

**IN THE COURT OF THE IV ADDITIONAL DISTRICT JUDGE,
MADURAI**

**Present : Thiru. S. John Sundarlal Suresh, B.Sc., M.L.,
IV Additional District Judge, Madurai**

Thursday, the 26th day of March 2026

O.S.No. 214 of 2018

CNR No.TNMD01006337-2018

1. V.Sureshkumar (Died)

2. Hemalatha

3. S.Aishwarya

4. Arjun

... Plaintiffs

2 to 4 plaintiffs are impleaded as LR's of 1st plaintiff

as per order in I.A.No.243/23 dated 18.07.2023

Amended as per order in I.A.No.751/23 dated 14.08.2023

4th plaintiff is declared as major as per order

in I.A.No.2/24 dated 3.10.2024.

Vs

R.Arumugam

... Defendant

This suit is coming on 13.03.2026 for final hearing in the presence of advocate Thiru.N.Vallinayagam for the plaintiffs and advocate Tmt.M.Sankari for the defendant and upon hearing both side and having stood over for consideration till this date, this court passed the following.....

JUDGMENT

The suit is for recovery of a sum of Rs.24,79,500/- with interest from the defendant, creating charge over the suit property and with cost.

2. The contents of the amended plaint filed by the plaintiffs in brief as follows:-

The defendant herein has decided to sell the suit property and having knowledge about the said fact the 1st plaintiff herein has agreed to purchase the suit property. The 1st plaintiff and the defendant have mutually fixed the sale consideration for the suit property as Rs.27,16,500/-. The first plaintiff

has orally entered into a sale agreement and in pursuance of the sale agreement, the first plaintiff has paid a sum of Rs.13,00,000/- to the defendant and the sale agreement was reduced into writing and registered on 07.03.2013 before the Joint Sub-Registrar of Madurai North. The first plaintiff has paid a sum of Rs.2,00,000/- to the defendant in the presence of the Joint Sub-Registrar of Madurai at the time of registering the sale agreement. Thus the first plaintiff has paid a sum of Rs.15,00,000/- towards advance amount to the defendant and the balance amount of Rs.12,16,500/ ought to have been paid by the first plaintiff within 6 months from the date of sale agreement to the defendant and the defendant in turn ought to have executed the registered sale deed in respect of the suit property in favour of the first plaintiff at the cost of the first plaintiff. The first plaintiff is always ready and willing to fulfill his part of the sale agreement. The first plaintiff contacted the defendant over phone and through middle men for completion of sale transaction, initially the defendant is ready to execute the sale deed, but subsequently for the reasons best known to him has not chosen to receive the balance sale consideration and to execute the sale deed in respect of the suit property. Hence, the first plaintiff has no other option has demanded the defendant either to execute the sale deed in respect of the suit property after receiving the balance sale consideration or to refund the advance amount of Rs.15,00,000/with bank interest. Since the defendant and his relatives who are acted as middle men, have threatened the first plaintiff, he has no other option except to lodge a police complaint against the defendant and his relatives before the District Crime Branch of Madurai and police officials after detailed investigation regarding the FIR on 06.04.2016 against the defendant and his relatives vide., Cr. No.7 of 2016 under Sections 120(b), 406, 420, 506(i) and 294(b) IPC and Charge Sheet to be filed. Even after repeated demands made by the first plaintiff to the defendant to refund the advance amount with bank interest, the

defendant has not chosen to refund the said amount. During the pending suit proceedings, the first plaintiff passed away on 07.06.2022 by leaving behind the 2 to 4 plaintiffs his sole legal representatives to represent his estate. Hence suit.

