



WEB COPY

SA No. 88 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2026

CORAM

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

SA No. 88 of 2026

and CMP.No.2614 of 2026

Manimegalai

..Appellant(s)

Vs

Sendhil

..Respondent(s)

To set aside the Judgement and Decree dated 05/08/2025 made in A.S.No.3 of 2023 on the file of Learned Principal District Judge, Ariyalur in modifying / reversing the Judgement and Decree dated 31.10.2022 made in OS.No.3 of 2018 on the file of Learned Principal Sub Judge, Jayankondam, and consequently allow the Suit

For Appellant(s): Mr.K.Gopi

JUDGMENT

This second appeal has been filed to set aside the judgement and decree dated 05/08/2025 made in A.S.No.3 of 2023 on the file of Learned Principal District Judge, Ariyalur in modifying / reversing the Judgement and Decree



dated 31.10.2022 made in OS.No.3 of 2018 on the file of Learned Principal Sub Judge, Jayankondam, and consequently allow the Suit.

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2. It is the case of the appellant/plaintiff that she filed a suit for specific performance before the Trial Court based on a sale agreement dated 05.05.2013, wherein it was agreed that she would purchase the property for a sum of Rs.1,50,000/-. A sum of Rs.1,00,000/- was paid as advance and a period of two years was fixed for payment of the balance amount of Rs.50,000/-. At the end of the stipulated period, the plaintiff issued a legal notice, to which no reply was received. Hence, the suit was filed.

3. In the written statement, respondent/defendant contended that the plaintiff is a moneylender and that he borrowed a loan of Rs.50,000/- from her. As security for the said loan, the sale agreement was executed at the insistence of the plaintiff and interest for the loan was fixed at Rs.3/- per Rs.100/- and he paid the interest. It is further stated that a house was constructed on the suit property in the year 2007 itself and that he has been residing therein. He expressed his readiness to repay the loan amount and prayed for dismissal of the suit.

4. Before the Trial Court, both parties adduced oral and documentary evidence and issues were framed. The learned Trial Judge decreed the suit,



holding that the plaintiff had proved her case and the defendant failed to establish that he had constructed the house with due permission.

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5. Challenging the judgment and decree passed by the Trial Court, the defendant has preferred an appeal. Upon hearing both sides, the First Appellate Court allowed the appeal, holding that the plaintiff had failed to prove her readiness and willingness to perform her part of the contract and had also not deposited the balance sale consideration. Aggrieved by the same, the present Second Appeal has been filed.

6. The learned counsel for the appellant/plaintiff submitted that the defendant had executed a sale agreement in respect of the suit property, which fact was also admitted by the defendant. However, the First Appellate Court erroneously declined to grant the relief of specific performance, though the Trial Court had properly appreciated the evidence on record and decreed the suit. Therefore, the learned counsel prayed that the findings of the First Appellate Court be set aside.

7. By placing reliance on Section 92 of the Indian Evidence Act, the learned counsel for the appellant/plaintiff submitted that the recitals contained in the agreement itself speak the truth that there is no rebuttable evidence on the side of the defendant to disprove the same.



8. The relief of specific performance is discretionary in nature. To avail such relief, the plaintiff is bound to prove his readiness and willingness to perform his part of the contract, as mandated under Section 16(c) of the Specific Relief Act.

9. However, on a perusal of records, reveals that the legal notice was issued only at the fag end of the stipulated period, and no acceptable reason has been assigned for the delay. Further, the plaintiff did not deposit the balance sale consideration of Rs.50,000/- immediately. These circumstances clearly indicate that the plaintiff was not ready and willing to perform his part of the contract.

10. It is to be further noted that the defendant has established the existence of a house on the suit property. However, in the sale agreement, the property was described only as a vacant site, which itself shows that the plaintiff is not a bonafide purchaser. Though the house was constructed without prior permission, it is an admitted fact that a house exists on the suit property and that the defendant is residing therein. Despite the existence of the house, the appellant described the property as a vacant site. Hence, it is evident that the correct description of the property is not reflected in the sale agreement, which clearly indicates that the document was not intended to be a genuine agreement of sale but was executed only as a security for a sale transaction.



11. The above aspects were rightly considered and discussed by the First Appellate Judge, which requires no interference by this Court. No substantial question of law arises for consideration in this Second Appeal. Accordingly, the Second Appeal is dismissed as devoid of merits. The defendant is directed to return the amount of Rs.1,00,000/- (Rupees only lakh only) along with interest at the rate of 9% per annum within a period of three months from the date of receipt of a copy of this judgment. The findings of the First Appellate Court are confirmed. No costs. Consequently, connected miscellaneous petition is closed.

06-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

PVS

To

1. The Principal District Judge, Ariyalur
2. The Principal Sub Judge, Jayankondam



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T.V.THAMILSELVI, J.

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