



WEB COPY

SA No. 267 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

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

SA No. 267 of 2025

AND

CMP NO. 8080 OF 2025

Ka.Kistama Naidu (died)

Mangammal (died)

1. Lalitha
D/o. Late.Kalavakoori Kistama Naidu
2. Mohan
S/o. Late.Kalavakoori Kistama Naidu
3. Baskar
S/o. Late.Kalavakoori Kistama Naidu,
1 to 3 are residing at Ellappa Naidupettai,
Tiruvallur Taluk,

Rajammal (Since dead)
W/o. Ka.Kistama Naidu
4. Gheetha
W/o. Jayachandran
D/o. Late.Ka.Kistama Naidu
No.8, Bhagirathiammal Koil Street,
Manavalanagar, Tiruvallur Taluk.
5. Kamala
W/o. Baskaran
D/o. Late.Ka.Kistama Naidu,
No. 4, Ganesan Street, Ondikuppam Village,
Tiruvallur Taluk



6. J.Sarala
W/o. Jagannathan
D/o. Late.Ka.Kistama Naidu,
Padmavathi Nagar, Ondikuppam Village,
Tiruvallur Taluk

7. K.Sekar
S/o. Late.Ka.Kistama Naidu,
Ellappa Naidupettai, Tiruvallur Taluk.

(1st Appellant died and his legal heirs,
appellants 6 to 10 impleaded as per order in IA
No.65/2011 dt. 27.06.2011 and Appeal grounds
amended as per order in IA No.81/2011 dt.
21.10.2011)

..Appellant(s)

Vs

1. Pushpa
W/o. Chiranjeevi Naidu
M.Agaram Village, Sivvada Post, Nagari Taluk,
Andhrapradesh State.

Rajeswariammal (Since dead)

2. V.Govindan
S/o. Venkatrama Naidu,
Ellappa Naidupettai Village, Ramanjeri
Mathura, Kunnavalam Post,

3. Munirathnam
Father's name not known to the appellant
67, Periyar Ninaivu Samathuvapuram,
Kancheepuram 631 502

4. Jayasree
W/o. Devendran
No. 270, Thirupathi Estate Layout,
Dhimmasamudram Post, Kanchipuram 631 502



5. Vijayasree
W/o. Dhandapani
67, Periyar Ninaivu Samathuvapuram,
Kancheepuram 631 502

(2nd Respondent died and her legal heirs were
impleaded as respondents 4 to 6 as per order in
IA No.6A of 2013 dt. 29.07.2013 and appeal
grounds amended as per order in IA
No.75/2013 dt. 28.11.2013)

..Respondent(s)

PRAYER

Second Appeal filed under Sec.100 of Civil Procedure Code, praying to allow this Second Appeal setting aside the Judgment and decree dated 27.02.2023 made in AS No.21/2002 on the file of the Subordinate Judge, Tiruvallur by confirming the Judgment and decree dated 18.12.2001 made in OS No.217/1996 on the file of the District Munsif Court at Tiruvallur.

For Appellant(s): Mr.M.R.Kapali

For Respondent(s): Mr. K.A. Ravindran For R2

R1 And R3 To R5- No Appearance

JUDGMENT

Challenging the concurrent findings of the courts below rendered in A.S.No.21 of 2002 on the file of Subordinate Judge, Tiruvallur arising out of findings rendered in the suit in O.S.No. 217 of 1996 on the file of District Munsif, Tiruvallur, the plaintiffs 2 to 6 have preferred this Second Appeal.

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



3. Brief facts of the case is as follows :-

The original plaintiffs have entered into a Sale Agreement dated 12.09.1984 with the defendants 1 to 3 in respect of plaint schedule property for a sale consideration of Rs.27,000/-. A sum of Rs.5000/- was paid as an advance on the same day. Though the sale agreement mentions 11.06.1985 as the date before which the balance was to be paid, time was not meant to be essence of contract. The plaintiffs always wanted to have the sale deed executed at an early date, but the defendants 1 to 3 have evaded. However, the plaintiffs, on coming to know that the defendants 1 to 3 colluding with the father of 4th defendant and trying to defeat their right by creating some ante-dated document, sent a registered notice dated 16.05.1985 calling upon defendants 1 to 3 to execute the sale deed and reminding the father of 4th defendant about their rights under the agreement. The notices were duly served. But, having knowledge about the legal notice issued by them and their rights, after receipt of notice, with an evil intention, they have brought a sale deed in favour of 4th defendant. Though the plaintiffs always ready to perform their part of the contract and also they have issued a notice dated 31.05.1985, the defendants 1 to 3 have refused to execute the sale deed. Therefore, the plaintiffs have filed a suit claiming the relief of specific performance.



