



S.A.(MD).No.1033 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27.03.2026

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

S.A.(MD).No.1033 of 2009

1.S.M.Sivagnanam (died)
2.S.Porulselvi
3.S.Karthick
*(Appellants 2 and 3 brought on record as
LRs of deceased sole appellant vide Court
order dated 10.03.2016 made in M.P.(MD).
Nos.1 and 2 of 2014 in S.A.(MD).No.
1033 of 2009)*

...Appellant / Appellant / Plaintiff

Versus

Rajendran

... Respondent / Respondent /Defendant

PRAYER :- Second Appeal has been filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree dated 04.04.2007 passed in A.S.No.9 of 2007 on the file of the learned I Additional District Court, Tirunelveli, confirming the judgment and decree dated 31.08.2006 passed in O.S.No.43 of 2005 on the file of the learned Principal Subordinate Judge, Tenkasi and allow the appeal.



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For Appellants : Mr.M.P.Senthil

For Respondent : Mr.P.Pethu Rajesh

JUDGMENT

The appellant, who was the plaintiff in O.S. No. 43 of 2005 on the file of the Principal Subordinate Judge, Tenkasi, has preferred the present Second Appeal.

2. The suit was instituted for specific performance based on a sale agreement dated 01.04.2003. According to the plaintiff, the defendant agreed to sell the suit property for a total consideration of Rs.1,55,000/-, out of which a sum of Rs.1,50,000/- was paid as advance. A period of six months was stipulated for payment of the balance amount of Rs.5,000/-. It is the further case of the plaintiff that, upon the defendant's failure to execute the sale deed, a legal notice dated 07.03.2005 was issued, followed by the filing of the suit on 24.03.2005 seeking specific performance, and in the alternative, refund of the advance amount.

3. The defendant, resisting the suit, denied the execution of the sale agreement in *toto*. It was contended that there was only a monetary



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transaction between the parties and that certain blank signed papers had been handed over in that connection, which were subsequently misused and fabricated into the alleged sale agreement. The defendant also specifically denied receipt of the advance amount.

4. The trial court framed the necessary issues. The plaintiff examined himself as P.W.1 and one attesting witness as P.W.2, and marked three documents. On the side of the defendant, D.W.1 was examined and no documentary evidence was adduced.

5. Upon consideration, the trial court recorded a categorical finding that the suit sale agreement was a forged document and that the plaintiff had failed to establish both execution of the agreement and passing of consideration. Consequently, the suit was dismissed. Aggrieved by the same, the plaintiff preferred A.S. No. 9 of 2007 before the I Additional District Court, Tirunelveli, along with I.A. No. 56 of 2007 seeking reception of additional evidence. The First Appellate Court, on a re-appreciation of the entire evidence, dismissed the application for additional evidence and concurred with the findings of



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the trial court. It was held that the sale agreement was fabricated and that the plaintiff had not approached the court with clean hands. Accordingly, the appeal was dismissed. Challenging the concurrent findings, the present Second Appeal has been admitted on the following question of law:

“Whether the Courts below erred in holding that the Ex.A1, the agreement sale was not intended to be acted upon as stated by the defendants / respondents?”

6.Submissions:

6.1. The learned counsel for the appellant contended that both courts below erred in disbelieving the plaintiff's case despite the oral evidence of P.W.1 and P.W.2 supporting the execution of the sale agreement. It was argued that in the absence of any documentary evidence on the side of the defendant to substantiate the alleged loan transaction, the courts below ought to have accepted the plaintiff's case. It was further submitted that minor discrepancies or suspicions in the document cannot, by themselves, be a ground to reject an otherwise proved agreement.



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6.2. *Per contra*, the learned counsel for the respondent submitted that both courts, upon proper appreciation of the evidence, have concurrently found that the document in question is a forged one. It was further contended that the very appearance and contents of the sale agreement, particularly the second page, disclose material alterations and fabrication. In the absence of satisfactory proof of execution and consideration, the dismissal of the suit was justified.

7.This Court has carefully considered the rival submissions and perused the entire materials available on record, including the judgments of the courts below.

8. Consideration by this Court:

8.1. Both the trial court and the First Appellate Court have concurrently held, on appreciation of evidence, that the suit sale agreement is a fabricated and forged document. On independent perusal of Ex.A1, this Court finds no reason to take a different view. The document, on its face, raises serious suspicion as to its genuineness. Further, the courts below have disbelieved the testimony of P.W.2 and



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found that the plaintiff has failed to prove due execution of the agreement as well as passing of consideration. Except for oral evidence, no convincing material has been placed to substantiate the payment of a substantial advance amount.

8.2. It is well settled that in a Second Appeal under Section 100 of the Code of Civil Procedure, interference with concurrent findings of fact is permissible only when such findings are perverse or based on no evidence. In the present case, the findings recorded by both courts below are based on proper appreciation of evidence and do not suffer from any perversity or legal infirmity.

9. Conclusion:

In view of the concurrent findings rendered by the courts below and in the absence of any substantial question of law warranting interference, this Court finds no merit in the Second Appeal. Accordingly, the Second Appeal is dismissed. There shall be no order as to costs.

27.03.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- 1.The I Additional District Court,
Tirunelveli.
- 2.The Principal Subordinate Judge,
Tenkasi.



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K.K.RAMAKRISHNAN,J.

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Judgment
in
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