2026:MHC:4137

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.08.2026

Pronounced on : 08.10.2026

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

A.S(MD) No.305 of 2023

{CNR: HCMD011333462023}

Case QR

and

C.M.P(MD)No.11741 of 2023

K.S.Eswaran
S/o.K.Chellapagounder
Chikkupullam Pudhur
V.Pudhukottai Village
Vedasanthur Taluk
Dindigul District. ... Appellant/Defendant

Vs.

1.R.Rathinavel Pandian,
S/o. Rajaram Naicker,
A.Vadipatti,
Kullapuram Village,
Periakulam Taluk,
Theni District.

2.R.Veluthai,
W/o. Rathinavel Pandian,
A.Vadipatti,
Kullapuram Village,
Periakulam Taluk,
Theni District.

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3.R.Bellippa Pandian,
S/o. Rathinavel Pandian,
A.Vadipatti,
Kullapuram Village,
Periakulam Taluk,
Theni District.

4.R.Dhanalakshmi,
W/o.Thangavel,
A.Vadipatti,
Kullapuram Village,
Periakulam Taluk,
Theni District.

5.A.Subbulakshmi
W/o. Arivalagan,
A.Vadipatti,
Kullapuram Village,
Periakulam Taluk,
Theni District. ...Respondents/Plaintiffs

PRAYER: This Appeal Suit is filed under Order 41 Rule 1 r/w Section 96 of CPC., to set aside the judgment and decree dated 23.08.2023 rendered in O.S.No.233 of 2021 on the file of the Additional District and Session Judge, Periyakulam and dismiss the suit.

For Appellant : Mr.S.Gokulraj
For Respondents : Mr.V.Chandrasekar

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JUDGMENT

This Appeal is directed against the judgment and decree dated 23.08.2023 rendered in O.S.No.233 of 2021 on the file of the learned Additional District and Sessions Judge, Periyakulam.

2. The appellant is the sole defendant in O.S.No.233 of 2021 on the file of the learned Additional District and Sessions Judge, Periyakulam. The respondents are the plaintiffs in that suit. The suit is filed for the relief of specific performance directing the defendant to execute the sale deed or to resell the suit properties.

3. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

4. The brief facts are as below:

(a) The case of the plaintiffs (respondents herein):-

The item Nos.1 and 2 of the suit properties belonged to the 1st plaintiff. The item Nos.3 to 8 of the suit properties belonged to the plaintiffs 2 and 5. The husband of the 5th plaintiff, namely one Arivalagan, was working as

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Secretary in Devinayakkanpatti Primary Agricultural Co-operative Society. It is alleged that the said Arivalagan misappropriated society funds, so the Deputy Registrar of Co-operative Societies directed the President, Secretary (Arivalagan), and other staff to pay Rs. 33,00,000/- to the society. To avoid a criminal case, the said Arivalagan agreed to pay Rs.15,00,000/-. The defendant agreed to pay Rs.15,00,000/- to Arivalagan, but the defendant demanded for execution of documents in respect of properties for security. As the said Arivalagan has not owned any property, the plaintiffs decided to execute a document in favour of the defendant in respect of the suit properties. At the same time, it was a mutual agreement between the plaintiffs and the defendant that the defendant has to execute a deed of resale in respect of the suit properties. Accordingly, on 05.03.2015, the sale deed was executed by the plaintiffs in favour of the defendant for a sum of Rs.17,44,100/- in respect of the suit properties. It was mutually agreed that the plaintiffs would have to pay Rs.20,00,000/-within three years to the defendant and would get a deed for resale since the suit properties were worth Rs.2 crores. On that basis, on the same day, 05.03.2015, a sale agreement for resale of the suit properties was executed between the plaintiffs and the defendant with the condition that the plaintiffs have to pay Rs.20,00,000/- within three years. So, the sale deed dated

