

**IN THE COURT OF THE SUBORDINATE JUDGE AT ARNI,
TIRUVANNAMALAI DISTRICT**

Present : **Tmt. A.Daoudh Ammal, B.A., M.L.,**
Subordinate Judge, Arni

Thursday the 21st day of July 2022

Original Suit No.254/2021
(CNR No.TNTM03-000444-2021)

R.Murugesan ... Plaintiff

-Vs-

M.Veeramani ... Defendant

This suit coming on 06.07.2022 before me for final hearing in the presence of Tr.K.Karthi, Advocates for the Plaintiff and the Defendant called absent and set exparte and having stood over for consideration till this date, this court delivered the following

JUDGEMENT

Suit for granting a decree for Specific Performance directing the Defendant to execute the Sale Deed in respect of the suit schedule property in favour of the Plaintiff as per the registered Sale Agreement dated 25.10.2018 after the receipt of the balance sale consideration of Rs.50,000/- and deliver the possession of the suit schedule property to the Plaintiff and failing which through the process of the Court and put to the Plaintiff in possession of the suit schedule property through Court and also granting an order of Permanent Injunction restraining the Defendant and his successor, intercessors, heirs and legal representatives from in any manner creating any sort of encumbrance over the schedule mentioned property till the final disposal of the suit or in the alternative, directing the Defendant to refund the advance amount of Rs.2,50,000/- with interest at the rate of 18% together with the future interest and for costs.

2. Plaint Averments:

The Plaintiff has stated that the Defendant entered into an Agreement of Sale in respect of the suit schedule property with the Plaintiff, which was registered at the office of Sub Registrar, Arni in Document No.8461/2018 on 25.10.2018 and received an advance of Rs.2,50,000/- from the Plaintiff and agreed to execute the Sale Deed in favour of the Plaintiff after receiving the balance of Rs.50,000/- within the period of 30 months from the date of Agreement. The Plaintiff is always ready and willing to perform his part of contract and approached the Defendant several times and requested orally to execute the Sale Deed by receiving the balance amount, but the Defendant had been evading the performance of the contract. Hence, the Plaintiff has issued a lawyer's notice dated 02.07.2021 to the Defendant calling upon him to fulfill the terms of the contract and the same was received by the Defendant on 09.07.2021, but he neither replied nor performed the contract. Hence, the Plaintiff has filed this suit for directing the Defendant to execute the Sale Deed in respect of the suit schedule property in favour of the Plaintiff as per the registered Sale Agreement dated 25.10.2018 after the receipt of the balance sale consideration of Rs.50,000/- and deliver the possession of the suit schedule property to the Plaintiff and failing which through the process of the Court and put to the Plaintiff in possession of the suit schedule property through Court and also granting an order of Permanent Injunction restraining the Defendant and his successor, intercessors, heirs and legal representatives from in any manner creating any sort of encumbrance over the schedule mentioned property till the final disposal of the suit or in the alternative, directing the Defendant to refund the advance amount of Rs.2,50,000/- with interest at the rate of 18% together with future interest and for costs.

3. Points for consideration:

(i) Whether the Plaintiff is entitled for the relief of Specific Performance directing the Defendant to execute and register the Sale Deed in respect of the suit schedule property in favour of the Plaintiff as per the registered Sale Agreement dated 25.10.2018 after receipt of the balance sale consideration of Rs.50,000/- and deliver possession of the suit schedule property to the Plaintiff and in default through the process of the Court and put the Plaintiff in possession of the suit schedule property through Court or in the alternative, directing the Defendant to refund the advance amount of Rs.2,50,000/- with future interest at 18% per annum?

(ii) To what other reliefs?

4. Heard. Records Perused. The Defendant was called absent and set exparte on 21.09.2021. The Plaintiff Tr.Murugesan is examined as PW1. PW1 has adduced evidence by filing Proof affidavit and Ex.A1 to Ex.A3 marked as Exhibits on the side of Plaintiff. Sale Agreement (Original) dated 25.10.2018 is marked as Ex.A1, Copy of Legal Notice dated 02.07.2021 is marked as Ex.A2, Acknowledgement Card (original) is marked as Ex.A3.

