

## IN THE COURT OF THE SUBORDINATE JUDGE, IRINJALAKUDA

Present:- Rema R K, Principal Sub Judge

Saturday, the 28<sup>th</sup> day of March, 2026/7<sup>th</sup> Chaithram, 1948 SE**OS 31/2019****PLAINTIFFS**

1	Jayaraman, aged 66, S/o Gopinadhamenon, Flat No.406, Olive Nest, Appartments, BDA Ring Road, 6 <sup>th</sup> Stage, Bangalore-560078
2	Jayanthi Jayaraman, aged 53, W/o Jayaraman, Flat No.406, Olive Nest, Appartments, BDA Ring Road, 6 <sup>th</sup> Stage, Bangalore-560078

By Adv. Laila Parengattil &amp; Adv. P R Joshy

**DEFENDANT**

Pradeep Kuzhuppilliparambil, aged 38, S/o Kuzhuppilliparambil Krishnankutty, Nayarangady desom, Kodassery Village, Mukundapuram Taluk-680721
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By Adv. K B Sunilkumar (Exparte at the time of Evidence)

This suit coming on this day for hearing before me the court on the same day delivered the following:-

**JUDGMENT**

Suit is for realization of money.

2. The plaint averments in brief are as follows: The defendant is the absolute owner in possession of the plaint schedule properties. The said properties originally belonged to Ammu @ Padmavathy Amma and

her husband, Sreedharan Nair, by virtue of Deed No. 01/08/1994 of Kallettumkara SRO. Upon the demise of Sreedharan Nair, his share devolved upon his legal heirs, namely Ammu @ Padmavathy Amma and their children, Sivadasan, Vijayakumar, Jayakumar, and Anithakumari. Subsequently, the aforesaid legal heirs entered into an agreement with the defendant on 14.08.2013 with respect to the sale of the plaint schedule properties. The defendant, thereafter, represented to the plaintiff that, by virtue of the said agreement, he had acquired full rights over the plaint schedule properties. Believing the representations made by the defendant, the plaintiff entered into an agreement for sale with the defendant on 08.11.2014 for the purchase of 3.88 ares of property forming part of the plaint schedule properties. The agreement was oral, and it was agreed that the sale consideration would be at the rate of ₹1,80,000/- per cent. On the same day, i.e., 08.11.2014, the plaintiff paid an amount of ₹1,00,000/- as token advance, which was transferred through the bank account of the plaintiff's son maintained with Kotak Mahindra Bank. Subsequently, on 01.12.2014, a further sum of ₹4,00,000/- was transferred to the account of the defendant through the same bank account. Thereafter, on 02.12.2014, the plaintiff and the defendant entered into an agreement for sale in respect of 3.88 Ares of

property, described as the plaint schedule property. At the time of execution of the said agreement, the plaintiff paid an amount of ₹5,00,000/- as advance sale consideration. The period stipulated for performance of the agreement was four months. Subsequently, on 16.02.2015, the defendant approached the plaintiff and requested an additional sum of ₹3,00,000/- for the purpose of preparing documents. Accordingly, the plaintiff paid ₹3,00,000/- through the bank account of his son maintained with Kotak Mahindra Bank. Thereafter, the defendant sought further time and proposed execution of a fresh agreement. Accordingly, a new agreement for sale was executed between the parties on 16.02.2015, acknowledging receipt of a total sum of ₹8,00,000/- as advance sale consideration. The period for performance under the said agreement was fixed as four months. However, the sale deed was not executed within the stipulated period, and the defendant again sought further time. Despite repeated demands by the plaintiff for execution of the sale deed, the defendant failed to perform his part of the contract. On 04.04.2016, the defendant demanded a further sum of ₹6,00,000/- towards advance sale consideration. The plaintiff accordingly paid ₹5,00,000/- on 04.04.2016 and ₹1,00,000/- on 07.04.2016 through the bank account of his son. Thus, in total, the

defendant received ₹14,00,000/- from the plaintiff as advance sale consideration. The plaintiff was always ready and willing to perform his part of the contract and complete the transaction. However, the defendant was not willing to execute the sale deed and continued to put forward untenable excuses, including that he had not obtained the plot sketch from the Village Office. Consequently, the plaintiff demanded return of the advance amount of ₹14,00,000/-. Thereafter, the defendant sought further time and requested that the amount be repaid in three instalments. He also issued a letter seeking six months' time for repayment. As the plaintiff was not willing to wait for such a prolonged period, the defendant, on 28.06.2018, issued two cheques drawn on the State Bank of India for ₹7,00,000/- each, with a request to present the same after 15.09.2018. The plaintiff presented the said cheques for collection; however, both were dishonoured for insufficiency of funds. The same was intimated to the defendant. Thereafter, on 10.10.2018, the defendant paid ₹1,50,000/- and issued further cheques, including one for ₹12,50,000/-, another for ₹4,50,000/-, and two cheques for ₹4,00,000/- each, all drawn on the State Bank of India, Irinjalakuda Branch. On 15.02.2019, when the plaintiff presented the said cheques for collection, all were dishonoured on the ground of "payment stopped by drawer."