3. The contents of the written statement filed by the defendant in brief as follows:-

The suit itself is not maintainable under law and on facts and it deserves to be dismissed in limine with the costs of the defendant. The defendant for his urgent money needs he entered into sale agreement with plaintiff in respect of the suit schedule mentioned property for Rs.44,02,020/- which is an extent is of 4683 square feet at the rate of Rs.940/- per square feet. The plaintiff also agreed for the said price and in token thereof gave an advance amount of Rs.13,00,000/- only, immediately after perusal of said property title deed and agreed to complete the sale within 6 months and received the Xerox copies of the title deeds of the plaintiff schedule mentioned property. The plaintiff required the defendant to register the said sale agreement only for Rs.27,16,500 to avoid payment of excess stamp duty for the sale deed and also agreed to give an undertaking separately for the said sale consideration of Rs.44,02,020/-. Thus the said agreement dated 07.03.2013 was registered only for Rs.27,16,500/- for the above said reasons on 08.03.2013, on that day itself the plaintiff has paid further sum of Rs.2,00,000/- before the sub-registrar and thus the plaintiff has paid total advance amount of Rs.15,00,000/- and the plaintiff has also on 08.03.2013 given a written undertaking deed to the defendant confirming the above said negotiations in which the defendant has also signed. The plaintiff has also given three undated cheques for Rs.7,25,000/- and for Rs.6,00,000/- and for Rs.6,00,000/- along with said deed to the defendant from his AXIS Bank

Limited in A/C. No.109010200013217 and the address of the said Bank is Door No.4, Goodshed Street, Madurai 625 001 and also the plaintiff told to the defendant to put them for collection only after he instructed to him. Then the plaintiff never given instruction to the defendant. When the defendant enquired the plaintiff about the said cheques dealings he said that he has no amount in his account to honour the said cheques in order to complete the said sale agreement transactions. Thus the defendant has sustained heavy money loss due to the failure of non completion of the said sale agreement transactions. The plaintiff has suppressed the above said facts in the plaint and averred contrary to the said facts in the plaint with an ulterior motive. The suit sale agreement is dated 07.03.2013 but the plaintiff has filed this suit only on 16.8.2018 which is beyond the period of limitation of 3 years prescribed under law for the recovery of money. Thus the suit itself is barred by law of limitation. Hence suit is to be dismissed.

4. On the basis of the pleadings following issues were framed on 20.09.2023 for consideration:-

1. Whether the plaintiffs are entitled for recovery of Rs.24,79,500/- with interest from the defendant?
2. Whether the plaintiffs are entitled for creating charge over the schedule property till the satisfaction of decree amount to be passed in this suit?
3. Whether it is true that the deceased 1st plaintiff and defendant have executed the deed of confirmation dated 08.03.2013?
4. Whether it is true that the deceased 1st plaintiff issued three cheques to the defendant?
5. Whether the suit is hit by law of limitation?
6. What are the other reliefs the plaintiffs are entitled to?

5. On the side of the plaintiff P.W.1 was examined and Ex.A1 and Ex.A2 were marked. On the side of defendant D.W.1 and D.W.2 were examined and Ex.B1 to Ex.B6 were marked.

6. Issue No.1, 3 and 4:

The specific case of the plaintiff is that the defendant decided to sell the suit property and having knowledge about the said fact the 1st plaintiff herein agreed to purchase the suit property. The 1st plaintiff and the defendant have mutually fixed the sale consideration of a sum of Rs.27,16,500/- and the sale agreement was reduced into writing and registered on 07.03.2013 before the Joint Sub-Registrar of Madurai North. The 1st plaintiff has paid a sum of Rs.15,00,000/- towards advance to the defendant and balance amount of a sum of Rs.12,16,500/- ought to be paid by the 1st plaintiff to the defendant within 6 months from the date of sale agreement. The 1st plaintiff is always ready and willing to fulfill this part of his agreement. But the defendant is not ready to execute the sale deed. Moreover even after repeated demands made by the 1st plaintiff, the defendant failed to refund the advance amount to the 1st plaintiff. Hence the suit is to be decreed.

7. The specific case of the defendant is that the defendant entered into the sale agreement with the 1st plaintiff with regard to the suit property for a sum of Rs.44,02,020/- . The 1st plaintiff required the defendant to register the said sale agreement only for a sum of Rs.27,16,500/- in order to evade the excess stamp duty but gave an undertaking separately for the total sale consideration of a sum of Rs.44,02,020/- . The 1st plaintiff has paid total advance amount of a sum of Rs.15,00,000/- on 08.03.2013 to the defendant and the 1st plaintiff has also given written undertaking to the defendant confirming the above said negotiation. The 1st plaintiff had also given three

undated Axis bank cheques for a sum of Rs.7,25,000/-, for a sum of Rs.6,00,000/- and for a sum of Rs.6,00,000/- along with the said deed to the defendant. But the 1st plaintiff never given instruction to the defendant to put the cheques for collection. The 1st plaintiff filed the suit suppressed the above said facts. The suit is hit by law of limitation. Hence the suit is to be dismissed.

