

Second Appeal No.34 of 2015**S.NAGAMUTHU,J**

This second appeal has come up today for admission. I have heard the learned counsel for the appellants and the learned counsel for the respondents/caveator and I have also perused the records carefully.

2.The learned counsel for the appellants would submit that subsequent to the passing of the decree for specific performance by the trial Court, the plaintiff did not pay the sale consideration as directed in the decree, on time. As a matter of fact, the plaintiff has filed a petition before the trial Court seeking extension of time to deposit the amount in Court. The learned counsel would further submit that even during the pendency of the same, the plaintiff has not deposited the amount before the trial Court. The learned counsel would further submit that subsequent events may also be taken note off to assess the conduct of the parties. In this regard, the learned counsel has relied on a judgement of the Hon'ble Supreme Court in **Rajesh D.Darbar and others v. Narasinga Rao Krishnaji Kularni and others** (2003 (7) SCC 219) and yet another judgement of the Hon'ble Supreme Court in **Inderchand Jain (D) through Lrs v. Motilal (D) through Lrs** (2009(5) CTC 365).

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3.Having regard to the said submissions made, I find that the appellants have made out the case for admission on the following substantial question of law:-

"1.Whether the failure of the plaintiff to comply with the terms of the decree to pay the balance of sale consideration to the defendants within the time stipulated in the decree would automatically prove that the plaintiff was not all along ready and willing to perform her part of contract ?

2.Whether in the instant case, the plaintiff has proved that she was all along ready and willing to perform her part of contract ?

Notice.

04.02.2015

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