4. Before the trial court, the defendants 1 to 3 were set exparte. The 4th defendant alone contested the suit by filing a written statement and denied the execution of sale agreement. He had submitted that that there is no collusion between the defendants 1 to 3 and the 4th defendant as alleged by the plaintiff. He has entered into an agreement of sale dated 10.09.1984 for a sum of Rs.26,000/- with one Aachchammal and her daughters/defendants 1 to 3 and also paid an advance amount of Rs.20,000/-. Based on which, he was put in possession of suit properties and subsequently, the defendants 1 to 3 have executed a sale deed in his favour on 23.05.1985 on receipt of balance sale consideration. Even assuming that the agreement of sale entered in favour of plaintiffs is true, it is subsequent to the agreement of sale executed in favour of this defendant and in any event, he is a bonafide purchaser for a valid consideration. Hence, he prayed to dismiss the suit as no merit.

5. Before the trial court, both parties adduced evidence and on considering the evidence as well as documents, the trial judge framed five issues and finally held that the plaintiffs are not entitled to the relief of specific performance and also held that the 4th defendant is the bonafide purchaser for a valid consideration. Accordingly, the suit was dismissed.

6. Challenging the said findings, the plaintiffs 2 to 6 have preferred an appeal in A.S.No. 21 of 2002, wherein the first appellate judge on analysing



entire evidence on record, framed points for consideration and finally concluded that the plaintiffs have not proved their case through oral and documentary evidence. Thus, they are not entitled for the relief of specific performance and the first appellate judge dismissed the appeal by confirming the findings of trial court. Challenging the concurrent findings of courts below, the plaintiffs 2 to 6 have preferred this Second Appeal.

7. The learned counsel for appellants argue that the courts below misconstrued the evidence leading to perverse judgment and the evidence of P.W.1 has also not been properly appreciated. He would also submit that the learned first appellate judge erred in upholding Ex.B1 sale agreement and if the evidence was properly analysed, it would show that the defendants 1 to 3 have colluded with the 4th defendant to defraud the claim of original plaintiffs, but without such appreciation, the findings given by the courts below as such is erroneous one and liable to be set aside. He would also submit that the purchase of stamp paper for Ex.B1 also not been properly analysed and the first appellate court erred in holding that Ex.B1 is the first document and Ex.A1 agreement relied on by the plaintiffs is fabricated one without any material evidence. The first appellate judge also erroneously held that the 4th defendant was the bonafide purchaser for a value without properly analysing the evidence and facts, thereby entire evidence is total misconception of law and on facts. On that basis, the findings rendered by the courts below is liable to be set aside. He



would further submit that Ex.B1 agreement is not true and valid one and in order to defraud the plaintiffs, the vendors colluded with 4th defendant and created a sham and nominal agreement. Therefore, the findings of the courts below is perverse and liable to be set aside. The learned counsel for appellants would further submit that signature in the agreement has also been proved through the finger print Expert Report Ex.A10, thereby the execution of agreement was proved. In spite of that, the courts below had failed to grant the decree for specific performance as such is illegal and liable to be set aside.

8. By way of reply, the learned counsel for respondents would argue that the original plaintiffs have not proved the fact that Ex.A1 is valid agreement and the evidence of C.W.1 itself proves that the plaintiffs compelled the defendants 1 to 3 to enter into sale agreement in favour of them though they were well aware of the fact that already a sale agreement was entered into by the defendants 1 to 3 with the 4th defendant. To that effect, the evidence was properly analysed by the courts below and rightly held that the 1st defendant entered into a sale agreement at the compulsion of plaintiffs, which shows that there is no pre consent to give the sale agreement with the plaintiffs, thereby he is not entitled for the relief of specific performance of contract and the same has also been confirmed by the first appellate judge as such it requires no interference. Hence, he prayed to dismiss the Second Appeal as no merits.



9. Heard and considered rival submissions made by learned counsel for appellants as well as 2nd respondent and perused the materials available on record.

