

TNDG010001292022



IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, DINDIGUL

Present: Thiru.V.Padmanabhan, M.A., M.L., D.H.,
Principal District Judge, Dindigul.

Wednesday, dated this the 5th day of August 2026

O.S.No. 29/2022

1. T. Francis Savuriyar
2. S.Edwin Prabakaran

..... Plaintiffs

-Vs-

A.Jesu Velankanni

..... Defendant

This suit coming on this 23.07.2026 day for hearing before me in the presence of Tvl. I. Edward Joseph Hiller and M. Sivakumar, Advocates for the plaintiffs and Tvl. K. Velumayil, P. Sivakumar, A.Sadam Hussian, Advocates for the defendant and upon hearing the arguments of both sides, perusing entire case records and having stood over for consideration till this date, this court delivered the following...

JUDGEMENT

The suit is filed for specific performance or alternative relief of return of Advance amount of Rs.10,00,000/- cost of the suit and any other relief.

2. **The avements in the Complaint in brief:**

(a) The defendant is the absolute owner of the suit property by virtue of Gift Settlement deed dated 21.12.2009 executed by the defendant's grandfather. The defendant in order to meet out his family expenses and to settle the mortgage loan obtained by him by depositing the original documents in the bank, he expressed his willingness to sell the suit property to the plaintiffs for a sale consideration of Rs.12,00,000/- The defendant received a sum of Rs.6,00,000/- as advance from the plaintiffs on 30.06.2021 in the presence of witnesses and executed an unregistered sale agreement and after settling the mortgage debt incurred in the above bank within a period of three months, he shall receive the remaining sale amount from the plaintiffs and execute the sale deed.

(b) Thereafter, the plaintiffs continued to ask the defendant to sell the suit property, and the defendant stated that he required additional sum of Rs.4,00,000/- to get the original documents from the said bank. On believing his words, the plaintiffs have paid the amount of Rs.4,00,000/- on 28.09.2021 in the presence of witnesses, and assured to pay the balance sale amount of Rs.2,00,000/- in cash within three month and entered in to the sale agreement on 28.09.2021. The

plaintiffs are ready and willing to pay the outstanding amount in cash and register the sale deed, but the defendant has not received the cash come forward for the same.

(c) The Defendant has been continuously delaying to get back the documents from the Bank. The plaintiffs have repeatedly requested the defendant both in person and through men to complete the execution of sale deed. Hence, the plaintiffs issued legal notice to the defendant on 29.12.2021 to perform his part of contract. The defendant had received the same but not executed the sale deed. Hence the suit.

3. The brief averment in the written statement of defendant :

The defendant denies all the allegations in the plaint. The defendant never agreed to sell the suit property to the plaintiff. The defendant borrowed a sum of Rs.1,00,000/-, Rs. 1,00,000/- and Rs.2,00,000/- from the plaintiffs on 26.06.2021, 20.08.2021 and 23.12.2021 respectively, for which they obtained his signatures in unfilled stamp papers. On february 2022, the defendant ready to return the borrowed amount, but the plaintiff refused to receive the same and with an intent to encroach the defendant's property, the plaintiffs created the unregistered sale agreement dated 30.06.2021 and

28.09.2021 and foisted this false case against this defendant. The value of the property is Rs.70,00,000/-. Only in order to grab the property of this defendant, the plaintiffs have created the sale agreement fraudulently. There is no cause of action for this suit. The description of property is not correct. Hence, the suit is liable to be dismissed with costs.

4. Based on above pleadings the following issues were framed on 12.07.2023 :

1. Whether the plaintiffs are entitled for the relief of specific performance as prayed for ?
2. Whether the plaintiffs are entitled for the alternative relief ?
3. To what relief the plaintiffs are entitled for ?

The following Additional Issues were framed on 23.07.2026:

1. Whether the defendant on 30.06.2021 agreed to sell the suit property to the plaintiffs for a sale consideration of Rs.12,00,000/- and received Rs.6,00,000/- as advance and executed suit sale agreement?
2. Whether the defendant on 28.09.2021 received Rs.4 lakhs from the plaintiffs and executed a sale agreement?
3. Whether the plaintiff was always ready and willing to perform his part of contract?

On the side of plaintiffs, they were examined as PW1 and PW2 respectively and ExA1 to A9 were marked. On the side of defendant, he was examined as DW1 and Ex.B1 to Ex.B9 were marked.

5. Issue No. 1, Additional Issue Nos. 1 and 2 :-

It is an admitted fact that the defendant is the absolute owner of the suit property.

