

IN THE COURT OF SUB JUDGE, AVINASHI.

Present: Tmt.R.Arulmozhiselvi.M.L.,

Sub Judge, Avinashi.

Thursday, the 26th day of April 2017.

Thiruvalluvar Andu 2048, Hey Vilambi Varudam, the 13th day of Chithirai.

O.S.No.:505/2016(Sub Court, Avinashi)

O.S.No.:7/2012(Sub Court, Tiruppur)

V.Gandhimathi

Plaintiff

//Vs//

1. A.Eswaran

2. E.Vijayaraghunathan

3. E.Geetha

4. S.Shanmugham

5. Monika

(Amended as per order in I.A.No.79/2017 dated 17.02.2017)

6. N.M.Venkatachalam

Defendants

This suit was taken on file by the Sub Court, Tiruppur on 05.01.2012 and numbered as O.S.No.7/2012 and transferred to this court and renumbered as O.S.No.505/2016 and coming on this day for final disposal before me and in the presence of Thiru.S.Jeevanandam, Advocate for the Plaintiff and the Defendants called absent and set exparte, this court delivers the following

JUDGEMENT

1) This suit is filled seeking the relief of Specific performance and

Permanent Injunction and for the cost of the suit.

2) The brief contents of the plaint is as follows: The plaintiff contents that the defendants 1 to 5 are the absolute owner of the suit properties. They executed a registered general power of attorney infavour of 6th defendant on 07.01.2010. On 19.04.2010 the 6th defendant entered into a registered sale agreement as a power agent of sell the suit properties for a valuable consideration of Rs.2,00,000/- free of all encumbrance on or before one year from the date of sale agreement. The 6th defendant agreed to execute a registered sale deed either in favour of the plaintiff or her nominee. On the date of sale agreement the 6th defendant received a sum of Rs.50,000/- from the plaintiff as advance and part of the sale consideration.

3) The plaintiff submits that the plaintiff is always ready and willing to get a register sale deed from the 6th defendant as per the terms of sale agreement after paying the balance sale consideration of Rs.1,50,000/-. As the 6th defendant was postponing the execution of the sale deed the plaintiff issued the lawyer's notice dated 18.08.2011 calling upon the defendants to execue a registered sale deed in favour of the plaintiff. The defendants 1 to 5 received the notice. But the defendants never expressed their readiness and willingness for execution of sale deed in favour of the plaintiff as per the terms of sale agreement. After receipt of the lawyer's notice dated 18.08.2011, the defendants 1 to 5 issued a reply notice to the plaintiff containing false allegation. At the time of the execution of the sale agreement between the plaintiff and 6th defendant the general power of attorney dated 07.01.2010 is in existence. In the reply notice the defendant 1 to 5 alleged

that the defendants 1 to 5 had been cancelled the general power of attorney dated 21.12.2010. The cancellation of general power of attorney dated 21.12.2010 is not binding upon the right of the plaintiff in the suit property. Hence this suit filed for specific performance under the registered sale agreement dated 19.04.2010.

4) The defendants remained exparte. On the side of the plaintiff PW1 was examined and Ex.A1 to A9 were marked and no oral and documentary evidence on the side of the defendant.

5) To establish the plaintiff case the plaintiff has examined PW1 who has categorically spoken about the execution of the Ex.A1 by the defendant and has produced the following documents for proof of the same: (i.e) Ex.A1 Sale agreement between the plaintiff and defendant dated 19.04.2010; Ex.A2 Legal notice issued by the plaintiff to the defendants dated 18.08.2011; Ex.A3 Acknowledgement card of 1st defendant dated 19.08.2011; Ex.A4 Acknowledgement card of 1st defendant dated 19.08.2011; Ex.A5 Acknowledgement card of 3rd defendant dated 20.08.2011; Ex.A6 Acknowledgement card of 4th defendant dated 19.08.2011; Ex.A7 Acknowledgement card of 5th defendant dated 20.08.2011; Ex.A8 Reply notice of defendants 1 to 5 dated 02.09.2011; Ex.A9 General power of attorney infavour of the 6th defendant. Hence, the above oral evidence of PW1 read with the documentary evidence Ex.A1 to A9 establishes the plaintiff case the sale agreement Ex.A1 was entered between the plaintiff and the defendants and that the plaintiff is ready and willing to perform his part of his contract, but the defendants is evading to execute the sale deed and there is no contra evidence on the side of the

defendants to disprove PW1 evidence and Ex.A1 to Ex.A9. Hence, this court concludes that the plaintiff has established his case and the plaintiff is entitled to the relief of Specific performance and for permanent injunction as prayed for.

6) In the result, the suit is decreed,

i) Directing the defendants to execute the sale deed as per the sale agreement dated 19.04.2010 with in two months after receiving the balance sale consideration. For payment of sale consideration. Time one month.

ii) The plaintiff is also entitled to the cost of the suit.

Dictated to the Typist and typed by her directly in the laptop corrections were carried out by me, and the Judgement was pronounced by me in open court, on the 26th day of April 2017.

-Sd-R.Arulmozhiselvi-
Sub Judge,
Avinashi.

Plaintiff side Witness:-

PW1. Gandhimathi

Plaintiff side documents:-

- 1) Ex.A1 Sale agreement between the plaintiff and defendant dated 19.04.2010
- 2) Ex.A2 Legal notice issued by the plaintiff to the defendants dated 18.08.2011
- 3) Ex.A3 Acknowledgement card of 1st defendant dated 19.08.2011
- 4) Ex.A4 Acknowledgement card of 1st defendant dated 19.08.2011
- 5) Ex.A5 Acknowledgement card of 3rd defendant dated 20.08.2011

- 6) Ex.A6 Acknowledgement card of 4th defendant dated 19.08.2011
- 7) Ex.A7 Acknowledgement card of 5th defendant dated 20.08.2011
- 8) Ex.A8 Reply notice of defendants 1 to 5 dated 02.09.2011
- 9) Ex.A9 General power of attorney infavour of the 6th defendant.

Defendants side witness and documents: Nil

-Sd-R.Arulmozhiselvi-
Sub Judge,
Avinashi.

Compared with original by Typist S.Umavathi