

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, TIRUPPUR

Present: Thiru. N.Gunasekaran, M.B.A., B.L.,
Principal District Judge, Tiruppur.

Wednesday, the 16th day of October, 2024

Thiruvalluvarandu 2055, Sri Kurothi year, 30th day of Purattasi month

Original Suit No.628/2023

(CNR.No.TNTI 18 003202 2023)

Hemalatha ... Plaintiff

..Vs..

Kanagaraj ... Defendant

On 27.09.2024, the suit came before me for the final hearing in the presence of Ms.Sivapriya, B.B.A., B.L., Counsel appearing for the Plaintiff and Thiru.P. Basker, LLB, MBA, M.Sc., Counsel appearing for the Defendant and subsequent to filing of written statement and the defendant failed to cross examine PW1, and hence, he was set exparte and upon perusal of case record and hearing argument on the plaintiff side, this court delivers the following;

J U D G M E N T

Suit is for specific performance of unregistered sale agreement; dated: 27.06.2022 by directing the defendant to receive the balance sale consideration of Rs.1,00,000/- and to execute the sale deed and hand over the possession of the suit property and in alternative, to direct the defendant to return the advance amount of Rs.50,00,000/- with an interest at the rate of 12% per annum from the date of suit with cost.

Dated:16.10.2024

Principal District Court, Tiruppur

2) **Case of the Plaintiff in brief reads as follows:-**

The defendant being the owner of suit property had entered into an unregistered sale agreement with the plaintiff on 27.06.2022 for a total sale consideration of Rs.51,00,000/- and received a sum of Rs.2,00,000/- as an advance amount. On the basis of aforesaid sale agreement, on 20.08.2022, the plaintiff had discharged the loan availed by the defendant with the Sriram City Union Finance Ltd., by making payment of Rs.42,00,000/- as agreed by him. On 31.08.2022, the defendant further receiving a sum of Rs.1,00,000/- from the plaintiff as an advance. The defendant was evasive to receive the balance sale consideration of Rs.6,00,000/- and to execute the sale deed and hence, the plaintiff issued a legal notice dated 16.12.2022. The plaintiff is always ready and willing to perform is part of agreement and the defendant on the pretext of pendency of the suit for recovery of money having filed by Manivannan on the file of Additional Subordinate Court, Tiruppur in O.S. No.274/2019 was bargaining time and later, the plaintiff had discharged the debt of Manivannan by making payment Rs.5,00,000/- on 27.02.2023. In spite of the same, the defendant is evading to execute the sale deed in respect of suit property on the receiving balance sale consideration of Rs.1,00,000/- and hence, the suit

3). **Case of the defendant in brief reads as follows:-**

The suit is false, frivolous, vexatious and unsustainable both facts and law. The averment made in the plaint that on 27.06.2022, the defendant on receiving Rs.2,00,000/- as a part of total sale consideration of Rs.51,00,000/- had executed sale agreement in favour of the plaintiff in respect of suit property is absolutely false. All averments made in the

plaint by the plaintiff are all false except the payment of Rs.5,00,000/- to Manivannan vide Demand Draft. The plaintiff is in need to prove for what purpose the said payment was made to him. The value of suit property is about Rs.80,00,000/- and the suit is liable to be dismissed with cost.

4). Subsequent to filing of written statement and being represented by counsel, the defendant failed to cross examine PW1, and hence, he was set exparte.

5). Plaintiff was examined as PW1 beside PW2 and PW3 and Exs.A 1 to A.23 were marked on his side.

6). **Point for consideration is :**

1. Whether the suit sale agreement dated 27.06.2022 is true, valid and binding upon the defendant?

2. If so, whether the plaintiff is always ready and willing to perform his part of contract?

3. Whether the plaintiff is entitled for suit claim as prayed for?

7) **Point No. 1 to 3:**

Plaintiff side heard. Records perused. The suit is for specific performance of contract. The case of the plaintiff is that on 27.06.2022, the defendant being the owner of suit property as per sale deed in Ex.A2 had entered into an unregistered sale agreement in Ex.A1 with the plaintiff for a total sale consideration of Rs.51,00,000/- and received a sum of Rs.2,00,000/- as an advance amount. In terms of sale agreement in

Ex.A1, the loan availed by the defendant on mortgage in Ex.A.10 was discharged on 20.08.2022 by the plaintiff on making payment of Rs.42,00,000/- with the Sriram City Union Finance Ltd.. The bank statement in Ex.A6 would evident the same. On 31.08.2022, the defendant had further received a sum of Rs.1,00,000/- from the plaintiff as a part of sale consideration and the bank statement in Ex.A7 would evident the same.

