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SA No. 268 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2026

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

SA No. 268 of 2023

AND

CMP NO. 12453 OF 2023

Geetha
W/o. Ravi,
Indhra Nagar, Puliymarath thottam,
3rd street, Karuvampalayam,
Tiruppur Tk and Dt.
presently res at No.1/1, Puliymarath Thottam,
3rd Street, Karuvampalayam,
Tiruppur Tk and Dt.

..Appellant(s)

Vs

Sivakumar
S/o. Iyyasamy,
No.52A, B.K.R. Colony,
Dharapuram, Tiruppur.

..Respondent(s)

PRAYER

Second Appeal filed under Sec.100 of Civil Procedure Code, praying to set aside the Judgment and Decree of the Learned I Additional District Court, Tiruppur in AS No.5/2017 dated 28.02.2019 partly allowed the judgment and decree of the Learned Additional Subordinate Judge, Tiruppur in OS No.352/2015 dated 23.12.2016.



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For Appellant(s): Mr.J.Arokhiaraj
For Respondent(s): Mr.K. Govi Ganesan

JUDGMENT

Challenging the reversal findings with alternative remedy rendered by the first appellate court in A.S.No.5 of 2017 on the file of I Additional District Judge, Tiruppur arising out of findings rendered in O.S.No.352 of 2015 on the file of Additional Subordinate Court, Tiruppur, the defendant preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the Suit.

3. Before the trial court, the plaintiff filed a suit for specific performance stating that on 11.01.2013 the defendant entered into a registered sale agreement with him for a total consideration of Rs.4,14,300/- and received a sum of Rs.2,00,000/- on the same day and for the balance sum, two years period was fixed. The said property belong to her through the registered settlement deed dated 22.08.2012. Therefore, he issued a notice on 26.12.2014, for that, the defendant has issued a reply on 07.01.2015 denying the alleged agreement stating that she borrowed loan of Rs.1,00,000/- and as a security for the said loan, the alleged sale agreement was executed. Only in order to meet out her



urgent expenses, the loan was obtained, wherein the alleged sale agreement was executed and also contended that he is the person lending money for exorbitant interest. Per month, an amount of Rs.6000/- towards interest was paid and for nearly about 11 months, she paid interest and thereafter, she was unable to pay. Now, she is ready to pay interest. After the reply notice issued on 20.01.2015, there was a compromise entered between the parties. Accordingly, the plaintiff received a sum of Rs.1,00,000/-, which was given as a loan and the pending interest comes around Rs.30,000/- is liable to be paid by the defendant. In respect of payment of Rs.1,00,000/-, there was a receipt was given by him, thereby both have entered into a joint memo dated 20.01.2015. As per the terms of memo, on payment of interest, he agreed to hand over the original agreement belong to her and the said memo was also witnessed by three witnesses. Therefore, she contended that a loan of Rs.1,00,000/- was repaid, as on date, a sum of Rs.30,000/- interest alone is to be paid.

4. Both parties adduced both oral and documentary evidence. The trial court framed five issues. On considering the entire evidence on record, the learned trial judge found that the description of property has not been properly described in the sale agreement. In fact, there is a house property, but as per the description of sale agreement, there was a vacant site, this itself shows that he is not a bonafide purchaser. To that effect, the trial judge relied the tax receipt, E.B. receipt produced on the side of defendant. Therefore, he is not a bonafide



purchaser. D.W.3 is the person Valarmathi, who had also borrowed loan from the plaintiff. Therefore, the trial judge has concluded that the plaintiff was a money lender and the sale agreement was executed for receipt purpose, however, there is no description of property in the said sale agreement. As the actual market value of suit property was nearly about Rs.15,00,000/-, the sale agreement was executed only for a total consideration of Rs.4 lakhs without mentioning the house property. Therefore, he has not approached the court with clean hands. Hence, he is not entitled to the relief as prayed for. Accordingly, the suit was dismissed.