8. The learned counsel for the plaintiffs contended that the 1st plaintiff when he was alive had entered into the registered sale agreement on 07.03.2013 with the defendant in respect of the suit property, fixing the total sale consideration for a sum of Rs.27,16,500/- and paid a sum of Rs.15,00,000/- to the defendant out of the total sale consideration. The 1st plaintiff is always ready and willing to fulfill his part of his agreement. But the defendant never come forward to execute the sale deed in pursuance to the sale agreement which was entered between the 1st plaintiff and the defendant. Moreover even after repeated demands made by the 1st plaintiff the defendant is not inclined to refund the said amount. The receipt of the advance amount of a sum of Rs.15,00,000/- from the 1st plaintiff is admitted by the defendant in the written statement. But there is no material filed by the defendant to prove the fact that the disputed cheques under Ex.B3 to Ex.B5 were issued by the 1st plaintiff in connection with the alleged separate written undertaking given by the 1st plaintiff with regard to the total sale consideration of a sum of Rs.44,02,020/-. When the defendant admitted the receipt of the amount of a sum of Rs.15,00,000/- as an advance from the 1st plaintiff, he is liable to refund the said amount as the defendant failed to execute the sale deed on the basis of the sale agreement which was entered between the 1st plaintiff and defendant. Hence the suit is to be decreed.

9. Per contra the learned counsel for the defendant contended that the 1st plaintiff and the defendant entered with the sale agreement for the total sale consideration of a sum of Rs.44,02,020/-. But the plaintiff required to register the sale agreement only for a sum of Rs.27,16,500/- in order to avoid excess stamp duty for the sale deed. The 1st plaintiff has paid the advance amount of a sum of Rs.15,00,000/- to the defendant. The 1st plaintiff executed the written undertaking with regard to the actual sale consideration of a sum of Rs.44,02,020/- and also gave three Axis Bank cheques viz. for a sum of Rs.7,25,000/-, for a sum of Rs.6,00,000/- and for a sum of Rs.6,00,000/- to the defendant. But the 1st plaintiff never gave instruction to put the cheques for collection. Moreover there is no explanation offered by the plaintiffs on what basis the 1st plaintiff issued the above said cheques to the defendant. But the 1st plaintiff suppressed the above said facts and filed the suit. The suit is hit by law of limitation. Hence the suit is to be dismissed.

10. This Court carefully considered the above said submission of the learned counsel for the both parties and perused the records. It is pertinent to note that in this case the defendant admitted the factum of registration of the sale agreement between the 1st plaintiff and defendant for a sum of Rs.27,16,500/- and receipt of a sum of Rs.15,00,000/- from the 1st plaintiff. But the defence taken by the defendant is that in fact the actual sale consideration of the suit property is a sum of Rs.44,02,020/- that the 1st plaintiff required to register the sale agreement only for a sum of Rs.27,16,500/- only for the purpose of evading the stamp duty. Moreover the 1st plaintiff had executed the undertaking separately for the actual sale consideration of a sum of Rs.44,02,020/- with regard to the suit property and the 1st plaintiff had given three undated cheques viz. for a sum of Rs.7,25,000/-, for a sum of Rs.6,00,000/- and for a sum of Rs.6,00,000/- to