As per plaint averments, the plaintiffs' case is that the defendant agreed to sell the suit property for Rs.12,00,000/- and after settling the mortgage loan in the Bank, the defendant has to execute sale deed within 3 months and in this regard on 30.06.2021, both parties entered into Ex. A3 sale agreement and on that date the defendant received Rs.6,00,000/- as advance amount. Further, according to plaintiffs, thereafter on 28.09.2021 the defendant received Rs.4,00,000/- as part of sale consideration and it was agreed by both the parties that the balance amount of Rs.2,00,000/- to be paid within 3 months and in this regard also on 28.09.2021 Ex.A4 sale agreement was executed. When the plaintiffs approached the defendant, he did not come forward to execute sale deed. Despite receipt of lawyer notice, the defendant had not executed the sale deed.

6. Resisting the plaintiffs' case, the defendant contended that there was no such sale agreement entered between him and the plaintiffs and he never agreed to sell the suit property to the plaintiffs. It was only a loan

transaction. In the month of June 2021, August 2021 and December 2021 he borrowed a sum of Rs.1,00,000/-, Rs. 1,00,000/- and Rs.2,00,000/- respectively, from the plaintiffs and at the time of borrowing the said loans, the plaintiffs obtained his signatures in unfilled stamp papers. The plaintiffs used the unfilled signed stamp papers and created Ex.A3 and Ex.A4 sale agreements.

7. Based on the above pleadings, this Court framed appropriate issues. In order to prove their case, both the plaintiffs examined themselves as PW1 and PW2. On the other side, defendant was examined as DW1. Now this Court has to appreciate the oral evidence along with documents exhibited on both sides. This Court can analyze the nature of transaction and intention of this parties by analysing the circumstances under which the suit sale agreement came to be executed.

8. In the light of plaint averments, both the plaintiffs in their proof affidavit have specifically stated that the defendant agreed to sell the suit property for them for a total sale consideration of Rs.12,00,000/- and on 30.06.2021 the defendant received Rs.6,00,000/- as advance and executed Ex.A3 sale agreement and it was agreed by both the parties after receiving the balance consideration, the defendant has to be executed sale deed within 3 months. Further, they have specifically deposed that on

28.09.2021 also, the defendant received Rs.4,00,000/- and in this regard executed Ex.A4 sale agreement and thereby totally paid Rs.10,00,000/- and the balance sale amount is Rs.2,00,000/- and they were always ready and willing to perform their part of contract. Thus, according to plaintiffs on 30.06.2021 they have given Rs.6,00,000/- and on 28.09.2021 Rs.4,00,000/- and Ex.A3 and Ex.A4 sale agreement were executed respectively. Infact the defendant specifically denied the Ex.A3 and Ex.A4 Sale agreements and receipt of advance amount as projected by the plaintiffs.

9. In the plaint it is specifically averred that, on 30.06.2021 by agreeing to sell the suit property for Rs.12,00,000/-, the defendant received the advance amount and executed the sale agreement. Further, on 28.09.2021 the defendant further received Rs.4,00,000/- and thereby totally received Rs.10,00,000/- and executed Ex.A4 document. A perusal of Ex.A3 sale agreement, it would reveals that on 22.06.2021 the defendant received Rs.6,00,000/- and on the date sale agreement namely 30.06.2021 he also received Rs.4,00,000/- and totally received Rs.10,00,000/- as advance and balance amount to be paid within 3 months. This version is quite contrary to the version stated in the plaint. Moreover, in Ex.A4 sale agreement recitals it is also specifically stated that on

22.06.2021, the plaintiffs paid Rs.6,00,000/-as advance and on that date execution of Ex.A4 agreement, i.e., 28.09.2021, further Rs.4,00,000/- was paid and thereby totally paid Rs.10,00,000/- and the balance sale consideration is only Rs.2,00,000/- and the same to be paid within 3 months. Thus, the recitals of the Ex. A3 and Ex.A4 are totally contrary to the version stated in the plaint as well as in the proof affidavits.

10. Indeed Pw1 and Pw2's evidence is not in harmonies with the plaint averments, recitals of sale agreements and notice issued by them. In other words, during cross examination, they have given contrary evidence in respect of date on which sale agreement said to have been entered, payment of advance amount and also balance amount of sale consideration. During cross examination, PW1 admitted the said contradiction as follows...

