

**IN THE COURT OF THE ADDITIONAL DISTRICT COURT (FTC),****ARANI, TIRUVANNAMALAI DISTRICT****PRESENT: Tmt.K.Vijaya, B.Sc., B.L.,****Additional District Judge, Arani.****Wednesday, the 21<sup>st</sup> day of February 2024****O.S.19/2021****(Tiruvannamalai District Court O.S.No.76/2021)**

P. Srinivasan

... Plaintiff

-Versus-

V. Ramalingam

... Defendant

This suit is coming before me for final hearing on 20.02.2024 in the presence of Thiru. K. Rajamoorthy, Advocate for the Plaintiff and of Tmt. RM. Meenakshi Sundaram and Thiru. B. Pandiyan, Advocates for the Defendant, not cross examining the PW1, the defendant called absent, Set ex parte and the PW1 Chief examination has been taken as Ex parte Evidence and upon perusing the entire case records and having stood over for consideration till this day, this court delivers the following...

**JUDGMENT**

(i) Directing the defendant to refund the balance advance amount of Rs.10,00,000/- with interest from 01.09.2018. at 9% P.A. to the plaintiff

(ii) Directing the defendant to pay the costs to the plaintiff and

(iii) to grant such other or other reliefs as this Honourable Court deems fit and proper under the circumstances of this case.

**2) Brief averments of the plaint are as follows:-**

The defendant was willing to sell the plaint mentioned property and executed the sale agreement by the plaintiff and the defendant, the sale price was fixed at Rs.1,19,39,000/- after receiving a sum of Rs.20,00,000/- from the plaintiff on the same date i.e. 26.04.2017. After the sale agreement, the defendant with an

ulterior motive, settled the property in favour of his brother V. Chandrasekaran, who, in turn, sold the the same in favour of one Pandurangan, who, in turn, mortgaged the same to one Balasubramani on 23.01.2020. After knowing the above transactions, the plaintiff approached the defendant on 01.09.2018 and the defendant paid Rs.10,00,000/- to the plaintiff's account through RGST and requested to repay remaining Rs.10,00,000/- within one month. Since the defendant evading to repay the remaining Rs.10,00,000/-, the plaintiff on 29.09.2020 lodged complaint before Deputy superintendent of police, Arani. During enquiry and for evading from the criminal offences, the defendant voluntarily requested to pay the remaining Rs.10,00,000/- with two installments from February 2021 and March 2021 for which, a returned under taking receipt issued by the defendant in favour of Deputy Superintendent of Police, Arani. In spite of above written request, the defendant tried to alienate the plaint mentioned property to the 3<sup>rd</sup> property and further, the defendant having the plaint mentioned property alone. Hence, this suit.

**3) Brief averments of the Written Statement filed by the defendant as follows:**

The defendant denies the plaint averments on the ground that the plaintiff has filed a suit seeking for judgment and Decree to refund the advance sum of Rs.10,00,000/- with interest @ 9% p.a. from 01.09.2018 till realization, in view of the sale agreement dated 26.04.2017 in respect of the agreement mentioned property. As the defendant dragged the matter, after prolonged negotiation the advance sum of Rs.10,00,000/- was reimbursed on 01.09.2018 through bank transfer and for the balance sum a complaint was lodged before the Deputy Superintendent of Police, Arani on 29.09.2020 and the defendant gave a letter of undertaking to the Deputy Superintendent of Police, Arani that balance Rs.10,00,000/- will be repaid in 2 installments, but the latter was not honoured. In the meanwhile, defendant have executed a settlement deed in favour of his brother Chandrasekar on 31.05.2018 and his brother had sold the property in favour of one

Pandurangan on 28.08.2018 and thereafter the same property was mortgaged to one Balasubramani on 23.01.2020.

The real fact is that the defendant never entered into the sale agreement with the plaintiff in respect of the alleged agreement mentioned property on 26.04.2017. In fact the defendant have borrowed a loan of Rs.10,00,000/- from the plaintiff, while lending the loan the plaintiff herein obtained the defendant's signature in plenty of blank stamp papers, white papers and in a unfilled pro-note. On 01.09.2018, the defendant have repaid the loan amount of Rs.10,00,000/- and Rs. 40,000/- towards interest. Even then, the plaintiff insisted to pay additional sum of Rs.3,00,000/- towards compound and penal interest. On refusal the above said demand by the defendant, the plaintiff managed to setup a sale agreement for which criminal complaint was lodged before the Deputy Superintendent of Police, Arani. There is no necessity to sale the suit property by the defendant. After lapse of two years, the plaintiff indulged in manipulation of document and lodged a complaint before the Deputy Superintendent of Police, Arani and as such, the defendant was forced to write a letter to the Deputy Superintendent of Police, Arani even the defendant is not party to the agreement. Due to the forcible and influence, the document was came and the same is invalid. Further, the contents of the sale agreement dated 26.04.2017, in which the time is the essence of contract and sale deed has to be executed within 3 months from the date of sale agreement. Thus, the suit for recovery of advance sum of Rs.10,00,000/- filed on 23.04.2021 is scrupulously time barred and the suit is not maintainable and thus, the suit is not having cause of action. Hence, the plaint is liable to be dismissed with costs.