Hence, the suit is filed for realization of ₹12,50,000/- with interest at the rate of 12% per annum and costs, by creating a charge over the plaint schedule property. Since the defendant received ₹5,00,000/- on 04.04.2016 and ₹1,00,000/- on 07.04.2016 towards the transaction, the claim is within the period of limitation.

3. The defendant filed a written statement denying all the averments in the plaint except those specifically admitted. The defendant admits that on 02.12.2014, an agreement for sale was entered into between the plaintiff and the defendant. However, it is contended that the defendant was always ready and willing to perform his part of the contract, whereas the plaintiff failed to perform his obligations and evaded the contract. Therefore, the contention of the plaintiff that he was ready and willing to perform his part of the contract is denied. The defendant further contends that the agreement for sale was not a registered document, and at the time of entering into the agreement, the plaintiff obtained six blank signed cheques, blank signed white papers, and blank signed stamp papers from the defendant as security. According to the defendant, since the plaintiff failed to perform his part of the contract within the stipulated time, the advance amount paid was lawfully forfeited. It is also specifically denied that the defendant executed any cheque on 28.06.2018 or on any other date in

favour of the plaintiff. The defendant alleges that the cheques produced by the plaintiff are fabricated. On the contrary, the defendant states that on 10.10.2018, he had advanced a sum of ₹1,50,000/- to the plaintiff as a loan, at the request of the plaintiff. The defendant further contends that the suit is barred by limitation and that the cause of action as stated in the plaint is incorrect and not maintainable. According to the defendant, since it was the plaintiff who committed breach of contract, the defendant is entitled to forfeit the advance amount, and the plaintiff is not entitled to recover any amount from the defendant.

4. Based upon the above facts, the following issues were settled for trial:

1. Did the defendant enter into an agreement for sale with the plaintiff on 02.12.2014?
2. Who has committed breach of contract?
3. Whether the plaintiff was ready and willing to perform his part of the contract?
4. Is the plaintiff entitled to realize return of advance amount from the defendant? If so, what is the quantum and rate of interest, if any ?
5. Relief and costs?

5. At the time of evidence, the defendant was absent and he had no representation. So he is ex parte.

6. On the side of the plaintiff, the plaintiff herself was examined as PW1. She filed an affidavit in lieu of examination-in-chief, reiterating the averments contained in the plaint. In support of her case, she produced Exhibits A1 and A2, being the agreements entered into between the plaintiff and the defendant; Exhibit A3, the letter issued by the defendant; Exhibit A4 series, cheque leaves; Exhibit A5 series, cheque return memos; Exhibit A6 series, cheque leaves; Exhibit A7 series, cheque return memos; and Exhibit A8, the extract of the account statement. The evidence adduced by the plaintiff remains unchallenged, as there was no cross-examination on the side of the defendant. Further, no rebuttal evidence has been adduced by the defendant. In such circumstances, the oral and documentary evidence adduced by the plaintiff can be safely relied upon. Hence, it is found that the plaintiff has succeeded in proving her case through her proof affidavit and the documents marked on her side, and she is entitled to a decree. Considering the facts and circumstances of the case, interest at the rate of 6% per annum from the date of suit till realisation is found to be reasonable. Since the plaintiff was constrained to institute the suit, she is also entitled to costs.

7. In the result, the suit is decreed as follows:

1. The defendant is directed to pay a sum of ₹18,14,000/- (Rupees eighteen lakh and fourteen thousand only) to the plaintiff, together with interest at the rate of 6% per annum from the date of suit till realisation.
2. The plaintiff is entitled to costs of the suit.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in the Open Court, this the 28<sup>th</sup> day of March, 2026).

Sd/-  
Rema R K  
Principal Sub Judge

APPENDIX

Plaintiff's Witness

PW1 - 23/3/2026 - Janyanthi

Plaintiff's Exhibits

A1	-	2/12/2014	-	Agreement
A2	-	16/2/2015	-	Agreement
A3	-	8/8/2018	-	Letter issued by defendant
A4series		28/6/2018	-	Cheque 2 in nos
A5series		20/9/2018	-	Cheque return memos 2 nos
A6series		8/2/2019	-	Cheque 3 nos
A7series		14/2/2019	-	Cheque return memos
A8	-		-	Account Statement

Id/-  
Principal Sub Judge

B/o

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