"...கிரைய ஒப்பந்தம் அசல் என்வசமும் அதன் நகல் பிரதிவாதி வசமும் கொடுக்கப்பட்டது என்றால் சரிதான். என்னிடம் காண்பிக்கப்படும் நகல் அதுதான். ஆனால் பின்பக்கத்தில் உள்ள மேற்குறிப்பு நகலில் காணப்படவில்லை. 2ம் வாதி எட்வின் பிரபாகரன் பெயரில் வாங்கப்பட்ட முத்திரைத்தாள் என்றால் சரிதான். ஆனால் அதை எட்வின் வாங்கவில்லை. தாவாச் சொத்தை ஞ.12 லட்சத்திற்கு கிரையம் பேசி 22.06.2021ம் தேதி முன்பணமாக ஞ.6 லட்சம்

கொடுத்தோம். அந்த பணத்தை பிரதிவாதி வங்கியில் செலுத்திவிட்டு மீண்டும் தொகை வேண்டும் என கேட்டதால் 30.06.2021ம் தேதி மறுபடியும் ரூ.4 லட்சம் கொடுத்தேன். 22.06.2021ம் தேதி ரூ.6 லட்சம் கொடுத்தேன் என்பதை காட்டுவதற்கு எவ்வித ஆவணமும் தாக்கல் செய்யவில்லை என்றால் சரிதான். வா.த.சா.ஆ.3 ஆவணத்தில் மேற்படி தேதியில் மேற்படி தொகை கொடுத்ததாக சொல்லப்பட்டுள்ளது. வாதசா.ஆ.3 30.06.2021ம் தேதியிட்ட ஆவணம் என்றால் சரிதான். மேற்படி ஆவணத்தில் கிரைய தொகை ரூ.12 லட்சம் எனவும் 22.06.2021ம் தேதி ரூ.6 லட்சம் கொடுத்ததாகவும் நாளது தேதி ரூ.4 லட்சம் கொடுத்ததாகவும் குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். வா.த.சா.ஆ.4 28.09.2021ம் தேதி போடப்பட்ட கிரைய ஒப்பந்தம் என்றால் சரிதான். வா.த.சா.ஆ.4ல் 22.06.2021ம் தேதி ரூ.6 லட்சமும் நாளது தேதி அதாவது 28.09.2021ம் தேதி ரூ.4 லட்சமும் ஆக மொத்தம் ரூ. 10 லட்சம் கொடுத்ததாக காட்டப்பட்டுள்ளது என்றால் சரிதான். வா.த.சா.ஆ.3 மற்றும் வா.த.சா.ஆ.4 ஆகிய ஆவணங்க-
களின்படி பார்த்தால் பிரதிவாதி வசம் ரூ.20 லட்சம் கொடுத்ததாக தெரியவருகிறது என்றால் ரூ.20 லட்சம் கொடுக்கவில்லை.....

....வா.த.சா.ஆ.3 மற்றும் 4 ஆவணங்களில் பக்கம் 3ல் 2, 3 வது நபர்களாக என் வசமும் என் மைத்துனர் வசமும்

சொத்தின் சுவாதீனம் ஒப்படைக்கவில்லை என குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான்....

...வா.த.சா.ஆ.3 மற்றும் 4 கிரைய ஒப்பந்தங்களில் சொல்லப்பட்டுள்ளவாறு நாங்கள் பாக்கி கிரைய தொகையை செலுத்தி பத்திர தாள்கள் வாங்கி பதிவிற்கு பத்திர அலுவலகத்தில் தயாராக இருந்தோம் என்பதை காட்டுவதற்கு ஆவணம் எதுவும் தாக்கல் செய்துள்ளோமா என்றால் இல்லை....

...02.10.2021ம் தேதி சொத்தின் சுவாதீனம் கொடுத்துள்ளதாக சொல்லப்பட்டு வருகின்ற நிலையில் தற்போது சொத்தின் சுவாதீனம் எங்கள் வசம் உள்ளது என்பதை காட்ட ஆவணம் உள்ளதா என்றால் இல்லை.....

... .. வா.த.சா.ஆ.3 மற்றும் 4 ஆவணங்களில் சாட்சிகள் என போடப்பட்டு 6 நபர்களிடம் கையெழுத்தை மட்டும் பெறப்பட்டுள்ளது என்றும் அவர்களது தகப்பனார் பெயர் மற்றும் முகவரி எழுதப்படவில்லை என்றால் சரிதான்...

.. வா.த.சா.ஆ.3 மற்றும் 4 ஆவணங்களை யார் தயாரித்துள்ளார்கள் என குறிப்பு இல்லை என்றால் சரிதான்...."

In the same way, the PW2 also given contrary evidence of material aspects as follows.

