

IN THE PRINCIPAL SUBORDINATE COURT AT KANCHEEPURAM

PRESENT: TMT. J. MOHANA, M.L.,
PRINCIPAL SUBORDINATE JUDGE.

Friday, the 19th day of June 2026

ORIGINAL SUIT NO.233 OF 2011

(CNR.No.TNKP07 – 000966 - 2011)

K.S. Sudhakara Prasad

.....Plaintiff

/Vs/

S.Devaki

.....Defendant

This suit have come up on 15.06.2026 before me for final hearing in the presence of M/s.Kanchi G.V. Mathiazhagan, S.Mageshwaran, P.Kamalakaran, learned counsels appearing for the Plaintiff, and M/s.V.Tamilarasu, V.Thulasi, J.Karpagam, V.Praveen, M.K.Archana, R.Kamesh, V.Srisaran, A.Sarathkumar, learned counsels appearing for Defendant, upon hearing the submissions made by the learned counsels for the Plaintiff and Defendant, and also on perusal of the records, having stood over for consideration till this day, this Court delivers the following:

JUDGMENT

1. This suit is filed for the relief for Specific Performance of Sale Agreement dated 13.10.2008, by directing the defendant to execute and register the Sale Deed in favour of the Plaintiff on receiving the balance sale consideration the sum of Rs.2,51,500/- and on her failure this Court may be pleased to execute and register the Sale Deed in favour of the plaintiff and cost of the suit.

2. CASE OF THE PLAINTIFF: The defendant as the owner of the schedule mentioned property offered the schedule mentioned properties for the sale and plaintiff agreed to purchase the property at the rate of Rs.5,500/- per cent and in aggregate Rs.4,01,500/- for the total 73 Cents and paid Rs.1,00,000/- on 13.10.2008 as earnest money and the Defendant on receiving the amount entered into written agreement on the same day with the Plaintiff wherein her husband namely S.Sivaboosnam stood as witness for the same. The defendant agreed to complete the sale within 30 days, on receiving the balance sale consideration of Rs.3,01,500/-. Subsequently, on variation of measurement and the title, the defendant requested the plaintiff to extend the time for registration when the plaintiff is always ready and willing to perform his part of the contract, in fact on 01.12.2008, the plaintiff called and requested the defendant to execute the Sale Deed but the defendant evaded to execute the sale deed for the reason best known to her and further requested the plaintiff to pay sum of Rs.50,000/- out of the sale consideration, accordingly, the plaintiff paid Rs.50,000/- on 01.12.2008, the same was received on making endorsement over the Sale Agreement, the Written Agreement for sale is filed herewith as Document Serial No.1 of the list of the documents. Despite of several request made by the plaintiff to complete the sale and the plaintiff is put into unnecessary inconvenience and has also suffered damages with intention to defraud the plaintiff. If the specific performance of the Sale Agreement dated 13.10.2008, is not granted, the plaintiff will suffer irreparable loss for which damages will not

provide adequate compensation and there is no other go except use the suit property for his necessary.

3. THE CASE OF THE DEFENDANT : The above said suit based on the terminated/expired, alleged Agreement of Sale of the year 2008 at the fag end of the limitation period of three years. The defendant states that during the year 2008, the defendant was planning the marriage of her daughter. Therefore the Defendant was in urgent need to funds to the tune of Rs.2,00,000/-. The plaintiff is a financier in the locality. Therefore the Defendant's husband Mr.Sivabooshanam approached the plaintiff and sought a loan of Rs.2,00,000/-. The plaintiff agreed to lend the money in part payments. The plaintiff also demanded repayment in three months with % per annum. Though the interest was exorbitant, the defendant and her husband Mr.Sivabooshanam agreed for the same. Accordingly the plaintiff paid a sum of Rs.1,00,000/- to the defendant on 13.10.2008. On the said date the plaintiff wanted the defendant to sign a document captioned as 'Agreement of Sale' in respect of the suit property. The defendant refused to do so. But the plaintiff insisted that it was the normal practice and that the plaintiff would cancel the alleged 'Agreement of Sale' on repayment of the loan. Since the defendant and her husband was in need of funds, the Defendant had no other option but to sign in the papers as demanded relating to the suit property from the defendant. Thereafter on 01.12.2008 the plaintiff paid a sum of Rs.50,000/- to the defendant and obtained her signature and that of her husband in the

reverse page of the said document. The plaintiff promised to pay the remaining sum of Rs.50,000/- to the defendant within a week. The plaintiff did not lend the remaining sum of Rs.50,000/- to the Defendant. The Defendant however repaid entire sum of Rs.1,50,000/- to the plaintiff with interest by the end of October 2009.