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05.03.2015 executed in favour of the defendant did not come into force. However, mutation of revenue records was made in their joint name. At the time of execution, there was a mortgage loan of Rs.7,15,000/- in State Bank of India, and the defendant agreed to settle the total outstanding loan of Rs.9,00,000/-. But the defendant has not settled the loan as agreed, but the plaintiffs have settled. In the meanwhile, since there was a monsoon failure, the plaintiffs were unable to pay Rs.20,00,000/- within the stipulated time. So, the plaintiffs paid Rs.1,00,000/- to the defendant on 25.02.2018 towards part consideration, and the time was further extended. The defendant made an endorsement for the said fact in the agreement for resale and put his signature. The plaintiffs have always been ready and willing to perform their contract. In the month of September 2021, the plaintiffs approached the defendant with the balance sale consideration of Rs.19,00,000/-, but the defendant evaded performing his part of the contract by demanding Rs.40,00,000/-. Hence, the plaintiffs have issued a legal notice dated 25.09.2021 calling the defendant to the Sub Registrar's Office on 29.09.2021 for execution of the resale deed. The defendant received the notice and sent a reply on 06.10.2021 with false allegations. Hence, the plaintiffs filed the suit for specific performance.

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(b) The case of the defendant (appellant herein):-

The plaintiffs have made false averments in the plaint. The sale deed for due sale consideration of Rs.17,44,100/- was executed by the plaintiffs in favour of the defendant in respect of the suit properties. The plaintiffs received Rs.8,44,100/- as cash, and the defendant had to pay Rs.9,00,000/- to the bank towards debt. The possession of the suit properties was handed over to the defendant. The sale deed was not executed as security towards borrowing the loan amount, as alleged by the plaintiffs. Upon request made by the plaintiffs, as the properties belonged to their family long back, the possession was given to the plaintiffs upon oral lease by the defendant. The plaintiffs have not given bank details, so the defendant has paid Rs.9,00,000/- to the plaintiffs in cash. The plaintiffs paid the said sum to the bank and got back the original parent document, but the plaintiffs have not handed over the parent documents to the defendant. There was no resale agreement between the plaintiffs and the defendant on 05.03.2015. The said averment is totally false one. The defendant had not signed any such agreement. The alleged payment of Rs.1,00,000/- for extension of period for performance is concocted one. Without admitting, the period for the resale agreement had expired. The suit was filed on 29.10.2021, and the plaintiffs have not explained the delay, and they deliberately failed to

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perform their contract. Hence, the suit is barred by limitation. The plaintiffs are not entitled for injunction as against the defendant, as he is a co-owner of the suit properties. The plaintiffs are not entitled to the relief of specific performance and injunction. Hence, the suit is liable to be dismissed.

5. <u>The trial Court framed the following issues upon the pleadings of both parties.</u>

(1) Whether the defendant has to perform his part of the resale contract in favour of the plaintiffs in respect of the suit properties?

2) Whether the plaintiffs are entitled to the relief of permanent injunction?

(3) To what other relief are the plaintiffs entitled?

<u>The following Additional Issues were framed by the trial Court on 21.08.2023.</u>

(1 Whether the suit is barred by limitation?

(2)Whether the Ex.A.2 agreement and Ex.A.3 endorsement are not acceptable in evidence as they unregistered?

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6. During trial, the plaintiffs examined two witnesses as P.W.1 and P.W.2 and marked twelve exhibits as Ex.A.1 to Ex.A.12. On the defendant's side, the defendant was examined as D.W.1 and six exhibits were marked as Ex.B.1 to Ex.B.6.

7. On appreciation of evidence and the submissions made on behalf of the parties, the trial Court has concluded that the suit is not barred by limitation, that Ex.A.2 and Ex.A.3 are admissible in evidence, that the plaintiffs have established the resale agreement, so the plaintiffs are entitled to the relief of specific performance, but they are not entitled to the relief of permanent injunction as the defendant is in joint possession by passing judgment and decree dated 23.08.2023.

