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S.A. No. 447 of 2024
and C.M.P. No.13328 of 2024

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T.V.THAMILSELVI, J.

Heard and considered submissions of both learned counsel for appellant and respondents and perused the materials available on record.

2. Challenging the concurrent findings of the courts below, the plaintiff preferred this Second Appeal. Before the trial court, she has filed a suit for specific performance against the respondents/defendants stating that she is ready to perform her part of agreement, but inspite of notice, the respondents/defendants not turned up. Hence, she filed a suit. On hearing both sides, both the courts below concurrently held that the plaintiff has not expressed her readiness and willingness, though she admitted the execution of agreement. Furthermore, the observation made by the first appellate judge that the property is valued more than Rs.20 lakhs and also observed that for the borrowal of loan, the sale agreement came into force. But, as rightly observed by the appellant's counsel, the respondents/defendants were not



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entered into a witness box though they have filed their written statement.

However, without considering the same, both the courts below confirmed certain defence without even any supporting evidence and based upon pleadings. Admittedly, the plaintiff had expressed her readiness and willingness to execute the sale deed. So, this Second Appeal is admitted on the following substantial question of law:-

“(1) Whether the Subordinate Judge, Vellore and Principal District Judge, Vellore failed to apply their judicial mind and failed to provide any reasons for not exercising their discretion in decreeing specific performance under Sec.20 of the Specific Relief Act, 1963?

(2) Whether the Subordinate Judge, Vellore and Principal District Judge, Vellore erred in not decreeing specific performance without recording any reasons on how the case of appellant/plaintiff does fall under the exceptions as mentioned in Sec.20(2) of Specific Relief Act, 1963?



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(3) Whether the Subordinate Judge, Vellore and Principal District Judge, Vellore have failed to appreciate that the execution of the registered sale agreement has not been denied by the defendants and have also erred in relying upon the written statement of the respondent/defendant, ignoring the registered sale agreement Ex.A1 dated 29.04.2016?

(4) Whether the Subordinate Judge, Vellore and Principal District Judge, Vellore had failed to appreciate that the respondents neither filed any documentary evidence nor examined any witness on their behalf and the registered Sale Agreement Ex.A1 dated 29.04.2016 cannot be ignored?

3. Post the matter on 04.10.2024. Till then, status quo is ordered to be maintained.

27.08.2024

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