4. ISSUES:

- (1) Whether the sale agreement is executed for the loan transaction?
- (2) Is the plaintiff entitled for the relief of Specific Performance of Contract as prayed for?
- (3) To what other relief the Plaintiff is entitled for ?

5. On the side of the plaintiff, the plaintiff himself examined as PW1 and Ex.A1 to Ex.A3 has been marked. On the side of the defendant, she herself examined as DW1 and Ex.B1 to B3 marked.

6. The plaintiff K.S. Sudhagara Prasad was examined as PW1 and Ex.A1 to Ex.A3 were marked. Ex.A1 – Agreement of Sale, Ex.A2 – Legal Notice issued by the plaintiff to the defendant, Ex.A3 – Unclaimed returned notice. The Defendant Devaki was examined as DW1 and Ex.B1 to Ex.B3 were marked. Ex.B1 – Sale Deed; Ex.B2 – Settlement Deed; Ex.B3 – Encumbrance Certificate.

7. ISSUES No. 1 and 2:

In the case of the plaintiff is that the defendant is the owner of the properties and agreed to sale the property to the plaintiff at the rate of Rs.5500/- per sq.ft., and in aggregate Rs.4,01,500/- for the total 73 cents and paid Rs.1,00,000/- on 13.10.2008 as earnest money and the defendant on receiving the amount entered into written agreement on the same day wherein her husband namely S.Sivapoosham as a witness in the sale agreement. Further, the plaintiff stating that the defendant agreed to complete the sale within 30 days on receiving the balance sale consideration of Rs.3,01,500/-. Further, the plaintiff stating that plaintiff is always ready and willing to perform of his part of the contract but failed to do. Even the plaintiff repeated request made. Hence the suit.

8. Heard both side. Records perused. The plaintiff counsel argued that the plaintiff is always ready and calling the defendant to perform the part of the contract but the defendant evaded to execute the sale deed and the plaintiff issued a legal notice to the defendant. But, the defendant evade the notice and it was returned as “unclaimed”. Therefore, the plaintiff clearly proved the case and he prays decree the suit. On the side of the defendant vehemently argued that the agreement was expired because the agreement of sale in the year 2008. So, the limitation point itself the plaintiff has not proved. Further, the defendant counsel pointed out that the defendant continued the possession and enjoyment of the property and the sale consideration

does not arise because it is only loan transaction. Moreover, admission of plaintiff itself Ex.A1 is not a agreement of sale. Therefore, the defendant prays dismiss the suit.

9. Further, the plaintiff executed a sale agreement in favour of the defendant on 13.10.2008. On the date of the agreement, the plaintiff paid a sum of Rs.1,00,000/- to the defendant as a advance consideration. Subsequently, on 01.12.2008 the plaintiff paid a further sum of Rs.50,000/- towards the balance sale consideration. Thus, in total the plaintiff paid a sum of Rs.1,50,000/- to the defendant as a sale consideration. Although, the sale agreement entered into in the year 2008, the present suit was filed only in the year 2011. The plaintiff has not produced any satisfactory evidence establish that he was continuously ready and willing to perform his part of the contract and obtain execution of the sale deed from the date of the agreement until the filing of the suit in 2011.

10. During cross examination of PW1 he deposed “பிரதிவாதி என்னிடமிருந்து ரூ.1,50,000/-வாங்கியுள்ளார். வா.சா.ஆ.1 ஆவணம் 13.10.2008 அன்று ஏற்படுத்தப்பட்டது. 30 நாட்களில் அது காலாவதி ஆகிவிடும் என்று குறிப்பிடப்பட்டுள்ளது என்றால் சரிதான். அந்த 30 நாட்களுக்குள் நான் பணத்தைக் கொடுக்க தாயாராக தான் இருந்தேன். அந்த 30 நாட்கள் காலத்திற்குள் என்னிடம் கிரயம் ஒப்பந்தம் பத்திரத்தில் குறிப்பிடப்பட்டுள்ள மீதித் தொகை இருந்ததனை காட்ட

என்னுடைய வங்கி கணக்கு புத்தகம் அல்லது கணக்கு பட்டியல் உட்பட எந்த ஒரு ஆவணத்தையும் இவ்வழக்கில் நான் தாக்கல் செய்துள்ளேனா என்றால் இல்லை. இவ்வழக்கை தாக்கல் செய்தபோதாவது பாக்கி கிரயத் தொகையை நீதிமன்றத்தில் வைப்பீடு செய்யவோ அல்லது வைப்பீடு செய்ய அனுமதி கோரியும் எந்த ஒரு நடவடிக்கையும் எடுக்கவில்லை என்றால் சரிதான். This Court has carefully examined whether the plaintiff had taken any steps to pay the balance sale consideration either at the time of issue in the legal notice, thereafter or at the time of filing the present suit. It is found that no such steps were taken. Further during cross examination, the plaintiff himself admitted that he had neither deposited the balance sale consideration nor taken any other action towards completion of the sale consideration. Therefore, it is clear that the plaintiff has failed to establish before the Court that he was always ready and willing to perform his part of the contract.

