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IN THE COURT OF THE SUBORDINATE COURT,

BODINAYAKANUR, THENI DISTRICT.

PRESENT : Thiru.M.Seyadhu Sulaiman Ussain, L.L.M.,

Subordinate Judge.

Monday the 15th day of June 2026

O.S. No.555/2024

(CNR No.TNTH1A-001694-2024)

(This Suit was Originally filed before the Hon'ble Sub Court, Theni and it was numbered as **O.S. No.73/2024**. The Sub Court at Bodinayakanur was constituted as per G.O.(Ms) No.231 Home (Courts – III) Department, dated 19.05.2022 and it came into functioning on 21.07.2024. The above suit was transferred to the file of this Sub Court at Bodinayakanur, as per the proceedings of the Hon'ble Principal District Judge, Theni and it is renumbered as **O.S. No.555/2024**)

1. V.Seenivasan

2. M. Tamilkaruppasamy

...Plaintiffs

//VS//

1. S. Ajiskhan

2. A. Arokia Jancy Rani

...Defendants

This Suit came up before me for final hearing in the presence of Mr.P.Gopinath, Learned counsel for the Plaintiffs and Defendants remain exparte and upon hearing the arguments of the plaintiffs side and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following...



JUDGMENT

1. This suit is filed by the plaintiffs praying this court:-

(i) To cancel the sale deed executed by the plaintiffs in favour of the defendants in respect of the Suit property on 07.02.2022, registered as Doc. No.691/2022 on the file of Sub-Registrar, Bodinayakanur.

(ii) To pass an order of permanent injunction restraining the defendants and their men from in any way interfering into the plaintiffs peaceful possession and enjoyment of the suit property.

2. The suit property in this case is situated in Bodinayakanur Taluk, Silaimalai Village, New Patta No.4698, New Survey No.617/1D, measuring to an extent of 77 cents of land and the undivided Well right comprised in Survey No.617/1A.

3. The Case of the Plaintiffs:-

(i) The 1st plaintiff is the uncle (Father's younger brother) of the 2nd plaintiff. The suit property belonged to the plaintiffs by way of registered sale deed dated 13.12.2011. The plaintiffs wanted to sell the suit property. One Panneerselvam is the friend of 2nd plaintiff. One Mr.Prakash and Prabhu are the acquaintance of Panneerselvam. This Prakash and Prabhu had brought the defendants to the suit property and said that the suit property can be sold at the rate of Rs.1,00,000/- per



Cent. Since the plaintiffs was under the financial difficulties, they decided to sell the suit property for the above price to the defendants.

(ii) Accordingly, the plaintiffs had executed a registered sale deed in favour of the defendants on 07.02.2022. The defendants had assured that after the registration of sale deed, they will pay the sale price to the bank account of the plaintiffs. The plaintiffs had believed the Panneerselvam and the defendants. Thereafter, the defendants asked for one week time to pay the sale price. But they have not paid the sale price within a period of one week and again they asked for two months period to make the payment. But even thereafter, they have not paid the sale price. The 2nd plaintiff contacted the defendants through the cell number of the defendants mentioned in the sale deed. But both the cell numbers belonged to different persons. The plaintiffs realized that they were cheated by the defendants.

(iii) The 2nd plaintiff had sent a letter to the Sub-Registrar, Bodinayakanur on 29.04.2022 seeking for the cancellation of the sale deed dated 07.02.2022, registered as Doc. No.691/2022 on the file of Sub-Registrar, Bodinayakanur. The Sub-Registrar has issued a reply by stating that he has no jurisdiction to cancel the registered sale deed and advised the plaintiffs to take recourse through Civil Court. The plaintiffs had also given a complaint against the defendants on 01.05.2022 before the Taluk Police Station, Bodinayakanur. The fact that the defendants have not paid the sale price to the plaintiffs are also known to the Panneerselvam, Prakash, Prabhu.