“...ஜூலை மாதம் 2021ம் வருடம் ரூ. 6 லட்சமும், செப்டம்பர் மாதம் ரூ.4 லட்சமும் கொடுத்தேன். மேற்படி

தொகையை நானும் 1ம் வாதியும் சேர்ந்து தான் கொடுத்தோம். வா.த.சா.ஆ.3 ஆவணத்தில் அட்வான்ஸ் தொகை ரூ.10 லட்சம் என குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். அதில் 3 வது பக்கத்தில் ஜூலை மாதம் ரூ.6 லட்சம் கொடுத்ததாக வாசகங்கள் இல்லை என்றால் சரிதான். 22.06.2021ம் தேதி ரூ.6 லட்சம் கொடுத்ததாகவும், நாளது தேதியில் அதாவது 30.06.2021ம் தேதி ரூ.4 லட்சம் கொடுத்ததாக வா.த.சா.ஆ.3ல் கண்டுள்ளது என்றால் சரிதான். வா.த.சா.ஆ.4 கிரைய ஒப்பந்தம் 28.09.2021ம் தேதி ஏற்பட்டது என்றால் சரிதான். வா.த.சா.ஆ.4 கிரைய அட்வான்ஸ் தொகை ரூ.10 லட்சம் என குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். வா.த.சா.ஆ.4ல் 22.06.2021ம் தேதி ரூ.6 லட்சமும் நாளது தேதியில் ரூ.4 லட்சமும் கொடுத்தாக கண்டுள்ளது என்றால் சரிதான். மேற்படி வா.த.சா.ஆ.3, 4 ஆவணங்களின் படி மொத்தம் ரூ.14 லட்சம் கொடுத்துள்ளோம் என்றால் சரியல்ல. ரூ.10 லட்சம் தான் கொடுத்துள்ளோம். 22.06.2021ம் தேதி ரூ.6 லட்சம் கொடுத்ததை காட்டுவதற்கான ஆவணம் எதுவும் தாக்கல் செய்யவில்லை என்றால் சரிதான்...

... வா.த.ஆ.3,4 ஆவணத்தை எழுதுவதற்கு பத்திரத்-
தாள்கள் சாணர்பட்டி சப்ரிஜிஸ்டார் அலுவலகத்தில்

வாங்கப்பட்டது. யார் பெயரில் வாங்கப்பட்டது என்றால்
எனக்கு தெரியவில்லை.....

.....வா.த.சா.ஆ.3, 4 ஆவணங்களில் சொல்லப்பட்டுள்ள
சொத்துவிபரமும் வேறுபடுகிறது என்றால் சரிதான்.
தாவாச்சொத்தின் சுவாதீன அனுபவத்தில் நாங்கள்
இல்லை என்றால் சரிதான். 02.10.2021ம் தேதி
சொத்தின் சுவாதீனத்தை பிரதிவாதி எங்கள் வசம்
ஒப்படைத்தாக சொன்னால் தவறு என்றால் எனக்கு
தெரியவில்லை...

... வா.த.சா.ஆ.3, 4 ஆவணங்களுக்கு வாசகங்கள் யார்
சொல்லி தயாரிக்கப்பட்டது என்றால் நாங்கள் சொல்லி
தயாரிக்கப்பட்டது...."

The said contradictions cannot be ignored as incidental. All the contrary evidence and admissions with reference to the date of sale agreement, execution of sale agreement, payment of advance amount, possession and part sale consideration are material in nature and it may not be taken as immaterial one. This contrary evidence regarding the said aspects of sale agreement goes to the root of the plaintiffs' case.

11. Infact, plaintiffs were not definite about the execution of sale agreement, payment of partial consideration, date of sale agreement and price of the property. That is why they could not give cogent evidence in this regard. The Pw2's evidence seems to be procured to construct Pw1's

evidence. Further, on perusal of ExA3 and Ex.A4, it reveals that so many persons signed as witnesses, but none of them were examined on plaintiffs' side. Interestingly, no details as to who prepared the sale agreements was stated in the documents. In this way, PW1 and PW2's evidence has not inspired confidence in the minds of this Court. All these contradictions and unusual things create considerable doubt about the genuineness of Ex.A3 and Ex.A4 sale agreements and the circumstances under which they came into existence and Issue No.1 and Additional Issue Nos.1 and 2 are answered accordingly.

12. In this way, the plaintiffs failed to prove the execution of Ex.A3 and Ex.A4 sale agreement and in such circumstances, this Court is not in a position to give much importance to the said documents. At the same time, the evidence of DW1 that on 20.06.2021, 20.08.2021, 23.12.2021 he borrowed a sum of Rs.1,00,000/-, Rs.1,00,000/-, Rs.2,00,000/- as loan from the plaintiffs and at the time of borrowing loan, they obtained his signatures in the unfilled stamp papers is quite natural and believable one. In other words his version is probable one.