10. Considering the facts and circumstances and considering both side submissions, this Second appeal is admitted on the following question of law:-

- (i) Whether the Sub-Judge, Tiruvallur, who decided the first appeal in A.S.No. 21 of 2022 was in error of law when she accepted the version of respondents as to how Ex.B1 came into existence?*
- (ii) Whether the courts below were in error of law, when Ex.A1 having been proved to have rejected the relief of specific performance?*
- (iii) Whether the purchase made by the 2nd respondent dated 23.05.1985 is a bonafide one?*

11. Considering both sides submissions, the fact reveals that based on Ex.A1 sale agreement, the original plaintiffs viz., Kalarilavalakoori Kistama Naidu and Ke.Kistama Naidu have approached the court for the relief of specific performance stating that the defendants 1 to 3 have offered to sell the suit property and entered into a sale agreement for a sum of Rs.27,000/- and he paid an amount of Rs.5000/- as advance on 11.06.1985. But, later they refused to execute the sale deed and they colluded with 4th defendant and executed an



agreement in his favour. Hence, they came forward with the suit. But, the 4th defendant contested the suit stating that already he entered into a sale agreement on 10.09.1984 with one Aachchammal and her daughters/defendants 1 to 3 for a sum of Rs.26,000/- and paid advance of Rs.20,000/-. Thereafter, the sale deed was executed on 23.05.1985. However, it is a settled proposition, the original plaintiffs are bound to prove that as the bonafide purchasers, they have entered into a sale agreement with the defendants 1 to 3.

12. Furthermore, the first appellate judge observed in its judgment that this court in S.A.No.135 of 2007, on appeal preferred by the plaintiffs against the concurrent finding of the courts below, directed the first appellate court to examine defendants 2 and 3 by an order of remand and thereafter, summons was issued to defendants 2 and 3 viz., Pushpa and Rajeswariammal. Unfortunately, the said Rajeswariammal was died. Hence, the trial court had examined 2nd defendant viz., Pushpa as C.W.1, who is one of owners of suit properties and in her evidence, she had disclosed that they have entered into agreement with one Govindan and on the date of agreement, they have received a sum of Rs.20,000/-. Thereafter, the original plaintiffs came to her house and insisted her mother to sell the property for themselves, for which her mother refused. Even then, they have pacified her mother that they would settle the issue with Govindan/4th defendant and compelled her to execute the sale agreement in their favour. Therefore, the sale agreement Ex.A1 came into force. So, the entire



evidence of C.W.1 clearly reveals that Ex.A1 relied on by the plaintiffs was not given with pre-consent and it was under the coercion and inducement made by the plaintiffs, thereby the said agreement came into force.

13. Furthermore, the evidence of C.W.1 also reveals that they have informed about the Ex.B1 agreement to the original plaintiffs, inspite of that, they have compelled her mother to give one more sale agreement in their name. Therefore, on the date of alleged agreement Ex.A1, the plaintiffs were already having knowledge about the agreement Ex.B1 with Govindan/4th defendant. However, the arguments advanced on the side of appellants is that based upon the expert opinion, the signature of defendants 1 to 3 was proved and therefore, the agreement Ex.A1 is valid one. But, as discussed above, the said agreement was obtained from the 1st defendant by force and the same is clearly revealed from the evidence of C.W.1. Further, the plaintiffs already had knowledge about the agreement with the 4th defendant. Therefore, the plaintiffs have not approached the court with clean hands and the same was rightly concluded by the first appellate court by analysing the evidence of witnesses in paragraphs 19, 20, 21, 22 and 25 and elaborately discussed the evidence in paragraphs 27, 28, 30 and 32. Therefore, the first appellate court has rightly concluded that the original plaintiffs failed to prove the first agreement Ex.A1 valid one. Hence, they are not entitled for the relief of specific performance and the same was rightly concluded by the first appellate court, which requires no interference.



After the order of remand of this court, the first appellate court has rightly arrived at the conclusion, which requires no interference. Since it is proved that Ex.B1 is true and valid one, the purchase made by 4th defendant is the bonafide purchase and to that effect, the findings rendered by the courts below is well-reasoned one, which requires no interference. Accordingly, the questions of law (1) and (3) are answered.

15. The evidence of plaintiffs as well as the evidence of C.W.1 clearly proves that Ex.A1 agreement came into force under coercion and the compulsion made by the plaintiffs to the defendants 1 to 3. Besides the plaintiffs were also aware of the agreement entered into between defendants 1 to 3 with the 4th defendant. Therefore, the original plaintiffs have not approached the court with clean hands. Hence, the trial court has rightly rejected Ex.A1, which requires no interference. Furthermore, to avail equitable remedy, the plaintiffs have to approach the court with clean hands. Accordingly, the question of law (2) is answered.

16. In the result, the findings rendered by the courts below requires no interference and the findings rendered in A.S.No.21 of 2002 on the file of Subordinate Judge, Tiruvallur arising out of findings rendered in the suit in



O.S.No. 217 of 1996 on the file of District Munsif, Tiruvallur is confirmed.

Accordingly, this Second Appeal is dismissed. No costs. Consequently,
connected Civil Miscellaneous Petition is closed.

18-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

1. The Sub-Judge, Tiruvallur.
2. The District Munsif, Thiruvallur.
3. The Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

RPP

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