

**IN THE COURT OF THE SUBORDINATE JUDGE OF VATAKARA.**

Present: Sri. Joji Thomas, Sub Judge.  
Friday, the 31<sup>st</sup> day of January, 2025.

**ORIGINAL SUIT No.70/2022**

**Between:**

Shereef.B, S/o Aboobacker, aged 41 years, Badakkan House, Poochakkad Post, Keekkan Village, Hosdurg Taluk, Pin-671 316, Kasaragod District.	}	Plaintiff
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**And:**

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| 1) Muhammed Suhail,<br>S/o. Muhammed Ali, Aged 43 years,<br>Fidouse House, Manjakkal Desom,<br>Mahe Commune, Mahe Post-673 316<br>Puducheri State.   | } | Defendants. |
| 2) Thasneem.M,<br>W/o Muhammed Shail, aged 41 years<br>Both are r/at Al-Noor Manzil,<br>Azhiyoor Post & Village,<br>Palli- Amabalam road, Vadakara Taluk,<br>Kozhikkod District - 673 309. |   |             |

This suit coming on the 24<sup>th</sup> day of January, 2025 for final hearing before me in the presence of Sri.C. Shukkur and Sri. M.T. Afnas, Advocates for plaintiff and of Sri. V.R. Nasar and Smt. Megha.K.R, Advocates for Defendants and having stood over to this day for consideration, the Court delivered the following:

**J U D G M E N T**

Suit for specific performance of agreement.

2. The plaint averments, in brief, are as follows:- The plaint schedule property having an extent of 13½ cent including residential house in R.S No.62/8 in Azhiyur Village of Vadakara Taluk of Kozhikkod District was originally obtained by one C.V Arif vide Sale Deed No.162 of 2009 and No.131 of 2007 of SRO Azhiyur. Thereafter, it was sold to the first and second defendants vide Sale Deed No.1364 of 2013 dated 31-08-2013 of SRO Azhiyur. The first and second defendants agreed to sell the property to the plaintiff for a total consideration amount of Rs 25,00,000/-(Rupees Twenty Five lakhs only) and executed registered sale agreement No.1297/2021 dated 05/10/2021 of SRO Azhiyur after receiving an advance of Rs.5,00,000/-. It was also agreed register the sale deed within a period of 3 months from the date of the agreement. On the day of registration of the agreement, the defendants handed over the possession of the plaint schedule property to the plaintiff. After getting possession of the plaint schedule property, both the plaintiff and defendant are residing in the house situated in the plaint schedule property. At the end of three months, first and second defendants told that they have personal inconvenience to register the sale deed at once and they requested 3 months' time to register the sale deed. Therefore, three months' time was given to them to execute and register the sale deed. At the same time, the plaintiff was always ready and willing to meet the registration expenses to execute and register the sale deed. The plaintiff then

realized that the plaint schedule property was mortgaged in a Bank. The plaintiff expressed his willingness to clear the loan amount and take the documents from the Bank. However, even after the due date, the defendants failed to perform their part of the contract to execute the sale deed in the name of the plaintiff. As per the direction of the defendants, the plaintiff purchased stamp paper for Rs. 2,00,000/- (Rupees Two Lakhs only) and prepared sale deed on 28/04/2022. But defendants never turned up to perform their part of contract. Thereafter the plaintiff caused to send a lawyers notice dated 10/10/2022 to the defendants and expressed his willingness to perform his part of the contract as per the terms of the registered agreement but the same was returned to the plaintiff as unclaimed. Hence, this suit for specific performance of the contract.

3. The defendant appeared before the Court through counsel and filed written statement contending that agreement for sale was executed under coercion.

4. After framing issues, this case was listed for trial. The plaintiff was present and offered himself for cross examination. However, the counsel for the defendant was not ready. The plaintiff was then examined as P.W.1 and Ext.A1 to Ext.A7 and A7 (a) are marked.

5. Heard the learned Counsel for the plaintiff.

6. The following points arose for consideration and decision:-

- (i) Is the plaintiff entitled for specific performance of Ext.A1 agreement for sale?
- (ii) Reliefs and costs?

7. **Point No. (i):-** The plaintiff has filed affidavit in lieu of examination in chief incorporating the plaint averments. Ext.A1 to Ext.A7,A7 (a) are marked. Ext.A1 is the original of registered sale agreement No.1297 of 2021. Ext.A2 is the original of Sale Deed No.162 of 2009 of SRO Azhiyur, dated 27.01.2009. Ext.A3 is the copy of Sale Deed No.1364 of 2013 of SRO Azhiyur. Ext.A4 is the building tax receipt in the name of defendants. Ext.A5 is the copy of lawyer notice dated 10.10.2022. Ext.A6 is the postal receipt. Ext.A7 is the returned notice with acknowledgment card. The unchallenged testimony of PW1 by way of affidavit in lieu of examination in chief coupled with Ext.A1 to Ext.A7 would prove the plaint claim. Hence, suit is to be decreed. Accordingly, this point is found in favour of the plaintiff.

8. **Point No. (ii):-** In the light of finding in point No.1, defendants are directed to execute and register sale deed with respect to plaint schedule property in favour of the plaintiff within two months from the date of this decree, in the event of plaintiff depositing balance sale consideration within one month from date of this decree. There is nothing on record to deviate from the normal rule and hence the costs shall follow the event. This point is found accordingly.

**In the result,** the suit is decreed with costs. The defendants shall execute and register sale deed with respect to plaint schedule property in favour of the plaintiff within two months from the date of this decree in the event of plaintiff depositing balance sale consideration within one month from date of this decree.

(Dictated to C.A, typed by her in Office computer, corrected and pronounced by me in Open Court, on this the 31<sup>st</sup> day of January, 2025)

Sd/-

SUB-JUDGE,  
VATAKARA.

**Plaintiff's Witnesses:**

PW1. 23/01/2025 : Shareef.B, S/o Aboobacker. B.

**Plaintiff's Exhibits:**

- A1. 05/10/2021 : Sale agreement No. 1297/2021 of SRO, Azhiyur.  
A2. 27/01/2009 : Sale deed No. 162/2009 of SRO, Azhiyur.  
A3. 31/08/2013 : Copy of sale deed No. 1364/2013 of SRO, Azhiyur  
A4. 02/08/2021 : Basic Tax Receipt.  
A5. 10/10/2022 : Copy of Lawyer notice.  
A6. 10/10/2022 : Postal receipt.  
A7. - : Returned cover with Postal Acknowledgment card.  
A7(a). - : Returned cover with Postal Acknowledgment card.

**Defendants' Witness and Exhibits :** NIL

Sd/-  
SUB-JUDGE,  
VATAKARA.

Fair/Copy of Judgment in OS.70/2022  
Dated: 31/01/2025