



THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on : 27.11.2025

Judgment pronounced on :13.02.2026

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

A.S. No.162 of 2023
and CMP. No.26094 of 2025

C.Sumathi

..Appellant

Vs.

P.Manjula

..Respondent

Prayer: Appeal Suit filed under Section 96 of the Code of Civil Procedure, to set aside the judgment and decree dated 08.12.2022 in O.S. No.6242 of 2016 on the file of the Principal Judge, City Civil Court at Chennai.

For Appellant : Mr.I.Abdul Basith

For Respondent : No Appearance.

JUDGMENT

The plaintiff, whose suit for specific performance of an agreement of sale has been dismissed by the Trial Court, is the appellant.



2. I have heard Mr.I.Abdul Basith, learned counsel for the appellant. Despite the respondent having entered appearance by way of caveat and several opportunities being granted for the appearance of the respondent, none showing up, I proceeded to hear the learned counsel for the appellant.

3. PLEADINGS:

(a) Complaint in brief:

The plaintiff entered into an agreement of sale with the defendant, the owner of the suit property on 18.12.2014, for a total sale consideration of Rs.16,00,000/-. The plaintiff has paid an advance of Rs.10,00,000/- and he was ready to pay the balance Rs.6,00,000/-. The defendant demanded further advance of Rs.2,00,000/- to meet family expenses and the plaintiff also obliged by making payment of the same on 05.01.2025 and at that point of time, the original documents of the suit property was handed over to the plaintiff. Though the defendant promised to execute the sale deed within a week, the defendant has thereafter avoided completion of the sale transaction. The defendant in fact, gave a police complaint against the plaintiff as if the plaintiff is threatening the defendant for registration of the property. However, the said police complaint was



closed and with no other option, the plaintiff has come forward with the suit for specific performance.

(b) Written Statement in Brief:

The defendant never entered into any agreement of sale with the plaintiff. The plaintiff and her husband are doing money lending business and they are in the habit of lending money to gullible and innocent property owners by charging exorbitant interest and obtaining signatures of the allottees of shops in Koyambedu Market Complex on Non-Judicial Stamp papers. It is their usual practice of fabricating documents and thereafter, blackmail the allottees to sell their valuable properties at throw way prices. The defendant did not have any dealings with the plaintiff and she was not aware of the contents of the agreement. The agreement was not willingly signed and executed by her and there was no passing of consideration under the sale agreement dated 18.12.2014. The property is worth more than Rs.40,00,000/- and the sale consideration of Rs.16,00,000/- did not even reflect the then prevailing market value. The defendant executed usufructuary mortgage with one Murugesan for Rs.40,00,000/- and therefore, by no stretch of imagination, the owner of the property would agree to sell the said property for throw away price of Rs.16,00,000/-. The plaintiff never made any demand to execute the sale deed during the entire two years period. The plaintiff and her



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husband have already received Rs.17,13,000/- from the defendant which has been recorded in the account book maintained by the plaintiff's husband. The plaintiff's husband has issued lawyer's notices dated 20.03.2013 and 21.04.2017 which would clearly establish only a loan transaction between the parties and not a sale agreement. Even the loan transaction was settled with the intervention of the office bearers of Anna Fruit Merchant Association. Only in view of the plaintiff's husband forcibly removing the defendant from the shop on 03.06.2017, the defendant lodged a police complaint, for which a CSR was issued on 19.06.2017. The agreement of sale, which is projected in the suit was obtained by coercion and compulsion and it is not valid or enforceable in law and it was not acted upon. The defendant therefore pray for dismissal of the suit.

(c) Issues:-

The Trial Court upon considering the pleadings viz., plaint and written statement has framed the following issues:-

- (i) Whether the plaintiff is entitled for the relief as prayed for?
- (ii) To what relief?



(d) Trial:-

The plaintiff examined herself as P.W.1 and her husband examined as P.W.2. On the side of the plaintiff, Ex.A1 to Ex.A4 were marked. On the side of the defendant, the defendant examined herself as D.W.1 and her husband examined as D.W.2 and independent witnesses, Liyakath, A.Dhanasekar and C.Murugesan examined as D.W.3 to D.W.5. Ex.B1 to Ex.B11 were marked on the side of the defendant.

(e) The decision of the Trial Court:-

The Trial Court accepting the defence pleaded by the respondent held that the plaintiff has not proved readiness and willingness and was not entitled to the discretionary and equitable relief of specific performance.