(iv) In these circumstances, on 10.02.2024 the defendants attempted to enter into the suit property with a view to take possession of the same. The plaintiffs informed them that after receiving the sale price only, they will hand over the possession of the suit property. The defendants replied that they had paid the sale amount to the Prabhu. But, no amount was received by the plaintiffs. On 16.02.2024, again the defendants came to the suit property with 10 men and attempted to entire into the suit property. It was also prevented by the plaintiffs.

(v) The defendants had also filed a Writ Petition before the Madurai Bench of Madras High Court in W.P. (MD) No.7152/2024, without adding the plaintiffs as parties, for the measurement of suit property, by suppressing the pendency of this suit. The defendants had fraudulently obtained the sale deed from the plaintiffs without paying the sale price. Hence, this suit is filed for the cancellation of the said sale deed and for the permanent injunction.

4. After taking the suit on file the Sub Court, Theni has issued summons to the defendants returnable by 27.03.2024. The said summons was issued to the address of the defendants as mentioned in the registered sale deed. Infact, in the sale deed copy, the Aadhaar card of the defendants are also enclosed. The address of the defendants is mentioned in the sale deed on the basis of address given in the said Aadhaar card. However, the said summons was not served. Then, fresh summons was issued to the defendants returnable by 21.08.2024. The said summons was served to the 2nd



defendant and the summons sent to the 1st defendant was await. At this stage, the suit was transferred to this court, on its new formation. Even this court has issued fresh summons to the both the defendants returnable by 23.01.2025. Such postal summons was served on the 1st defendant. The postal summons sent to the 2nd defendant returned as unclaimed. But they did not appear before this court. Since the summons was sent to the defendants to the address mentioned in the registered sale deed, the service is held sufficient and as they did not appear before the court, they were set ex-parte on that day.

5. On 24.02.2025 the 2nd plaintiff is examined as PW1 on proof affidavit and Ex.A1 to A6 were marked. One Mr. Prakash is examined as PW2 on proof affidavit. Then the case reached the stage of argument. At that stage, the plaintiff side filed amendment IA in IA No.01/2025 to amend certain additional pleadings in the plaint. Even, in that amendment application, notice was ordered to the defendants returnable by 14.08.2025 and such notice was served on the 2nd defendant. Even the 1st defendant was present before the court on 28.08.2025. But in subsequent hearing dates, both the defendants did not appear before the court. Hence, they were set ex-parte in that IA and the said amendment application was allowed and the plaint was also amended.

6. Even after the amendment of plaint, this court has issued fresh summons to the defendants returnable by 13.10.2025. However, the said summons was returned.



Hence, fresh summons was ordered returnable by 16.12.2025. It was served on the 1st defendant and he was present before this court on 16.12.2025. The summons sent to the 2nd defendant was await and thus the case was posted to 20.01.2026 for the appearance of 2nd defendant. The earlier summons sent to the 2nd defendant was addressed to the same address. Hence, the service is held sufficient and both the defendants were set ex-parte on 20.01.2026 as they did not appear before this court. The plaintiffs were given opportunity to file additional proof affidavit. On that basis, the 2nd plaintiff has filed his additional proof affidavit on 09.02.2026 and One Mr. Panneerselvam is also examined PW3 on proof affidavit and his Aadhaar card is marked as Ex.A7.

7. The learned counsel for the plaintiffs in his argument while reiterating the averments contained in the plaint had submitted that the defendants had never paid the sale price to the plaintiffs and thus the very sale is void for want of consideration and the possession of the suit property is still with the plaintiffs and when the possession was disturbed by the defendants, the suit came to be filed and the sale deed is never acted upon and the defendants have failed to come forward to contest the suit and even the PW2, PW3 have deposed about the non-payment of sale consideration and PW2, PW3 are the attesting witness to the sale deed and thus prayed this court to decree the suit as prayed for.