8.Challenging the judgment and decree of the trial Court dated 23.08.2023, the defendant has preferred this first appeal before this Court.

9.The learned counsel for the appellant/defendant and the respondents/plaintiffs have made the following rival arguments by relying on the rulings of the Hon'ble Supreme Court and the High Courts.

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10.The Appellant/Defendant's side arguments:

The learned counsel for the appellant/defendant has submitted that the plaintiffs averred that on 05.03.2015, the sale deed was executed by the plaintiffs in favour of the defendant and on the same day the alleged resale agreement was executed between them. The sale deed is registered one, but the alleged resale agreement is unregistered one. The plaintiffs have pleaded that the sale deed was executed as security for getting a loan of Rs.17,44,000/- agreed to be given by the defendant without interest for one Arivalagan. The plaintiffs pleaded that there was a criminal case against the said Arivalagan, so in order to avoid that case, he agreed to settle the amount to his employer's office and produced F.I.R. as Ex.A.10. But the plaintiffs have not proved the same by examining any police official. The plaintiffs have not proved the nexus between the defendant and the said Arivalagan as to why the defendant lent such a huge loan without interest. The said Arivalagan is a necessary party, but he has not been added as a party. P.W.1 has categorically admitted that Arivalagan was not examined. The plaintiffs themselves have admitted in the plaint that after execution of the sale deed, the possession of suit properties was handed over to the defendant. However, the defendant leased out the suit properties to the plaintiffs on their request. Hence, joint

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mutation has been created in the revenue records in the name of the plaintiffs and the defendant, so the said sale deed was not executed for security for the alleged loan.

11. The learned counsel for the appellant/defendant has further argued that the defendant has not signed the alleged unregistered resale agreement on 05.03.2015. Even though, for argument's sake, the resale agreement is admitted, the defendant denied the endorsement and his signature on 25.02.2018. The alleged endorsement creates serious doubt. There is no evidence adduced by the plaintiffs to show who wrote the Ex.A.3 endorsement. P.W.2 admitted in his evidence that there is no reference about the endorsement and that the said Arivalagan is a necessary party for adjudication of the suit. The alleged resale agreement cannot be compared with the registered sale deed. The sale deed and resale agreement were said to have been executed on the same day, i.e., on 05.03.2015. While the sale deed was registered, the resale agreement was not registered. The plaintiffs have not given a proper explanation, so the suit is liable to be dismissed. The trial Court has failed to see this aspect. Hence, the citation relied on by the trial Court in the **Hemalatha case** reported in **2023 Live Law SC 304** is not applicable to this

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case. The relief of specific performance is discretionary one. The alleged Ex.A.3 endorsement is suspicious one. The suit is barred by limitation. The defendant is in joint possession, and the same is admitted and proved, so the trial Court has not granted a permanent injunction. But the trial Court failed to consider all the aspects regarding the unregistered resale agreement and erroneously granted a decree for specific performance in favour of the plaintiffs. Therefore, the judgment and decree of the trial Court need to be set aside, and the appeal may be allowed.

12. In support of his argument, the learned counsel for the appellant/defendant has relied on the following rulings.

(1) **2011 Supreme (SC) 985 in the case of Suraj Lamp & Industries Pvt. Ltd. /v/ State of Haryana & Anr.** The learned counsel relied on the paragraph No.16 as follows:

> *"16. We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of `GPA sales' or `SA/GPA/WILL transfers' do not convey title and do not amount to transfer, nor can they be recognized or valid mode of transfer of*

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immoveable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognized as deeds of title, except to the limited extent of section 53A of the TP Act. Such transactions cannot be relied upon or made the basis for mutations in Municipal or Revenue Records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered Assignment of Lease. It is time that an end is put to the pernicious practice of SA/GPA/WILL transactions known as GPA sales

(2) **2026 Supreme (Mad) 962 in the case of R.Palanisubramanian /v/ M/s.Trans Medica (India) Ltd.** The learned counsel relied on the paragraphs as follows:

