

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4264 OF 2010

M.NATARAJAN & ORS.

Appellant(s)

VERSUS

V.SELLAMUTHU & ORS.

Respondent(s)

O R D E R

Heard Mr. V. Prabhakar, learned counsel appearing for the appellants as well as Mr. Sanjay R. Hegde, learned senior counsel appearing for the respondents.

This appeal has been filed by the defendants challenging the Judgment and Order of the High Court dated 24.03.2009 in A.S. No. 58 of 2002, by which Judgment, the appeal filed by the appellants questioning the Judgment of the Trial Court dated 27.02.2001, has been dismissed.

The Original Suit No. 234 of 1991 was filed by the plaintiffs-respondents praying for a decree of specific performance and registration of the Sale Deed in favour of the plaintiffs in event of their paying a sum of Rs. 6,15,000/- towards the total sale consideration. The suit was contested by the defendants. The Trial Court, after considering the entire evidence on record, decreed the suit. The Trial Court also returned a finding that the plaintiffs were ready and willing to complete their transaction and they had sufficient amounts for the

same.

The High Court, on appeal filed by the defendants, confirmed the order of the Trial Court by dismissing the appeal.

The learned counsel appearing for the appellants submits that for decreeing a suit for specific performance, the plaintiffs have to plead, aver and prove that they were throughout ready and willing to perform their part of the contract. The learned counsel for the appellants further submits that the plaintiffs, in their evidence, have relied upon their financial capacity on bank accounts and for that, passbook was also brought on the record. He has referred to Savings Bank account passbook in the name of V. Chellamuthu where, on the relevant date, he submits that the total amount of Rs.6,15,000/-, which was required to be paid, was not available.

The learned senior counsel appearing for the respondents has contended that there was oral evidence of the plaintiffs, including the documentary evidence, about their financial capacity including the cash amount and the amount in the Bank of all the three plaintiffs and findings recorded by the Courts below are based on material evidence.

We have considered the submission of the parties and have gone through the materials on record. The argument sought to be raised before us was the main

issue which was raised before the Trial Court and the High Court. The Trial Court, after framing the specific issue i.e. whether the "plaintiffs are ready to complete their part of the obligation of the sale agreement" has returned the finding that the plaintiffs were ready and willing to complete the transaction and they had sufficient means for the same. The following findings were recorded by the Trial Court at paragraph 18 :-

".....Because, when the circumstances and the nature of this case, reasons for the case are perused, it is clear that the Plaintiffs are ready and willing to complete the transaction and that they had sufficient means for the same and that as the same had been confirmed as already mentioned herein above, the averments on the side of the Defendants could not be accepted."

We have also looked into the documentary and oral evidence brought on the record. Even in the passbook, which has been brought on the record, substantial amount was shown to the credit of one of the plaintiffs. The plaintiffs, in their statement, also stated about the amounts in the banks of all the three plaintiffs and cash for performing their part

of the contract.

In any view of the matter, the Courts below, having returned concurrent findings that the plaintiffs were ready and willing to perform their part of the contract, we do not find any ground in this appeal to interfere with the said concurrent findings of fact recorded by the two Courts below.

Accordingly, the civil appeal stands dismissed.

No costs.

.....J.
[PINAKI CHANDRA GHOSE]

.....J.
[ASHOK BHUSHAN]

New Delhi;
November 16, 2016.

ITEM NO.101

COURT NO.8

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal 4264/2010

M.NATARAJAN & ORS.

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VERSUS

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(with office report)

Date : 16/11/2016 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE ASHOK BHUSHANFor Appellant(s) Mr. V. Prabhakar, Adv.
Ms. Jyoti Prashar, Adv.
Mr. S. Rajappa, Adv.
Mrs. Revathy Raghavan, Adv.For Respondent(s) Mr. Sanjay R. Hegde, Sr. Adv.
Mr. Ankolekar Gurudatta, Adv.UPON hearing counsel the Court made the following
O R D E R

The civil appeal is dismissed in terms of the signed order.

Pending interlocutory applications, if any, are disposed of.

(Jayant Kumar Arora)
Court Master(Sneh Lata Sharma)
Court Master

(Signed order is placed on the file)