4. The arguments of the learned counsel for the appellant:-

The learned counsel for the appellant Mr.Abdul Basith, would contend that first and foremost when the agreement was a registered sale agreement and more than 75% of the money had been advanced by the appellant to the respondent, when the respondent had taken a defence that the agreement was brought about by force, coercion and



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compulsion, the burden ought to have been placed on the defendant to establish the said allegation. He would therefore state that the Trial Court, instead, has called upon the plaintiff to discharge the burden which could have never been placed on the plaintiff in the first place. He would further contend that the fact that the defendant had attempted to disown the agreement and lodged a police complaint to defeat the agreement and the plaintiff had to straightaway rush to Court and therefore, it was not necessary for the plaintiff to make any demand for registration of the sale deed in her favour, prior to filing of the suit. He would also state that law does not require such pre-suit notice to be issued before filing a suit for specific performance.

5. The learned counsel would further submit that out of the agreed sale consideration of Rs.16,00,000/-, the appellant has already paid Rs.10,00,000/- at the time of the agreement and further Rs.2,00,000/- in January 2015 at the request of the respondent/defendant and the receipt of the amounts are not even denied by the respondent, but however it is only attempted to project a case that the amounts were only towards borrowing and not for sale of the property. The learned counsel would further state that the original documents of title have also been given in furtherance of the substantial advance paid viz., Rs.12,00,000/-, leaving only an amount of Rs.4,00,000/- as balance to be paid at the time of registration. He would further state that the suit has



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been filed within the time period contemplated under the agreement and therefore, the Trial Court erroneously proceeded to hold that the plaintiff had not been ready and willing to perform her part of the contract.

6. The learned counsel inviting my attention to the application filed under Order 41 Rule 27 CPC in CMP. No.26094 of 2025 would submit that the defendant had taken a plea that the defendant had created a usufructuary mortgage in respect of the suit property for Rs.40,00,000/- and in such circumstances, the defendant could not have agreed to sell the property for a throw away price viz., Rs.16,00,000/-. In this regard, the defendant's documents that are sought to be introduced in the appeal by way of additional evidence under Order 41 Rule 27 CPC are relied upon. The learned counsel would submit that Ex.B11, which is unregistered lease agreement has been prepared on a stamp paper bearing No.A.D.785815 of the face value of Rs.100/-. Questioning the genuineness of the said document, the appellant has made an application under RTI on 05.06.2023 to the District Treasury Officer, Villupuram and by reply letter dated 12.06.2023, the Public Information Officer has stated that the stamp paper was transferred from the Treasury, Kallakurichi to Thirukovilur, Sub Treasury only on 09.01.2012. By further reply dated 04.07.2023 from the Treasury of Thirukovilur, the said factum that the stamp paper became available for the sale only on 09.01.2012 was



confirmed. Relying on the said RTI communications, the learned counsel would contend that the document could not have been lawfully come into existence on 12.01.2010, as it had not even been issued by the Treasury in the first place. Relying on the final enquiry report dated 10.07.2024 by the District Registrar (Administration), Villupruam, the learned counsel would submit that when the said stamp paper had been sold to one Mr.G.Pandithurai on 12.01.2010, it is evident that Ex.B.11 has been clearly fabricated in order to bring about an agreement as if usufructuary mortgage has been created for a sum of Rs.40,00,000/-.

7. He would further state that based on the appellant's complaints, an FIR has also been registered in Crime No.218 of 2024 on 11.04.2024. The petitioner filed Crl.O.P. No.31532 of 2024 before this Court seeking transfer of the investigation of the FIR to the CBCID and the Crl.O.P. was allowed by this Court and the investigation was transferred to the Superintendent of Police CBCID. Thereafter, FIR has been re-registered in Cr. No.5 of 2025 on 21.04.2025 and the same is pending. It is therefore contended by learned counsel for the petitioner that only in order to project an inflated value to back up the pleading in the written statement that the property value is Rs.40,00,000/-, Ex.B.11 has been backdated and fabricated and from the additional documents, it is clear that the respondent has indulged in acts of fabrication of



Government documents besides also attempting to hoodwink the Court by creating false evidence. He would therefore pray for these additional documents to be received in appeal had be looked into while deciding the main First Appeal.