**4. The following issues were framed for trial :-**

1. Whether the defendant borrowed Rs.10,00,000/- and repaid the same ?
2. Whether the plaintiff obtained the defendant's signatures in the plenty of blank stamp paper, white paper and in an unfilled pro-notes at time of lending loan amount ?

3. Whether the plaintiff forged sale agreement dated 26.04.2017 by manipulating signed stamp paper ?

4. Whether the plaintiff caused police force and got written letter for repayment ?

5. Whether the suit is barred by limitation ?

6. Whether the plaintiff is entitled for recovery of money with interest as prayed in the plaint ?

7. To what other relief ?

5. On the side of the plaintiff, the plaintiff has been examined himself as PW1 and Ex.A1 to Ex.A6 were marked.

6. On the side of the Defendant, in spite of sufficient time granted, PW1 not cross examined, defendant called absent, Set exparte and hence, PW1 Chief examination treated as Exparte Evidence on 20.02.2024.

7. The case of the plaintiff is that in view of Ex.A1 Sale Agreement, Dated:26.04.2017, the plaintiff paid Rs.20,00,000/- as advance of sale consideration and during the sale agreement, the defendant settled the property to his brother V. Chandrasekaran, who in turn sold the same to one Pandurangan, who in turn mortgaged the same to one Balasubramanian. After knowing the all transactions, the plaintiff demanded his paid sale advance for which, Rs.10,00,000/- paid. Remaining Rs.10,00,000/- not paid and as such, the plaintiff lodged a complaint and on enquiry, the defendant gave written undertaking but not complied with the same.

8. The case of the defendant is that he borrowed a sum of Rs.10,00,000/- form the plaintiff and the same was returned along with the interest. At the time of execution of loan document, the plaintiff procured signature of the defendant on various blank papers and stamp papers and the same was forged for this suit sale agreement. The suit is based on the manipulated document and as such, the suit is liable to be dismissed with costs.

9. In order to prove the plaintiff's case, the plaintiff has marked Ex.A1- the original unregistered sale agreement dated 26.04.2017. Ex.A2 the copy of complaint dated 29.09.2020, Ex.A3 the copy of undertake receipt given by the defendant before D.S.P. Arni. Ex.A4 the download copy of encumbrance certificate of the suit property dated 05.03.2021. Ex.A5 Written information given by the Deputy Superintendent of Police, Arani dated 01.04.2022 along with 30.09.2020 undertake receipt given by the defendant. Ex.A6 Download copy of Statement of Accounts denoting defendant paid Rs.10,00,000/- to the plaintiff's Bank Account.

10. In view of the above documents, the plaintiff has proved his case with documentary and oral evidence. In order to disprove the plaintiff's case, the defendant filed written statement, but, did not appear and not tested the plaintiff's evidences. In spite of sufficient time granted, the defendant called absent and set exparte. Hence, the plaintiff has established his case and as such, the plaintiff is entitled for the suit claim as per the marked document and oral evidence.

**11. In the result,** The suit is decreed with costs, directing the defendant to pay the suit amount of Rs.10,00,000/- together with interest at 9% per annum from the date of suit till the date of decree and thereafter at 6% per annum till date of realization.

Dictated by me to the Steno typist and typed by her computer directly, corrected and pronounced by me in open court, this the 21<sup>st</sup> day of February, 2024.

**Sd/- K.Vijaya,  
Additional District Judge,  
Arani.**

**List of Witnesses on the side of Plaintiff:**

PW1 : Tr.Srinivasan (Plaintiff)

**List of Exhibits on the side of the plaintiff:**

Ex.A1	26.04.2017	The Original unregistered Sale Agreement
Ex.A2	29.09.2020	The copy of complaint

Ex.A3	30.09.2020	The copy of undertake receipt given by the defendant before D.S.P. Arni.
Ex.A4	05.03.2021	The download copy of encumbrance certificate of the suit property
Ex.A5	01.04.2022 and 30.09.2020	Written information given by the Deputy Superintendent of Police, Arani along with undertake receipt given by the defendant.
Ex.A6	-	Download copy of Statement of Accounts denoting defendant paid Rs.10,00,000/- to the plaintiff's Bank Account.

**List of Witnesses on the side of Defendant:**      **NIL**

**List of Exhibits on the side of the defendant:**      **NIL**

**Sd/- K.Vijaya,  
Additional District Judge,  
Arani.**