the defendant. The defendant filed the above said three cheques and the same were marked under Ex.B3 to Ex.B5. When the question was put to the 2nd plaintiff who was examined as P.W.1 with regard to the above said cheques she simply pleaded ignorance about the above said cheques. But no legally acceptable explanation offered by the plaintiffs for the purpose to which the above said cheques were issued in favour of the defendant by the 1st plaintiff. Under these circumstances on cumulative appraisal of the evidence emerged on record in view of the finding as above in the context of the issuance of the three cheques under Ex.B3 to Ex.B5 by the 1st plaintiff in favour of the defendant this court concluded that the defendant probalised his case that the actual sale consideration of the suit property is a sum of Rs.44,02,020/-. No doubt the defendant admitted the receipt of a sum of R.15,00,000/- from the Ist plaintiff as an advance amount with regard to the sale agreement which was entered between the Ist plaintiff and the defendant in respect of the suit property. But the plaintiffs failed to produce any evidence to show that they have been always ready and willing to get the sale deed executed on the basis of the registered sale agreement under Ex.A1 dated 07.03.2013 which was entered between the 1st plaintiff and defendant that there is no forfeiture clause mentioned in the said document. Hence the defendant is liable to refund a sum of Rs.15,00,000/- to the plaintiffs with reasonable interest from the date of the above said sale agreement dated 07.03.2013 till the date of realization. These issues are held accordingly.

11. Issue No.2

The plaintiffs sought the relief to create the charge over the suit property till the decree passed is fully satisfied. It is pertinent to note that this court rendered categorical finding that the plaintiffs in particularly 1st plaintiff failed to prove that they have been always ready and willing

throughout to get the sale deed executed from the defendant based on the sale agreement with regard to the suit property. When there is a fault on the part of the plaintiffs who come under the category of the buyers creating the charge over the property belongs to the seller will not arise for the consideration. Hence this court concluded that the plaintiffs are not entitled for the charge over the suit property. This issue is held accordingly.

12. Issue No.5:

The defendant raised the point in the written statement that the suit is barred by law of limitation. This court carefully considered the above said point with regard to the law of limitation. The plaintiffs filed the suit to refund of the advance amount based on the sale agreement under Ex.A1 dated 07.03.2013 which was entered between the 1st plaintiff and the defendant. Therefore the limitation period for the money claim based on the agreement is 12 years. The suit is filed on 16.08.2018. While it is so this court concluded that the suit is within the period of the limitation. This issue is held accordingly.

13. Issue No.6:

Since the above issues are decided as above the defendant is liable to pay the amount of a sum of Rs.15,00,000/- to the plaintiffs within 2 months together with the interest at the rate of 9% per annum from the date of sale agreement under Ex.A1 dated 07.03.2013 till the date of realization of the amount. But the plaintiffs are not entitled for the charge in respect of the suit property. This issue is held accordingly.

In the result, the suit is partly decreed that the defendant should pay the amount of a sum of Rs.15,00,000/- to the plaintiffs within 2 months together with the interest at the rate of 9% per annum from the date of sale

agreement dated 07.03.2013 till the date of realization of the amount and with cost. But the suit with regard to the relief of charge sought by the plaintiffs with regard to the suit property stand dismissed.

Dictated to the Stenographer, transcribed and typed by her in the computer, corrected and pronounced by me in open court, on this 26th day of March, 2026.

**IV Additional District Judge,
Madurai.**

Appendix:

Plaintiffs' side witnesses:-

P.W.1. Tmt.Hemalatha

Defendant's side witnesses:-

D.W.1 Thiru.Arumugam

D.W.2 Thiru. Mahalingam

Plaintiffs' side documents:-

Ex.A.1 07.03.2013 Sale agreement executed between 1st plaintiff and defendant

Ex.A2 07.04.2016 Encumbrance certificate

Defendant's side Documents:

Ex.B.1 05.05.2008 Sale deed executed by M.Indrajith and others in favour of R.Arumugam

Ex.B2 09.01.2013 Sale deed executed by Tmt.Thavamani through her power agent Umadevi in favour of R.Arumugam

Ex.B3 ... Cheque issued by the 1st plaintiff

Ex.B4 ... Cheque issued by the 1st plaintiff

Ex.B5 ... Cheque issued by the 1st plaintiff

Ex.B6 20.03.2022 Receipt issued by the S.I. of Police, Sellur P.S.

**IV Additional District Judge,
Madurai.**

IV Additional District Court, Madurai
O.S.No.214/2018
Draft/Fair judgment
Dated: 26.03.2026