8. The learned counsel for the appellant has relied on the decision of the Hon'ble Supreme Court in *S.P.Chengalvaraya Niadu (Dead) by L.Rs Vs. Jagannath (dead) by L.Rs. And others*, reported in *AIR 1994 SC 853*, where the Hon'ble Supreme Court held if any decree is obtained by practicing fraud upon the Court, then the person who based his case on falsehood has no right to approach the Court and his case has to be summarily thrown out at any stage of the litigation.

9. I have carefully considered the submissions advanced by the learned counsel for the appellant. I have also gone through the judgment of the Trial Court. On hearing, the learned counsel for the appellant, the following points for consideration are formulated.

(i) Whether the plaintiff has proved the suit sale agreement?

(ii) Whether the plaintiff has been ready and willing to perform his obligations under the sale agreement and consequently, entitled to relief of specific performance?



(iii) Whether the additional documents which are sought to be introduced are to be entertained and exhibited as additional documents in this appeal?

10. Point No.(i):- The agreement of sale dated 18.12.2014, is a registered sale agreement. The sale consideration reflected in the said document is Rs.16,00,000/- and the agreement acknowledges the fact that a sum of Rs.10,00,000/- was paid even on the date of the sale agreement being executed and registered. The suit property is a shop at Koyambedu wholesale Fruit and Vegetable Market. It is not in dispute that the defendant is the owner of the fruit shop. It is the further case of the plaintiff that the defendant wanted a further sum of Rs.2,00,000/- to meet urgent family expenses and the same was also paid on 05.01.2015 on which date, the defendant had handed over the original document pertaining to the suit property, promising to register the document within a period of one week. It is the further case of the plaintiff that thereafter, the defendant had been evading the execution of the sale deed and instead she has approached the police with a false complaint as if the plaintiff is threatening the defendant for registration of the property. The complaint was closed by the Inspector of Police, Arumbakkam after enquiry, finding that there were no such threat issued by the plaintiff. The plaintiff has straightaway approached the Court without even issuing a pre-suit notice. In the plaint, there is no pleading that the plaintiff has always been ready



and willing to pay the balance sale consideration and complete the sale transaction. In the proof affidavit, I do not find even a whisper that the plaintiff has been ready and willing to perform his pending obligations. The entire plaint and proof affidavit are only revolving around the conduct of the defendant in trying to illegally grab the money of the plaintiff and cheat the plaintiff. Admittedly, the plaintiff has also not taken any steps pending the suit to offer or deposit the balance sale consideration as well.

11. The specific case of the defendant is that the defendant never agreed to sell the suit property to the plaintiff and the defendant only had monetary transactions with the plaintiff and her husband and the agreement of sale has been brought about by undue influence, coercion and threat. No doubt, the defendant has not been able to establish that there has been any undue influence, coercion to bring about the suit or sale agreement. However, it is the categorical case of the defendant that apart from the receipt of Rs.10,00,000/-, no further amounts were paid by the plaintiff. The plaintiff claims that a sum of Rs.2,00,000/- was paid on 05.01.2015 and the original documents of title was handed over to the plaintiff. The said factum of further payment of Rs.2,00,000/- is not acknowledged by either a separate receipt or an endorsement on the original suit sale agreement as well. Therefore, the plaintiff has miserably failed to establish that there has been further payment of Rs.2,00,000/- on 05.01.2015. The fact



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that the original document of title has been entrusted to the plaintiff only create a suspicion that the transaction was actually a loan transaction and not an intended sale transaction. It is common for a person who borrows monies, as security for repayment to deposit the original documents of title. In normal sale transactions, the original documents of title are never parted with by the vendor until the entire payment of the agreed sale consideration is made which is usually only across registration of the sale deed in favour of the agreement holder.

12. Both the husbands of the defendant and the plaintiff have also been examined and their evidence clearly show that there have been monetary transaction between them. This also creates further suspicion with regard to the genuineness of the agreement of sale. No doubt, the agreement of sale has been registered and a period of two years has been fixed for completion of the transaction. As rightly found by the Trial Court, no pre-suit notice was ever issued by the plaintiff calling upon the defendant to come forward to comply with the terms of the agreement during the entire tenure of two years. Atleast when the plaintiff claims that he paid further sum of Rs.2,00,000/- on 05.01.2015 and that the defendant promised registration within a week, at that point of time, the plaintiff ought to have issued a lawyer's notice setting out the further payment and the promise of the defendant to complete the transaction within a week. All of a



