



S.A(MD)No.04 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.02.2026

Delivered on : 12.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

S.A.(MD).No.04 of 2026

and

C.M.P.(MD)No.19 of 2026

K.Dhanaraveendhiran

: Appellant

/Vs./

1.Kavitha

2.Sathya

3.Revathy

4.K.A.Kamalaveni

5.Meeradevi

6.V.Veluram

: Respondents

PRAYER: Second Appeal filed under Section 100 of the Civil Procedure Code, to set aside the judgment and decree, dated 13.08.2025 made in A.S.No.94 of 2023 on the file of the Additional District Court, (Fast Tract Court) Palani, confirming the judgment and decree, dated 19.07.2023 made in O.S.No.519 of 2014 on the file of the Principal Sub Court, Palani.



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For Appellant : Mr.K.Muthu Ganesa Pandian

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JUDGMENT

The Second appeal is directed against the judgment and decree, dated 13.08.2025 made in A.S.No.94 of 2023 on the file of the Additional District Court, (Fast Tract Court) Palani, confirming the judgment and decree, dated 19.07.2023 made in O.S.No.519 of 2014 on the file of the Principal Sub Court, Palani.

2. The appellant is the plaintiff. He filed a suit in O.S.No.519 of 2014, on the file of the Principal Sub Court, Palani, claiming the relief of specific performance of the sale agreement, dated 02.01.2009 and in alternative, for refund of the advance amount of Rs.7,97,000/- with interest at 12 % p.a., and costs.

3.The defendants 3 to 6 filed their written statement and contested the suit. The learned Principal Sub Judge, Palani, after framing necessary issues and after full trial, passed a judgment and decree, dated 19.07.2023, dismissing the suit for the relief of specific performance and granted the alternative relief for refund of the advance amount, directing the defendants to pay jointly or severally the



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advance amount of Rs.7,97,000/- with interest at the rate of 9% p.a from the date of suit sale agreement till the date of decree and thereafter, at the rate of 6% p.a till the date of realization and costs within a period of two months. Aggrieved by the said judgment and decree of the trial Court, refusing to grant the specific performance relief, the plaintiff filed an appeal in A.S.No.94 of 2023 and the learned Additional District Judge, Palani, upon considering the materials available on record and on hearing the arguments of both the sides, passed the impugned judgment, dated 13.08.2025, dismissing the appeal and thereby confirming the judgment and decree of the trial Court. Challenging the dismissal of the appeal, the plaintiff has filed the present second appeal.

4. At the outset, it is necessary to refer the mandate of Hon'ble Supreme Court for High Courts in deciding the second appeal under Section 100 of the Civil Procedure Code, given in the case of ***Gurnam Singh (dead) by LRs., and others Vs. Lehna Singh (dead) by LRs.***, reported in ***AIR 2019 SC 1441***, that the jurisdiction of the High Court in an appeal under Section 100 of the Code of Civil Procedure is strictly confined to the case involving substantial question of law and the relevant passage is extracted hereunder:

“18. Before parting with the present judgment, we remind the High Courts that the jurisdiction of the High Court, in an appeal



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under Section 100 of the CPC, is strictly confined to the case involving substantial question of law and while deciding the second appeal under Section 100 of the CPC, it is not permissible for the High Court to re-appreciate the evidence on record and interfere with the findings recorded by the Courts below and/or the First Appellate Court and if the First Appellate Court has exercised its discretion in a judicial manner, its decision cannot be recorded as suffering from an error either of law or of procedure requiring interference in Second Appeal. We have noticed and even as repeatedly observed by this Court and even in the case of Narayanan Rajendran v. Lekshmy Sarojini, (2009) 5 SCC 264, despite the catena of decisions of this Court and even the mandate under Section 100 of the CPC, the High Courts under Section 100 CPC are disturbing the concurrent findings of facts and/or even the findings recorded by the First Appellate Court, either without formulating the substantial question of law or on framing erroneous substantial question of law.”

