



WEB COPY

SA No. 196 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-03-2026

CORAM

THE HON'BLE MR.JUSTICE S. SOUNTHAR

SA No. 196 of 2026

and

CMP No. 5381 of 2026

Venkatesan (Died),

1. Karpagam
2. Vishal
3. Ramadurga

..Appellants

Vs

Narasimman (died),

1. Saradha
2. Revathi
3. Ranjith kumar

..Respondents

Prayer: Second Appeal filed under Section 100 of CPC to set aside the judgment and decree dated 30-10-2025 passed by the Principal Subordinate Judge Court, at Ponneri in A.S.No.79 of 2015, setting aside the Judgement and decree dated 25-07-2012 passed in O.S.No.263 of 2005, by the District Munsif Court at Ponneri and thereby to decree the suit in OS.No.263 of 2005 with costs throughout.

For Appellants:

Mr.Krishnasamy R.



JUDGMENT

The unsuccessful plaintiff in a suit for specific performance is the appellant herein. He filed a suit in O.S.No.263 of 2005 against the respondents seeking specific performance and the same was decreed by the Trial Court. The first appellate court, in an appeal filed by the respondent/defendant in A.S.No.79 of 2015, reversed the findings of the Trial court and dismissed the suit. Aggrieved by the same, the plaintiff/appellant has come before this court.

2. According to the appellant/plaintiff, he entered into a sale agreement with the defendant on 27.11.2002 to purchase 55 cents of undivided land in various survey numbers described in the plaint schedule for a sale consideration of Rs.99,000/-. According to the plaintiff, he paid a sum of Rs.98,000/- on the date of sale agreement itself and as per terms of the sale agreement, the balance sale consideration of Rs.1,000/- shall be paid within a period of 90 days from the date of sale agreement. It is further stated that the time was not at all considered to be the essence of the contract under the sale agreement and inspite of several demands made by the plaintiff to receive the balance sale consideration of Rs.1,000/- and to execute the sale deed, the defendant had been evading to execute the sale deed. Therefore, the plaintiff issued a legal notice on 23.05.2005 calling upon the defendant to receive the balance sale consideration and to execute the sale deed. However, there was no reply from



the defendant. In such circumstances, the plaintiff was constrained to file the suit for specific performance.

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3. The suit was resisted by the defendant denying the execution of suit sale agreement. It was the specific case of the defendant that he never entered into the sale agreement with the plaintiff on 27.11.2002. It was further claimed by the defendant that he had no absolute right over the suit property and his two male children were also having interest over the subject property.

4. Before the Trial Court, the plaintiff was examined as PW1 and three documents, namely, sale agreement, legal notice and postal acknowledgement card were marked as Ex.A1 to Ex.A3 on the side of the plaintiff. The defendant was examined as DW1 and the copy of sale deed executed by the defendant and his brother in favour of the wife of the plaintiff in respect of some other properties was marked as Ex.B1 on the side of the defendant.

5. The Trial Court came to a conclusion that the plaintiff was entitled to get the decree for specific performance and thereby decreed the suit. Aggrieved by the same, the respondent/defendant filed an appeal in A.S.No.79 of 2015 before the Principal Sub Court, Ponneri. The first appellate court reversed the findings of the Trial Court and dismissed the suit. Aggrieved by the same, the appellant/plaintiff has come before this court.



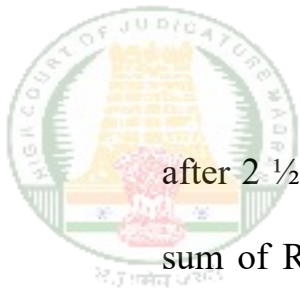
6. The learned counsel for the appellant/plaintiff would submit that the respondent/ defendant denied the execution of the suit sale agreement, however, during evidence, he admitted his signature found in the sale agreement. Therefore, the first appellate court committed an error in coming to the conclusion that Ex.A1 sale agreement has not been proved. He would further submit that out of total sale consideration of Rs.99,000/-, the plaintiff paid a sum of Rs.98,000/- on the date of sale agreement itself and the balance amount to be paid is only a sum of Rs.1,000/-. Therefore, the findings of the first appellate court as if the plaintiff has not proved his readiness and willingness to perform his contract of the agreement is not correct.

7. A perusal of the written statement filed by the defendant would indicate that he specifically denied the execution of the suit sale agreement. Therefore, it is incumbent on the plaintiff to prove due execution of suit sale agreement. However, in order to prove the execution of sale agreement, the plaintiff has not examined any independent witness. Merely based on the interested testimony of the plaintiff, we cannot come to the conclusion that the suit sale agreement was duly executed by him. The defendant, during cross examination, admitted his signature found in the sale agreement. It is settled law that mere admission of the signature would not amount to an admission of the execution.



8. The respondent/defendant, during cross examination had taken a stand that Ex.B1 sale deed was executed by the defendant and his brother in favour of plaintiff's wife and at that point of time, the plaintiff obtained his signature in the blank papers and the same could have been used to create suit sale agreement. Therefore, the defendant admitted only his signature found in the sale agreement and not admitted the execution of sale agreement. In such circumstances, based on the interested testimony of plaintiff as PW1 alone, this court cannot come to the conclusion that execution of sale agreement has been properly proved.

9. It is also seen from the pleadings of the plaintiff that total sale consideration was Rs.99,000/- and a sum of Rs.98,000/- was paid on the date of sale agreement itself and the remaining amount is only a sum of Rs.1,000/-. The time limit of 3 months fixed in the sale agreement for making the remaining amount of Rs.1,000/- appears to be very unnatural. Further, the plaintiff has not taken any steps to demand the execution of sale deed for nearly 2 ½ years. It was stated by the plaintiff that after expiry of the time limit, he made several demands to the defendant to receive the remaining sale consideration of Rs.1,000/- and to execute the sale deed and in spite of the same, the defendant did not execute the sale deed. To substantiate the said contentions, the plaintiff has not examined any independent witness. The first legal notice demanding execution of sale deed was issued by the plaintiff only on 23.05.2005, nearly



after 2 ½ years, after execution of sale agreement. The plaintiff, having paid a sum of Rs.98,000/- out of Rs.99,000/-, need not have waited for such a long period to demand the execution of sale deed. Therefore, the plaintiff failed to prove his readiness and willingness to perform his part of contract throughout the period from the date of inception of sale agreement till the date of presentation of the plaint. In the absence of any independent evidence, we cannot come to the conclusion that the plaintiff proved his readiness and willingness to perform his part of sale agreement only based on the interested testimony of PW1. The delay of 2 ½ years in issuing legal notice goes against the plaintiff, in the light of facts and circumstances of the case narrated above. Therefore, the first appellate court rightly came to the conclusion that the plaintiff failed to prove his readiness and willingness to perform his part of contract as per the terms of sale agreement. I do not find any reason to interfere with the above said finding of fact arrived at by the first appellate court .

10. Accordingly, the second appeal stands dismissed as it is devoid of any substantial question of law. As a consequence, the judgment and decree passed by the first appellate court is upheld. There shall be no order as to costs. Connected miscellaneous petition is closed.

02-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No



MST

To

1. The Principal Subordinate Judge, Ponneri
2. The District Munsif, Ponneri



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S.SOUNTHAR J.

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