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sudden, in a hurried manner, the suit has been filed straightaway by the plaintiff seeking the relief of specific performance. Though it is contended by the learned counsel for the appellant that it is only in view of the false police complaint that was lodged by the defendant, the suit has to be filed without any pre-suit notice, I find that the police complaint was lodged only because the plaintiff's husband had dispossessed the defendant from the shop and on 03.08.2016. The defendant's husband has lodged a police complaint stating that he has borrowed a sum of Rs.10,00,000/- from the plaintiff's husband and that they have already repaid substantial sums borrowed but however, the plaintiff's husband is threatening the defendant to register the property in favour of the plaintiff. The said police complaints are prior to the filing of the suit. The said police complaint has also been marked as Ex.B4 and Ex. B6 as well. The defendant's husband has admitted to the borrowing of Rs.10,00,000/-. However, this complaint has come into existence after the defendant admittedly received notice of hearing in the suit for specific performance. Therefore, not much more importance can be given to the said document. However, the fact remains that even prior to the suit, in August 2016 as well, the same stand has been taken by the defendant's husband regarding borrowing of only Rs.10,00,000/- and there being no agreement of sale between the parties. However as already discussed, the agreement of sale is a registered document and the execution of the same is admitted by the defendant. The case of the



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defendant that the document is not an intended agreement of sale and it is only a loan transaction. The defence taken that the defendant was compelled and coerced to enter into the said agreement has not been established by oral and documentary evidence. Therefore, there is no difficulty in holding that the suit sale agreement was in fact, executed between the plaintiff and the defendant for sale of the suit shop. Point (i) is answered in favour of the appellant.

13. **Point (ii):-** In a suit for specific performance under Section 16(c) of the Act, the plaintiff is required to plead as well as prove readiness and willingness at all relevant points of time. As already discussed in the foregoing paragraphs, there is not even a whisper in the plaint that the plaintiff has always been ready and willing to perform her part of the contract and admittedly, with regard to the alleged balance of Rs.4,00,000/-, no steps have been taken by the plaintiff to deposit the said Rs.4,00,000/- before the Trial Court, pending the suit. No pre-suit notice has also been issued calling upon the defendant to come forward to execute the sale deed, despite claiming that the plaintiff has even paid further advance of Rs.2,00,000/- on 05.01.2015. The suit has been filed towards the fag end of the two year fixed under the agreement of sale. The plaintiff has failed to aver readiness and willingness which dis-entitles the plaintiff to the discretionary and equitable relief of specific performance. No steps have also been



taken by the plaintiff to adduce any satisfactory evidence that the plaintiff was even possessed of the remaining amount of Rs.4,00,000/- to be paid, according to the plaintiff, as balance sale consideration. All these have been rightly considered by the Trial Court, along with the oral and documentary evidence adduced, to hold that there is a probability that the defence taken by the defendant that the agreement was only a loan transaction and not an intended sale transaction is true and that in any event the plaintiff has not established either readiness or willingness to become entitled to a decree for specific performance. The said findings arrived at by the learned Trial Judge, are clearly based on the oral and documentary evidence adduced by the parties and the same cannot be termed as materially irregular or perverse, warranting interference in appeal. In fine, the Trial Court did not commit any error in finding that the plaintiff was not ready and willing to perform her part of the sale agreement. Point (ii) is answered against the appellant.

14. Point (iii):- In view of the findings that the plaintiff has not established readiness and willingness, there is no useful purpose in entertaining the additional evidence which are only filed to prove the conduct of the defendant. Here, the plaintiff's conduct has been found to be wanting to be deserving the equitable relief of specific performance. In such circumstance, I am of the opinion that there is no necessity to look



into the additional documents which are filed only to establish the alleged fabrication indulged in by the defendant. In view of the findings above, I do not find it necessary to entertain the application for additional evidence to be adduced in the appeal. Accordingly, the Civil Miscellaneous Petition in CMP. No.26094 of 2025, is dismissed. Point (iii) is answered accordingly.

15. As the respondent has not chosen to contest the appeal, I am not inclined to award costs. Hence, the Appeal Suit is **dismissed** and with no order as to costs.

13.02.2026

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

The Principal Judge, City Civil Court, at Chennai.



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P.B.BALAJI.J,

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Pre-delivery judgment made in
A.S. No.162 of 2023
and CMP. No.26094 of 2025

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