13. Findings to Additional Issue No.3 :

In the plaint as well as in their evidence, the plaintiffs have stated that they were always ready and willing to perform their part of contract. As

already indicated, the execution of suit sale agreement was not proved by the plaintiffs. Further, even according to recitals of Ex.A3 and Ex.A4, it is not clear that on which date they paid the advance amount and on which date paid the remaining sale amount of Rs.4,00,000/-. Further, they did not produce any legally acceptable oral and documentary evidence to show that they were always ready and willing to perform their part of contract from the next date of execution of sale agreement. That be the case, their story of readiness and willingness is not believable one and this additional issue is answered accordingly.

14. Findings to Issue No.2 :

In Issue No.1 and Additional Issue Nos.1 and 2, this Court comes to the conclusion that Ex.A3 and Ex.A4 Sale agreements itself is unbelievable and the plaintiffs failed to prove the execution of agreements, and also receiving the advance amount of Rs.6,00,000/- on 30.06.2021 and Rs.4,00,000/- on 28.09.2021 by the defendant and it is held that the plaintiffs are not entitled for the alternative relief of refund of advance amount as prayed for. Thus the Issue No. 2 is answered accordingly.

15. Issue No.3:

In view of the findings given to the above Issues that the plaintiffs are not entitled to the relief of specific performance or alternative relief of refund

of advance amount of Rs.10,00,000/-. At the same time they are only entitled to get the loan amount borrowed by the defendant from the plaintiffs Rs.1,00,000/-, Rs.1,00,000/-, and Rs.2,00,000/- on 26.06.2021, 20.08.2021 and 23.12.2021 respectively as admitted by him with interest from the date of borrowing the loan with cost, and the plaintiffs are not entitled for any other relief and issue No.3 is answered accordingly.

In the result, this suit is dismissed in respect of specific performance relief and alternative relief and partly decreed directing the defendant to pay Rs.1,00,000/- , Rs.1,00,000/- and Rs.2,00,000/- (in total Rs.4,00,000) to the plaintiffs with interest at the rate of 12% p.a from the date of loans ie., 26.06.2021, 20.08.2021 and 23.12.2021 respectively to the date of plaint (07.01.2022) and at the rate of 9% p.a. from the date of plaint to the date of decree (05.08.2026) and thereafter at 6% p.a. till realization with proportionate cost.

Dictated to stenographer Gr.III, transcribed and typed by her in the computer, corrected and pronounced by me in Open Court on this the 5th day of August 2026.

**Principal District Judge,
Dindigul.**

Annexure :

List of witnesses on the side of plaintiff:

P.W.1 : T. Francis Savuriyar

PW.2 : Edwin Prabakaran

List of documents on the side of plaintiff:

Ex.A.1	21.12.2009	Gift Settlement Document dated 21.12.2009, given to the defendant by the defendant's grandfather Anthony(Copy)
Ex.A.2	..	Patta in the name of the defendant (Online download Copy)
Ex.A.3	30.06.2021	Unregistered Sale agreement deed (Original).
Ex.A.4	28.09.2021	Unregistered Sale agreement deed (Original).
Ex.A.5	27.12.2021	Legal notice sent by the counsel for plaintiffs to the defendant (office copy).
Ex.A.6	29.12.2021	Acknowledgment card (Original)
Ex.A.7	26.02.2022	Reply notice (Original)
Ex.A.8	..	Photo (copy) (With objection)
Ex.A.9 series	..	Photos.

List of witness on the side of Defendant :

D.W.1 : Sesu Velankanni (defendant)

List of documents on the side of Defendant :

Ex.B.1	21.12.2009	Gift settlement deed executed by Anthony in favour of Sesu Velankanni. (Downloaded copy)
Ex.B.2	27.01.2025	Receipt for the complaint by Shanarpatti P.S. (Copy)
Ex.B.3	25.11.2024	Patta in the name of Sesu Velankanni. (Computerized copy)

Ex.B.4	--	Adangal extract (True copy)
Ex.B.5 series	--	Property tax receipts in the name of Sesu Velankanni. (Original) (3 nos)
Ex.B.6 Series	--	Photos relating to the suit property (Photos 20 nos., Cds-2 nos.)
Ex.B.7	27.12.2021	Legal notice issued by the plaintiff to the defendant (Office Copy).
Ex.B.8	26.02.2022	Reply statement (Copy)
Ex.B.9	--	Acknowledgment card.

Principal District Judge,

Dindigul.