8. Ex.A1 is the sale deed, said to have been executed by the plaintiffs in favour of the defendants on 07.02.2022, registered as Doc.No.691/2022 on the file of SRO, Bodinayakanur. Ex.A2 is the complaint copy given by the 2nd plaintiff as against the defendants, on 29.04.2022 before the Sub-Registrar, Bodinayakanur. Ex.A3 is the memorandum issued by the Sub-Registrar, Bodinayakanur. Ex.A4 is the complaint copy given by the 2nd plaintiff against the defendants before the Bodinayakanur Taluk Police Station on 01.05.2022. Ex.A5 is the another complaint dated 16.02.2024 before the same police station. Ex.A6 is the valuation slip of the suit property. Ex.A7 is the Aadhaar card of the 3rd defendant.

9. This court has perused the record. This court has considered the submission made by both side made by plaintiff side counsel. The point to be considered is whether the plaintiffs are entitled to the suit reliefs (or) not. The PW2, PW3 are the attesting witness to the Ex.A1/Sale deed. In the recital of this sale deed, the sale price is mentioned as Rs.1,84,600/- and it is also mentioned that this price is paid by the defendants to the plaintiffs, in cash on the date of registration of sale deed. It is also mentioned in it that the possession is handed over to the defendants. Infact, in the course of argument, this court has insisted as to how the plaintiffs could succeed, in the face of those recitals contained in the sale deed. Thereafter only the plaintiffs side filed amendment application seeking to add certain additional pleadings in the plaint. The PW2, PW3 have also stated in their proof affidavit that the sale price was not



paid by the defendants to the plaintiffs. The core case of the plaintiffs is that they decided to sell the suit property at the rate of Rs.1,00,000/-per cent. The learned counsel for the plaintiff further submitted that the intention of the plaintiffs to sell the suit property at the rate of Rs.1,00,000/- per cent and it is not their intention to sell the entire property for the price mentioned in the sale deed i.e. Rs.1,84,600/-.

10. On perusal of records, it is seen that the suit property is situated in Theni District and the 1st defendant is the resident of Thanjavur District and the 2nd defendant is the resident of Sivagangai District. On 04.06.2026, the defendants filed IA under Order IX Rule VII of CPC, praying this court to set aside the ex-parte order passed against them. Since the hearing of the suit is already concluded and the suit was reserved for judgment and the application of the defendants did not accompany their written statement to the suit, the said IA was returned.

11. The date of Ex.A1/sale deed is 07.02.2022. On perusal of Ex.A2, A3, it is seen that the 2nd plaintiff has lodged a complaint before the Sub-Registrar, Bodinayakanur on 29.04.2022 by stating that they have not received the sale price from the defendants. Ex.A3 is the reply issued by the Sub-Registrar. Hence, it can be seen that within 2 ½ months period, the plaintiffs have raised the issue of non-payment of sale price. But, the suit came to be filed only on 23.02.2024 i.e. nearly 2 years after Ex.A3. It is the submission of the plaintiff side counsel that the plaintiffs continued to be in the possession of the suit property and the defendants came to the



suit property only on 10.02.2024 with an intention to disturb the possession and thus the suit came to be filed immediately. The said argument is convincing and the delay in filing the very suit need not be taken against the plaintiffs.

12. The learned counsel for the plaintiffs in his argument has also relied on the following judgment of the Honourable Supreme Court.

1. 2025-INSC-1105 (Shanthi Devi Vs. Jagan Devi)

2. 2022-18-SCC-489 (Kewal Krishnan Vs. Rajesh Kumar)

13. This court has also considered the ratio laid down in the above judgment. In the Kewal Krishnan case, it is mentioned as follows:-

“Hence, a sale of an immovable property has to be for a price. The price may be payable in future. It may be partly paid and the remaining part can be made payable in future. The payment of price is an essential part of a sale covered by section 54 of the TP Act. If a sale deed in respect of an immovable property is executed without payment of price and if it does not provide for the payment of price at a future date, it is not a sale at all in the eyes of law. It is of no legal effect.