5. It is pertinent to note that the Plaintiff has filed this suit against the Defendant for Specific Performance directing the Defendant to execute and register the Sale Deed in respect of the suit schedule property in favour of the Plaintiff as per the registered Sale Agreement dated 25.10.2018 after receipt of the balance sale consideration of Rs.50,000/- and deliver possession of the suit schedule property to the Plaintiff and in default through the process of the Court and put the Plaintiff in possession of the suit schedule property through Court or in the alternative, directing the Defendant to refund the advance amount of Rs.2,50,000/- with future interest at 18% per annum and for costs. It is to be noted that on hearing the learned counsel for the Plaintiff and on perusal of the Proof Affidavit of PW1 and Ex.A1 to Ex.A3 and on considering the fact that the Defendant had been set exparte on 21.09.2021, it is very clearly evident that the Plaintiff has stated that in accordance with the Sale Agreement dated 25.10.2018, he approached the Defendant with the balance sale consideration of Rs.50,000/- and asked the Defendant to register the Sale Deed in favour of the Plaintiff after receipt of the balance sale consideration but the Defendant refused to register the Sale Deed in accordance with the terms of Sale Agreement and therefore the Plaintiff had issued a Legal Notice to the Defendant to receive the balance sale consideration and register the Sale Deed in favour of the Plaintiff. But it is to be noted that on perusal of the Plaintiff and Proof Affidavit of PW1, it is evident that the Plaintiff has stated that he is always ready and willing to perform his part of the contract by depositing the balance sale consideration of Rs.50,000/- before this Court as per the Sale Agreement dated 25.10.2018. The Plaintiff had deposited the balance sale consideration of Rs.50,000/- before this court to show his ready and willingness, which clearly reveals that the Plaintiff has proved that he is always ready and willing to perform his part of the contract. Therefore this Court considers that the Plaintiff had proved his claim for Specific Performance with regard to the suit schedule property satisfactorily before this court. Hence this court is inclined to

grant the relief of Specific Performance with regard to the suit schedule property in favour of the Plaintiff. Hence this court considers that the Plaintiff is entitled for the relief of Specific Performance directing the Defendant to execute and register the Sale Deed in respect of the suit schedule property in favour of the Plaintiff as per the registered Sale Agreement dated 25.10.2018 after receipt of the balance sale consideration of Rs.50,000/- and deliver possession of the suit schedule property to the Plaintiff and in default through the process of the Court and put the Plaintiff in possession of the suit schedule property through Court.

6. In the result,

(i) The Plaintiff is entitled for the relief of Specific Performance directing the Defendant to execute and register the Sale Deed in respect of the suit schedule property in favour of the Plaintiff as per the registered Sale Agreement dated 25.10.2018 after receipt of the balance sale consideration of Rs.50,000/- within 3 months from the date of Judgement and deliver possession of the suit schedule property to the Plaintiff and in default through the process of the Court and put the Plaintiff in possession of the suit schedule property through Court.

(ii) Permanent Injunction is granted in favour of the Plaintiff restraining the Defendant and his successor, intercessors, heirs and legal representatives from in any manner creating any sort of encumbrance over the schedule mentioned property till the final disposal of the suit.

(ii) The Plaintiff is not entitled for the alternative relief of refund of the Advance amount with interest of Rs.2,50,000/- with future interest at 18% per annum from the date of the Plaint till realisation from the Defendant.

(iii) The Defendant is directed to pay the costs of the suit to Plaintiff.

Directly dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court, on this, the 21st day of July 2022.

Subordinate Judge,
Arni

Plaintiff Side Witnesses :

PW1 - Tr.Murugesan

Plaintiff Side Documents.

Ex.A1 - Sale Agreement Deed (Original) dated 25.10.2018

Ex.A2 - Copy of Legal Notice dated 02.07.2021

Ex.A3 - Acknowledgement Card (original)

Defendant Side witness : NIL

Defendant Side Documents: NIL

Subordinate Judge,
Arni