5. The Hon'ble Supreme Court in the case of ***Chandrabhan Vs. Saraswati and others*** reported in ***2022 SCC OnLine SC 1273*** has specifically held that right of appeal is not automatic and right of appeal is conferred by statute and when statute confers a limited right of appeal restricted only to cases which involve substantial questions of law, it is not open to the High Court to sit in appeal over the factual findings arrived at by the First Appellate Court and the Hon'ble



Supreme Court summarized the principles relating to Section 100 C.P.C., which are as follows;

“(i) An inference of fact from the recitals or contents of a document is a question of fact. But the legal effect of the terms of a document is a question of law. Construction of a document involving the application of any principle of law, is also a question of law. Therefore, when there is misconstruction of a document or wrong application of a principle of law in construing a document, it gives rise to a question of law.

(ii) The High Court should be satisfied that the case involves a substantial question of law, and not a mere question of law. A question of law having a material bearing on the decision of the case (that is, a question, answer to which affects the rights of parties to the suit) will be a substantial question of law, if it is not covered by any specific provisions of law or settled legal principle emerging from binding precedents and involves a debatable legal issue. A substantial question of law will also arise in a contrary situation, where the legal position is clear, either on account of express provisions of law or binding precedents, but the court below has decided the matter, either ignoring or acting contrary to such legal principle. In the second type of cases, the substantial question of law arises not because the law is still debatable, but because the decision rendered on a material question, violates the settled position of law.



(iii) The general rule is that the High Court will not interfere with findings of facts arrived at by the courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to "decision based on no evidence", it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding."

6. Bearing the settled legal position in mind, let us proceed with the present case.

7. The case of the plaintiff is as follows :

a) The suit property originally belonged to one K.S.Arumugam, husband of the defendants 1 and 5 and father of the defendant 2, 3, 4 and 6, as he purchased the same vide sale deed, dated 22.08.1990. After the death of the said Arumugam, the defendants 1 to 6 and one Karthikeyan another son of Arumugam, became entitled to the suit property as his legal heirs.

b) The defendants 1 to 6 and the said Karthikeyan executed a general power of attorney deed, dated 25.10.2004, in favour of the seventh defendant and



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on that basis, he had been managing the suit property; that the seventh defendant as power agent, entered into a sale agreement, dated 02.01.2009 with the plaintiff, agreed to sell the suit property fixing the sale price at Rs.7,99,000/-.

c) The plaintiff paid the advance amount of Rs.7,95,000/- and three years period was fixed as performance period. Though the plaintiff was always ready and willing to pay the balance sale price and get the sale deed executed, the defendants and the said Karthikeyan delayed the matter without measuring the property and without handing over the original documents with legal opinion.

d) Since the time limit fixed in the agreement was going to expire, the plaintiff paid a sum of Rs.2,000/- out of the balance sale price to the seventh defendant, who in turn executed a registered time extension agreement, dated 30.12.2011, extending the agreement period for another three years till 29.12.2014.

e) The said Karthikeyan died without marriage leaving behind his mother 5th defendant as his sole legal heir. The plaintiff demanded the defendants to receive the balance sale price and to execute the sale deed, but they informed that they could not execute the sale deed as the value of the property was more. Since



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the defendants attempted to defraud the advance amount, the plaintiff sent a legal notice, dated 23.06.2014 to the seventh defendant and the seventh defendant having received the legal notice, neither sent any reply nor complied with the notice demand. Hence, the plaintiff was constrained to file the above suit.

8. a) The defence of the defendants is that after execution of the general power of attorney, the seventh defendant informed them only few transactions. Since the seventh defendant is their relative and well wisher, he was aware of the death of the said Karthikeyan. The other defendants asked the seventh defendant not to make any alienation or encumbrance in respect of their properties. The defendants were under the impression that the power of attorney deed will be automatically cancelled after the death of the said Karthikeyan. The defendants were not aware of the sale agreement executed by the seventh defendant in favour of the plaintiff on 12.01.2009 and the alleged execution of extension agreement.

b) The very fact that three years time was fixed for payment of Rs.4,000/-, will go to show that there was no intention on the part of the plaintiff to purchase the property. The plaintiff has to prove that he informed the defendants in writing that he is always ready and willing to perform his part of the contract by paying the balance sale price. But he did not take any steps. The encumbrance made by



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the seventh defendant as power agent after the death of the said Karthikeyan is binding upon the defendants. The plaintiff never asked the defendants to execute the sale deed. The sale price stated in the sale agreement is lower than the guideline value. Hence, the plaintiff is not entitled to get the any of the reliefs claimed and the suit is liable to be dismissed.