Therefore, such a sale will be void. It will not effect the transfer of the immovable property”.

14. The defendants were already served with suit summons. Despite granting sufficient opportunity, they have not filed their written statement and they have not come forward to contest the suit. The evidence of PW1 to 3 remains unrebutted. It is



the consistent version of the plaintiffs side witnesses that the defendants have not paid the sale price to the plaintiffs. They have also deposed about the enjoyment of the suit property by the plaintiffs. It is true that the plaintiffs have not filed their original title deed and the original of the Ex.A1/sale deed. No explanation is offered as to why the original of these two deeds is not filed. Hence, it is to be held that the original of Ex.A1 is with the defendants and the parent title documents of the plaintiffs are also with the defendants.

15. As mentioned in the abovesaid Judgments of Honourable Supreme Court, the sale price is essential for the valid sale. Since the sale under the Ex.A1 is not supported with consideration, the plaintiffs have filed the present suit to cancel the said Sale Deed. The first prayer is valued under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act. Being a party to the sale deed, they are liable to value the first relief for the value mentioned in the sale deed.

16. Considering the entire facts and circumstances of the case this court is satisfied with the plaintiffs case and thus the Ex. A1/sale deed is liable to be cancelled for want of consideration and thus the plaintiff is entitled for the relief of cancellation. Since the plaintiffs are stated to be continue in the possession and enjoyment of the suit property and the defendants have not come forward to dispute the said fact, this court is also satisfied that the plaintiffs are in possession and enjoyment of the suit property and thus the defendants are to be restrained by way of



permanent injunction from in any way interfering into the plaintiffs peaceful possession and enjoyment of the suit property.

17. In the result, this suit is decreed as follows:-

(i) The sale Ex.A1/Sale Deed dated 07.02.2022 executed by the plaintiffs in favour of the defendants, registered as Doc.No.691/2022 on the file of Sub-Registrar, Bodinayakanur is hereby cancelled.

(ii) The defendants are restrained by way of permanent injunction from in any way interfering into the plaintiffs peaceful possession and enjoyment of the suit property.

(iii) Considering the facts and circumstances of the case, the plaintiffs are also entitled for the costs of the suit.

This Judgment is dictated to the Steno Typist and directly typed by her, corrected and pronounced by me in the open Court, this the 15th day of June 2026.

**Sub Judge,
Bodinayakanur.**

List of Witness on the Plaintiffs's side :

PW1 - Tmt. M. Tamil Karuppayi - (2nd Plaintiff)

PW2 - Tr. A. Prakash

PW3 - Tr. R. Panneerselvam

List of Documents on the Plaintiffs's side :

Ex.A1 07.02.2022 Sale Deed No.691/2022 registered in favour - SRO Copy
of the defendants, by the plaintiffs



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|-------|------------|---|---------------|
| Ex.A2 | 29.04.2022 | Petition filed by the 2 nd plaintiff to cancel the registered sale deed (Document No.691/2022) dated 07.02.2022 at the Bodinayakanur Sub-Registrar Office. | - SRO Copy |
| Ex.A3 | 30.04.2022 | Memo returned from the Bodinayakanur Sub-Registrar Office. | - Original |
| Ex.A4 | 01.05.2022 | Complaint petition submitted to the Inspector of Police, Bodinayakanur Taluk Police Station. | - Copy |
| Ex.A5 | 16.02.2024 | Complaint petition submitted to the Inspector of Police, Bodinayakanur Taluk Police Station. | - Copy |
| Ex.A6 | ... | Valuation slip of the suit property | - Online Copy |
| Ex.A7 | | Aadhaar card of the PW3 | - Copy |

List of Witnesses and Documents marked on the defendants's side : Nil

**Sub Judge,
Bodinayakanur.**

**O.S. No.555/2024
Dated : 15.06.2025
Fair/Draft Judgment
Sub Court,
Bodinayakanur.**