8) The defendant said to have evaded the plaintiff in receiving the balance sale consideration of Rs.6,00,000/- in Ex.A3 and to execute sale deed and hence, the plaintiff had issued legal notice dated 16.12.2022 and the same was returned unserved and the postal cover in this regard is Ex.A4. The plaintiff also said to have paid Manivannan, the creditor of the defendant with Rs.5,00,000/- in Ex.A8, in discharge of loan covered under the suit in O.S.274/2019 on the file of Additional Subordinate Court, Tiruppur. In spite of the same, the defendant is evading to execute the sale deed in respect of suit property on the receiving balance sale consideration of Rs.1,00,000/-. The defendant failed to cross-examine the plaintiff and remained exparte though he filed written statement. Thus, adverse inference is to be drawn against him since he failed to let in evidence by refuting the contention of the plaintiff. The preponderance of probability is in favour of the plaintiff in the case. Due execution of sale agreement in Ex.A.1 is proved by examining the witnesses to it as PW.2 and PW.3. Revenue records including Property and water tax receipts stands in the name of the defendant. Ex.A.19 and A.20 are the loan availed by the defendant on deposit of title deed with Repco Home Finance Ltd., and discharge of it, respectively.

9) On cumulative analysis of evidence, this Court inclined to hold that the suit sale agreement dated 27.06.2022 is true, valid and binding upon the defendant and the plaintiff is always ready and willing to perform his part of contract and he is entitled for suit claim of Specific performance as prayed for in the suit. Accordingly, point Nos. 1 to 3 are answered.

In the result, the suit is decreed with cost, directing the plaintiff to deposit the balance sale consideration of Rs.1,00,000/- in the Court within a month from the date of judgment and the defendant is directed to receive the same and to execute the sale deed in favour of the plaintiff and hand over the possession of the suit property within a month on such deposit, in default, the plaintiff is entitled for the execution of the sale deed and possession of the suit property through the Court.

Dictated to the steno-typist, typed by her directly on computer, corrected and pronounced by me in the Open Court dated this the 16th day of October, 2024.

Principal District Judge,
Tiruppur.

List of Witnesses examined on the side of Plaintiff:-

PW1 - Hemalatha (Plaintiff)
PW2 - Mallikarjun
PW3 - Kumar

List of Exhibits marked on the side of the Plaintiff:

Ex.A1	27.06.2022	Original sale agreement entered between the plaintiff and the defendant.
Ex.A2	01.09.2005	Original Conveyance Deed of defendant on the file of District Registrar Office, Tiruppur in Doc. No. 6912/2005.

Ex.A3	15.12.2022	Office copy of Legal notice issued by the plaintiff to the defendant.
Ex.A4	29.12.2022	Returned cover of legal notice.
Ex.A5	06.01.2023	Web copy of encumbrance certificate of the suit property.
Ex.A6	20.08.2022	Copy of Settlement letter issued by Shriram City Union Finance Ltd.
Ex.A7	25.07.2023	Copy of account summary for payment of Rs.1,00,000/- by the plaintiff to the defendant
Ex.A8	27.02.2023	Copy of Demand draft for Rs.5,00,000/- given to the defendant's loan amount by the plaintiff
Ex.A9	*****	Web copy of guideline value of the suit property
Ex.A10	14.06.2019	Original First Simple Mortgage Deed No.6250/2019
Ex.A11	20.08.2022	Original settlement letter
Ex.A12	16.04.2015	Copy of Patta No.453
Ex.A13	16.04.2015	Copy of "A" Register
Ex.A14	18.12.2014	Original Property tax receipt
Ex.A15	18.12.2014	Original Water charge receipt
Ex.A16	23.06.2015	True copy of Building approval plan
Ex.A17	25.10.2013	Original Sale agreement No.8177/2013
Ex.A18	20.03.2015	Original Cancellation of sale agreement No.3082/2015
Ex.A19	14.09.2015	Original agreement relating to deposit of title deeds No.9827/2015

Ex.A20	14.06.2019	Original Discharge receipt No.6249/2019
Ex.A21	14.06.2019	Original Legal Opinion
Ex.A22	*****	Copy of Mallikarjunan's Aadhaar Card
Ex.A23	*****	Copy of Kumar's Aadhaar Card

Principal District Judge,
Tiruppur.

Draft / Fair Judgment
O.S.No.628/2023
Date:16.10.2024
PDJ Court, Tiruppur.