9. The learned trial Judge has given a finding that Ex.A.2 sale agreement was executed by the seventh defendant as the power agent of the defendants 1 to 6 only as a security for the loan amount and was not executed with an intention to sell the properties and that the defendants have established that the entire transactions are only loan transactions.

10. The trial Court, by also holding that the plaintiff has not proved that he is always ready and willing to perform his part of the contract, has come to the conclusion that the plaintiff is not entitled to get the relief of specific performance, but granted the alternative relief for refund of advance amount. But the learned first appellate Court Judge, considering the pleadings and the evidence available on record, has observed that the defendants have not taken any defence that the sale agreement was executed only as security for the loan transaction and hence, the finding of the trial Court in this regard cannot be



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sustained and that the plaintiff has proved that the sale agreement under Ex.A.2 and the extension agreement Ex.A3 were executed by the seventh defendant with intention to sell the suit property.

11. It is settled law that any amount of evidence without pleadings and any amount of pleadings without evidence are of no use. As rightly observed by the learned appellate Judge, since the defendants have not pleaded that the sale agreement was executed by the seventh defendant as power agent of defendants 1 and 2 as security for the loan transaction and that the entire transactions are loan transaction, the finding of the learned trial Judge cannot be sustained and the decision of the appellate Court in setting aside the said finding, cannot be faulted.

12. As per Section 16(c) of the Specific Relief Act, the plaintiff is required to plead and prove that he has always been ready and willing to perform his part of the contract throughout the relevant period. In the present case, as already pointed out, the sale agreement was entered into on 02.01.2009, fixing a period of three years for performance of the contract. However, according to the plaintiff, since the defendants had delayed the matter by not measuring the property and by not handing over the original title deeds along with the legal opinion, he paid a sum of Rs.2,000/- out of the balance sale consideration of Rs.4,000/- to the



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seventh defendant and, consequently, the seventh defendant executed a time extension agreement dated 30.12.2011 under Ex.A.3.

13. It is not the case of the plaintiff that he had issued any legal notice calling upon the defendants or their power agent to take necessary steps for measuring the property and to hand over the original title deeds along with the legal opinion and that the same was not complied with.

14. As rightly observed by the learned Additional District Judge, Palani, when P.W.1 was cross-examined as to the reason for fixing a period of three years for payment of the balance sale consideration of Rs.4,000/-, he deposed that the registration expenses would be higher. The learned appellate Judge, on an appreciation of the evidence available on record, has rightly observed that the plaintiff has not assigned any acceptable reason for fixing such a long period of three years and for further extending the agreement for another three years. Therefore, the plaintiff has miserably failed to establish that he was ready and willing to perform his part of the contract throughout the relevant period. The Courts below have thus rightly concluded that the plaintiff is not entitled to the relief of specific performance; however, he is entitled to the refund of the advance amount.



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15. The appellant has not shown that the material evidence available in the case had been ignored by the first appellate Court or that there was no evidence at all. The appellant has also not shown any wrong inference had been drawn by the first appellate Court from the proved facts by applying the law erroneously. The appellant has also not canvassed any stand that the Courts below have wrongly placed the burden of proof.

16. It is pertinent to note that the first appellate Court, on appreciating and re-appreciating the evidence available on record, has come to a definite decision that the plaintiff is not entitled to get the relief of specific performance, confirming the decision of the trial Court.

17. Considering the judgments of the Courts below, this Court is of the clear view that no question of law much less Substantial Question of Law is made out. It is not open to this Court to sit in appeal over the factual findings arrived at by the first appellate Court. Hence, this Court concludes that since no substantial question of law is made out in the second appeal, the same is liable to be dismissed.



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18. In the result, the Second Appeal is dismissed, confirming the concurrent judgments of the trial Court made in O.S.No.519 of 2014 on the file of the Principal Sub Court, Palani and in A.S.No.94 of 2023 on the file of the Additional District Court, (Fast Track Court) Palani. Consequently, connected Miscellaneous Petition is closed. No costs.

12.02.2026

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
das

To:

- 1.The Additional District Court, (Fast Tract Court) Palani.
- 2.The Principal Sub Court, Palani.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

DAS

Pre-delivery Judgment made in
S.A.(MD).No.04 of 2026
and
C.M.P.(MD)No.19 of 2026

Dated: 12.02.2026