

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE(FTC),
VELLORE, VELLORE DISTRICT.

PRESENT: Tmt.P.Revathy, M.A.,M.L.,
Additional District Judge(FTC),Vellore.

Dated this the 10th day of October 2022, Monday

O.S.NO.90/2021

R.Dhamotharan

.. Plaintiff

//Vs//

S.Thamizhmani

.. Defendant

This suit was filed before the Hon'ble Principal District Court, Vellore on 05.07.2021 thereafter the case was transferred to this court and came up before me on 30.09.2022 for final hearing in the presence of Thiru.K.M.Boopathi, counsel for the Plaintiff and the defendant was called absent set exparte on 08.04.2022, upon hearing the arguments of plaintiff side and upon perusing the entire case records and having stood over for consideration, till this date this court delivered the following:-

JUDGMENT

Suit for specific performance of contract directing the defendant to execute the Sale deed in respect of the suit schedule mentioned property in favour of the plaintiff after receiving the balance sale consideration and to deliver the possession of the suit property to the plaintiff and in default this court to execute the sale deed in favour of the Plaintiff and directing such delivery through court (OR) in alternative direct the defendant to repay the

advance sale consideration of Rs.19,00,000/- with interest at the rate of 24% per annum from the date of agreement to till realization and for cost.

2.The averments of the Plaintiff is as follows:-

The defendant is the absolute owner of the suit property and he contacted the Plaintiff to sell the suit property for a sum of Rs.20,00,000/- and the plaintiff is agreed to purchase the suit property for a sum of Rs.20 lakh from the defendant. The terms of the contract was reduced by way of a registered agreement of sale dated 17.09.2019. The defendant received an advance sale consideration for a sum of Rs.19,00,000/- from the plaintiff on the date of execution of agreement itself i.e., on 17.09.2019. At the time of agreement though both the parties agreed that the time is not essence of the contract, as per the agreement of sale dated 17.09.2019, the plaintiff will have to pay the balance sale consideration of Rs.1,00,000/- within 20 months. The Plaintiff is always ready and willing to perform his part of contract. The Plaintiff right from the day one of the contract insisting the defendant to execute the sale deed regarding the suit property after receiving the balance sale consideration. But the defendant is evading the same for the reasons best known to him. After that the defendant postponed the registration by showing the Covid-19 as a reason. The Plaintiff issued a legal notice dated 28.04.2021 to the defendant calling upon him to perform his part of contract and the said notice was returned by the defendant on 12.05.2021. The defendant has not executed the sale deed in favour of the

Plaintiff till date. After issuing of legal notice also the plaintiff so many times in person demanded the defendant to execute the sale deed but the defendant postponed the same by saying one reason or the other. Hence the plaintiff filed the suit.

3. The defendant though appeared through counsel by filing vakalath, but not filed the written statement inspite of more than sufficient time given hence the defendant was called absent and set exparte on 08.04.2022.

4. Whether the plaintiff is entitled to get the decree of Specific Performance of contract as claimed by him?
is to be decided in this case.

5. To prove the case of the plaintiff, the plaintiff himself examined as PW.1 and filed the proof affidavit and Ex.A.1 to A.3 were marked through him. Ex.A.1 is the sale agreement dated 17.09.2019 executed between the plaintiff and the defendant. Ex.A.2 is the legal notice issued by the plaintiff to the defendant dated 28.04.2021. Ex.A.3 is the Returned postal cover.

To prove his ready and willingness, the plaintiff sent a legal notice to the defendant, but the defendant did not receive the said legal notice and he returned the said notice. On perusing the evidence of P.W.1 and the documents Ex.A.1 to A.3, the plaintiff has proved the plaint averments. To rebut those contentions, no materials had been produced on the side of the defendant, and he failed to file the written

statement to contest the case on merits. Therefore, the suit is decreed as prayed for.

In the result, the suit is decreed with cost. The plaintiff is directed to deposit the balance sale consideration of Rs.1,00,000/- within one month from the date of this judgement. The Defendant is directed to execute the sale deed in favour of the Plaintiff within one month from the date of deposit of balance sale consideration by the plaintiff; failing which the Plaintiff shall approach the court to execute the sale deed as per law. The defendant is permitted to get the balance sale consideration amount of Rs.1,00,000/- from the court, after executing the sale deed.

Dictated to the steno-typist directly, transcribed and typed by her through computer and after corrected by me, pronounced in open court on 10.10.2022.

**Additional District Judge (FTC)
Vellore.**

Annexure:-

Plaintiff side witness:-

PW.1 / Thir.R.Dhamotharan

Plaintiff side Exhibits:-

Ex.A.1 / 17.09.2019 / Original registered sale agreement executed between the plaintiff and the defendant.

Ex.A.2 / 28.04.2021 / Copy of the Legal notice issued by the Plaintiff to the defendant

Ex.A.3 / 13.05.2021 / Returned Postal cover

Defendant's side witnesses and Exhibits:

NIL

**Additional District Judge(FTC)
Vellore.**