11. Further more, one of the principal contentions raised by the defendant is that the suit has been filed belatedly. It is seen that the plaintiff filed the suit only about 7 months after issuing the legal notice. The Court, upon careful consideration, finds from the records that the plaintiff issued the legal notice nearly two years after the execution of the sale agreement and thereafter filed the suit only after a lapse of about 6 months. However, while examining whether the suit is barred by limitation, the Court finds that the suit has been instituted within the prescribed period of three years. Hence, it cannot be held that the suit is barred by limitation. At the same time,

merely because the suit has been filed within the period of limitation, it cannot automatically be concluded that the plaintiff is entitled to a decree for specific performance. The plaintiff must independently prove his readiness and willingness to perform his obligations under the contract. In the present case, there is neither documentary evidence established in such readiness and willingness.

12. Further, another important contentions raised by the defendant is that there was never any intention between the parties to enter into a sale consideration and that alleged sale agreement infact only a loan transaction. It was therefore argued that Ex.A1 cannot be treated as a valid sale agreement. Upon careful perusal, the court finds that Ex.A1 was executed in the presence of attesting witness and bears the signatures of the parties. The documents also reflects subsequent payments made on the dates mentioned thereon. Therefore although such a contentions raised the defendant, they have not produced any evidence whatsoever to prove that the transaction was merely a loan transaction. Accordingly the Court find that this contention as a defence raised only for the purpose of the case.

13. Thus, after considering all aspects of the case, the Court concludes that even though Ex.A1 was executed by the defendant in favour of the plaintiff, in a suit for specific performance it is the duty of the plaintiff to establish his continuous readiness and willingness to perform his part of the contract. Since the plaintiff has

failed to discharge this burden and has failed to prove the same, the Court cannot held that the suit has been established nearly because it was filed within the period of limitation.

14. Further, the defendant have relied upon in following authorities in support of their case **2024(1) CTC 595 – Plaintiff, thus, not ready and willing to perform his part of agreement – decree of specific performance granted in such circumstances, held erroneous and liable to be set aside. 2023(1) CTC 298 – Merely because time not essence of contract, Suit for Specific Performance cannot be automatically decreed. 2023(2) CTC 1 – Purchaser failed to prove his readiness and willingness to perform his part of obligations – Equitable relief of Specific Performance cannot be granted. 2024(5) CTC 769 = 2026(1) CTC 666 – Plaintiff failed to pay balance amount or provide proper evidence of Financial capability – Suit – Plaintiffs did not establish they had sufficient funds to complete transaction by due date – Held, plaintiff failed to demonstrate readiness and willingness to perform their Contractual obligations. Upon careful consideration of those decisions, the Court finds that the principal laid down therein are applicable to the facts and circumstances of the present case. Hence, issue No.1 and 2 not infavour of the plaintiff and answered accordingly.**

15. Issue No.3:

In view of the findings rendered on the foregoing issues, the plaintiff is not entitled to any relief other than what is granted herein. Accordingly, Issue No.3 is answered.

16. RESULT: In the result, for the foregoing reasons, the suit is dismissed. No cost.

Dictated to the Steno-typist, typed by her directly in the desktop, corrected and pronounced by me in the open Court, on this the 19th day of June, 2026.

Principal Subordinate Judge,
Kancheepuram.

LIST OF WITNESSES EXAMINED ON THE SIDE OF THE PLAINTIFF:

PW1 K.S.Sudhakara Prasad

LIST OF DOCUMENTS EXHIBITED ON THE SIDE OF THE PLAINTIFF:

Ex.A1 13.10.2008 Agreement of Sale – Original

Ex.A2 24.08.2010 Legal notice issued by the plaintiff to the defendant – Office Copy.

Ex.A3 - Unclaimed returned notice - Original

LIST OF WITNESS EXAMINED ON THE SIDE OF THE DEFENDANT:

DW1 Devaki

LIST OF DOCUMENTS EXHIBITED ON THE SIDE OF THE PLAINTIFF:

Ex.B1 10.05.1993 Sale Deed – Certified copy.

Ex.B2 19.11.2021 Settlement Deed – Certified copy.

Ex.B3 18.07.2025 Encumbrance Certificate – Certified Copy.

Principal Subordinate Judge,
Kancheepuram.
