

IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE,
MADURAI.

Present : Thiru. V. Padmanabhan, M.A.M.L.,D.H.,
I Additional District Judge, Madurai
Wednesday the 8th day of December 2021.
O.S.132/2020

R. Ayyammal

... Plaintiff

/ vs /

S.P. Ramachandran

.... Defendant

This suit coming on before me on 24.11.2021 for final hearing in the presence of Thiru. J. Lawrance, Counsel for the Plaintiff and the defendant set exparte upon hearing plaintiff's side counsel, having perused the connected records and having stood over till this day for consideration, this court passed the following,

JUDGMENT

This suit is filed for the relief of specific performance.

The averments of the plaint in short:

2. The defendant is the absolute owner of the suit schedule property. The plaintiff has approached the defendant expressing her willingness to purchase the house plots from the defendant. The defendant agreed to sell the house plots Nos. 61, 62, 63, and 64, an extent of 15 cents which is described as suit schedule property. The defendant has entered into an agreement of the sale dated 12.05.2020 by agreeing to sell the suit schedule property for the sale consideration of Rs.15,00,000/- to the plaintiff and he had received an advance amount of Rs.13,00,000/- on the same date. The balance sale consideration of Rs.2,00,000/- has to be paid by the plaintiff to the defendant within a period of one month from the date of agreement and to get the sale deed executed in favour of the plaintiff or the persons directed by her. The plaintiff is always ready and willing to perform her part of the contract as per the recital of the agreement by paying the sale consideration of Rs.2,00,000/-. On 12.06.2020, when the plaintiff has approached the defendant, he has sought for 15 days time for getting the suit property surveyed by the Revenue Officials and to execute the sale deed as per the suit sale agreement. Thereafter, the defendant prolonged the execution of the sale deed in favour of the plaintiff. Hence, the plaintiff issued a legal notice on 30.06.2020 calling upon the defendant to perform his part of the contract by executing the sale deed in

favour of the plaintiff. The defendant has received the notice and he has not chosen to comply with the demand of the plaintiff and he has sent a reply notice on 11.07.2020 admitting the receipt of the advance amount of Rs.13,00,000/- and the execution of the suit sale agreement. However, in the course of time, the defendant has changed the mind and attempted to sell the suit scheduled property to the third party. Hence, this suit.

3. The defendant was set exparte.

4. On the side of the plaintiff, PW1 has been examined and Ex.A1 to Ex.A7 were marked.

5. The plaintiff's case is that on 12.05.2020 the defendant agreed to sell the suit property for Rs. 15,00,000/- and both plaintiff and the defendant entered in to ExA5 sale agreement. On the date of agreement the plaintiff paid Rs. 13,00,000/- as advance amount and it was agreed by both parties that the balance amount of Rs. 2,00,000/- to be paid by the plaintiff within one month and the defendant agreed to execute the sale deed in favour of the plaintiff or the persons directed by her. When the plaintiff approached the defendant, he did not execute the sale deed and prolonged to perform his part of contract. Thereafter, the plaintiff issued a ExA6 lawyer notice on 30.06.2020. After receipt of said notice the defendant sent a ExA7 reply notice on 11.07.2020 admitting the receipt of the advance amount and the execution of the suit sale agreement. After receipt of said notice the defendant had not executed sale deed.

6. The plaintiff has examined herself as Pw1.

7. The epitome of pw1's testimony was that the defendant on 12.05.2020 obtained Rs.13,00,00/- as advance from the plaintiff by agreeing to sell the suit property in favour of the plaintiff for the total sale consideration Rs.15,00,000/- Further, he testified that both plaintiff and defendant agreed to complete sale transaction within one month after receipt of the balance sale price of Rs.2,00,000- by the defendant. The evidence of pw1 in respect of execution of ExA5 is cogent and convincing to the court. It is not in dispute that suit property belongs to defendant and he also executed sale agreement in favour of the plaintiff. Pw1's testimony coupled with the contents of the suit sale agreement ExA5 has proved that ExA5 sale agreement was duly executed by the defendant by agreeing to sell the property to the plaintiff for Rs.15,00,000/- after receiving Rs.13,00,000/- as an advance.

8. In the plaint as well as in her proof affidavit, the plaintiff stated that she was always ready and willing to pay the balance consideration Rs. 2,00,000/- to get the sale deed in favour of her, but the defendant prolonged the matter. Further, the defendant in his ExA7 reply notice he has specifically admitted that he already agreed to sell the suit property for the sale consideration of Rs.15,00,000/- on 12.05.2020. Further, he went on to admit that on the same date he received Rs. 13,00,000/- as advance and sought further 15 days time to execute the sale deed. Moreover, the plaintiff also deposited the balance amount of Rs.2,00,000/- before this court.

9. Considering the above circumstances and the interest of justice this court comes to the conclusion that the plaintiff is always ready and willing to perform her part of the contract as such she is entitled for specific performance relief as prayed for. Consequently, he also entitled for Permanent Injunction relief. Since, this court is inclined to order for specific performance relief in favour of the plaintiff and the suit is dismissed in the relief of alternative relief.

In result, this suit is decreed in respect of specific performance relief and permanent injunction relief as prayed for with costs and the defendant is directed to execute the sale deed within a period of two months from the date of decree in favour of the plaintiff in respect of the suit property as per the sale agreement dated 12.05.2020. The defendant is entitled to withdraw the balance consideration of Rs.2,00,000/- deposited by the plaintiff in the court. The suit is dismissed in respect of alternative relief.

Dictated to the stenographer and typed by her directly, corrected and pronounced by me in the open court this the 8th day of December 2021.

Sd/- V. Padmanabhan,
I Additional District Judge,
Madurai.

Witnesses examined on the side of the plaintiff:

PW1 Ayyammal

Witness examined on the side of the defendant :

Nil

Documents marked on the side of the plaintiff:

Ex.No.	Date	Particulars of Documents	Remarks
A1.		Adhar Card of the pw1	Copy
A2.	25.06.2007	Sale deed in favour of the defendant.	Certified copy
A3.	25.06.2007	Sale deed in favour of the defendant.	Certified copy
A4.	09.08.2021	Encumbrance Certificate	copy
A5.	12.05.2020	Sale Agreement Deed between the plaintiff and the defendant in respect of the suit property.	
A6.		Office copy of Legal Notice issued by the plaintiff	
A7.		Reply Notice given by the defendant	

Documents marked on the side of the defendant: NIL

Sd/- V. Padmanabhan,
I Additional District Judge,
Madurai.

I Additional District Court, Madurai
O.S.NO.132/2020
Date : 08.12.2020
Fair / Draft Judgment