff has presented the suit on 20.04.2010 within three years from the date fixed in the agreement. Though the suit has been filed in time, the conduct of the plaintiff in approaching the court with a delay exhibits that he has no intention to purchase the property and he was not ready and willing to perform his part of the contract. The readiness in fact is the capacity to mobilize the funds and willingness is the mental attitude to complete the transaction. Having executed the agreement and paid the substantial amount on the same date of agreement, the plaintiff has not



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taken any steps to execute the agreement or to register the document. But

on the contrary, allowing some third party to deal with the property and

later allowing the third party to cancel the document clearly exhibits that

he never intended to purchase the property at any point of time. Allowing

some third parties to deal with the properties by entering into sale deeds

and he became the attesting witness for the documents clearly indicates

that the transaction between the parties concerned is not genuine and is

not a valid sale transaction. Further, the plaintiff has not produced any

material whatsoever to show that he was ready to pay the remaining

amount except saying that he was ready and willing to perform his part of

the contract. No materials are available on record to show that the

plaintiff has made any attempt even to deposit the remaining sale

consideration, though it is not mandatory, at least to show his readiness.

In such view of the matter, in the absence of any materials with regard to

the same, the plaintiff's submission cannot be believed.

17.It is the defence theory that all documents came into existence

only as loan transaction, particularly when the first defendant was in dire

need of funds. Therefore, when a person was in adversity and some

documents have been obtained, taking advantage of the situation, it

cannot be said that there was good faith in the transaction. All would



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clearly indicate that the plaintiff and the other group of persons were in dominant position to dominate the will of the person, namely the first defendant at the relevant point of time since the first defendant was in dire need of funds and he was in adversity.

18. Even assuming to be true that Ex.P.1 agreement was entered into, we are of the view that the same cannot be enforced for the grant of equitable relief. As rightly pointed out by the trial court, the plaintiff has not even proved the payment of Rs.15,00,000/- by way of cash. Such finding is probalised the very admission of the plaintiff in the cross examination. In the cross examination, he has clearly admitted that he has only arranged the loan from private parties for vehicle purchase and he has not lent any money on his own. When a person was only acting as broker in arranging loan from third parties, the payment of Rs.15,00,000/- by way of cash is also highly improbable. Therefore, the trial court has rightly held that the plaintiff has not established the payment of Rs.15,00,000/- by way of cash.

19. When the dispute has started in the year 2007 itself and police complaint has also been lodged and the sale deed has also been executed in favour of one Thiagarajan by one Ansari under Ex.D.1 and the same has also been cancelled in the year 2007 as evidenced under Ex.D.4 dated



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07.09.2007, still the plaintiff has not come to the court within the time and the suit has been presented by the plaintiff in the year 2010 and he got it numbered only in the year 2012. Therefore, the delay in coming to the court also disentitles the plaintiff for seeking specific performance when the agreement in question is shrouded with various doubts, as discussed above. Admittedly, a sum of Rs.7,50,000/- has been received by the first defendant by way of cheque and therefore, the trial court has granted decree in favour of plaintiff directing the first defendant to pay Rs.7,50,000/- with interest. The plaintiff has failed to establish the consideration of Rs.15,00,000/- by way of cash and he was a broker arranging vehicle finance. We are of the view that the trial court is right in disbelieving the plaintiff with regard to payment of Rs.15,00,000/- by cash. Since the very agreement itself is shrouded with serious doubts and plaintiff has not established his readiness and willingness to perform his part of the contract, he is not entitled to the relief sought for based on Ex.P.1. Further, we are not venturing into the issue as to whether the second defendant is a bona fide purchaser for the value without any notice. That issue is unnecessary for the present lis. As the very agreement relied on by the plaintiff is shrouded with serious doubts and its genuineness itself is doubt, the plaintiff is certainly not entitled to the



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relief relating to enforceability of the contract in the court of law and for equitable relief.

20.In the result, all the points are answered against the plaintiff.

The appeal suit is dismissed confirming the judgment and decree of the trial court, namely III Additional Judge, City Civil Court, Chennai, made in O.S.No.7921 of 2019, dated 28.02.2020. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.K., J.) (R.S.V., J.)
21.01.2026

Index : Yes / No
Speaking Order /Non speaking order
Neutral Citation : Yes
vvk

To

- 1.The III Additional Judge,
City Civil Court,
Chennai.
- 2.The VR Section
Madras High Court,
Chennai.



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