5. Challenging the said findings, the plaintiff preferred an appeal in A.S.No.05 of 2017 before I Additional District Court, Tiruppur. The first appellate judge had analysed entire evidence on record and framed separate points for consideration and finally held in paragraph 9 that the defendant is the absolute owner of the suit schedule property. Based on that, the sale agreement Ex.A1 was executed. So, the intention behind the execution of sale agreement was not in real terms to sell the property and for that only, the property was not properly described in the sale agreement, which would clearly shows that the sale agreement was not executed for the purpose of sale and there was a loan transaction between the parties. Accordingly, the defence of defendant that she borrowed a sum of Rs.1 lakh as loan and she relied on the receipt Ex.B9 said to be executed on 20.01.2015, but the suit was filed on 27.08.2015. However, in



the written statement, she has not specifically mentioned about the receipt.

Therefore, the first appellate judge disagreed with the repayment and considered that she was bound to pay the admitted loan amount of Rs.2,00,000/- as per the agreement terms. Hence, she was directed to repay a sum of Rs.2,00,000/- together with interest at the rate of 12%. Challenging the said findings, now the defendant preferred this Second Appeal.

6. The learned counsel for appellant would argues that the first appellate court failed to appreciate the facts, wherein there was a repayment and also failed to take note of the fact that the signature found in the receipt has not been disputed by the plaintiff.

7. By way of reply, the learned counsel for respondent would argues that the receipt was not proved by the defendant as per manner known to law. Therefore, the court below rightly not accepted the Ex.B9 receipt. Further, he would also contend that it is a registered sale agreement and the court below failed to appreciate the agreement terms. He would also submit that the notice was also issued within a stipulated time, but the same was not properly appreciated by the first appellate court. Hence, he prayed to dismiss this Second Appeal as there is no merit.

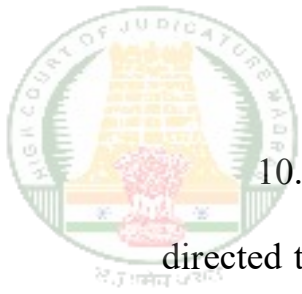


8. Heard and considered rival submissions made by both learned counsel for appellant and respondent and perused the materials available on record.

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9. Considering both side submissions, the fact reveals that the plaintiff has not preferred any appeal against the relief of dismissal of specific performance. Now, as on date, as per the findings rendered by the first appellate court, the defendant was directed to pay a sum of Rs.2,00,000/- together with interest at the rate of 12% holding that it was the borrowal amount. But, the defendant claimed that as per Ex.B9 already a sum of Rs.1 lakh was repaid, to that effect, receipt was issued by the plaintiff on 20.01.2015. However, the signature found in Ex.B9 was denied by plaintiff, but no steps were taken to send the document for getting expert opinion. Indeed, this court had verified the vakalat given by him to his counsel and signature found in the receipt Ex.B9, which is permissible under law. On bare perusal of the same, the signature found in the receipt and the vakalat is one and the same and it would clearly reflects the signature of plaintiff. That apart, the signature in the Ex.B9 receipt, more particularly, the alignment are perfect without variance. But, the first appellate court failed to appreciate the said fact. Accordingly, this Second Appeal arise out of the following substantial question of law:-

“(i) Whether order of return of amount to plaintiff is justifiable?



10. As per the findings of the first appellate court, the defendant was directed to pay a sum of Rs.2,00,000/- with interest at the rate of 12%. But, as per Ex.B9, only the interest of Rs.30,000/- alone is liable to be paid. Therefore, she is directed to pay a sum of Rs.30,000/- as already loan amount was discharged by her. However, since the case is pending for more than 10 years after the decree is passed in O.S.No. 352 of 2015, the appellant/defendant is directed to pay a sum of Rs.50,000/- as one time settlement to the respondent/plaintiff within eight weeks from the date of receipt of copy of this judgment. Thus, the question of law is answered. On such payment, the respondent/plaintiff is directed to hand over the original title deeds to the appellant/defendant. If any deviation in the above stipulated direction, the appellant/defendant is empowered to initiate execution proceedings to get back her original title deed in the manner known to law on such deposit of amount before the trial court. Accordingly, this Second Appeal is allowed and the findings of first appellate court viz., I Additional District Judge, Tiruppur in A.S.No. 5 of 2017 is modified. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

12-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP



To

1. The I Additional District Judge, Tiruppur.
2. The Additional Subordinate Judge, Tiruppur.
3. The Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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