"18. The learned Trial Court further held that it was an admitted fact that the Agreement for Sale (Ex.A5) was an unregistered document. In such circumstances, the question of invoking the Section 53A of the Transfer of Property Act, 1882, did not arise. The learned Trial Court

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further held that Section 17(1-A) of the Registration Act, 1908, mandates compulsory registration of documents containing contracts pursuant to the transfer immovable property for consideration, where such documents are executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act, 2001. The provision further stipulates that if such documents are not registered, they shall have no effect for the purposes of Section 53A of the Transfer of Property Act. In the present case, the alleged Agreement for Sale (Ex.A5) was stated to have been executed on 29.09.2005, i.e., subsequent to the commencement of the aforesaid amendment. Therefore, the learned Trial Court held that the plaintiff's claim founded upon the Agreement for Sale (Ex.A5) was not maintainable for want of compulsory registration and consequently, any relief sought on the basis of the said agreement was liable to be rejected in limine.

32. It is pertinent to note that the Agreement for Sale dated 29.09.2005 (Ex.A5), upon which the entire suit is founded, is also admittedly an unregistered document. Section 17 of the Registration Act, 1908 mandates the registration of documents relating to the transfer

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of immovable. The said Sale agreement Ex.A5, which forms the very foundation of the plaintiff's claim, pertains to the transfer of the suit schedule property for consideration and is also relied upon to establish delivery of possession. In view of Section 17(1-A) of the Registration Act 1908, such a document is required to be compulsorily registered and since Ex.A5 has not been registered, the plaintiff's claim based upon the said Sale Agreement cannot be considered. Therefore the plaintiff is not entitled to the Specific Performance of the aforesaid Sale Agreement dated 29.09.2005 and accordingly the Issue No.2 is answered against the Appellant. Consequently the appellant is also not entitled to the delivery of Possession of the Suit Property from the defendant. Accordingly the Issue No.2 is also decided against the appellant."

13.<u>The Respondents/Plaintifs' side arguments</u>

Per contra, the learned counsel for the respondents/plaintiffs has argued that the appellant/defendant has mainly raised five points in this appeal, viz., the husband of the 5th plaintiff, namely Arivalagan, was not examined; The alleged FIR registered against Arivalagan was not proved; The signature

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and endorsement under Ex.A.3 found in Ex.A.2 were not proved and so, the suit is barred by limitation. The husband of the 5th plaintiff, Arivalagan, faced a criminal case on allegations of misappropriation of society funds as he was working as secretary in the said society. The defendant was working as President in that Society. The defendant, as D.W.1, has admitted about Arivalagan. So, the non-examination of Arivalagan does not affect the case of the plaintiffs. The said Arivalagan was directed to pay Rs.15 lakhs. For that, the defendant agreed to pay the said amount as a loan without interest, but he pressed for execution of a sale deed as security for the loan. Hence, on 05.03.2015, the plaintiffs executed Ex.A.1 sale deed in favour of the defendant for Rs.17,44,100/- out of the said sum of Rs.9 lakhs was to be paid towards bank debt, and the balance of Rs.8,44,100/- was to be paid in cash. The defendant was asked to execute a resale deed in the name of the plaintiffs on repayment of said loan. So, on the same day, the plaintiffs and the defendant executed the Ex.A.2 resale agreement, agreeing to repay the loan amount within three years. In the meanwhile, the bank proceeded with the case before the Court regarding the bank debt, so the plaintiffs settled the amount of Rs.9 lakhs. Since the plaintiffs were facing a financial crisis, they wanted an extension of time and paid Rs.1,00,000/- to the defendant, who made Ex.A.3

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endorsement by extending one year and signed under the endorsement. Thereafter, the plaintiffs were ready and willing to perform the resale agreement, but the defendant evaded by demanding more money. So, the plaintiffs have filed suit after issuance of legal notice. The appellant/defendant has not specifically denied the resale agreement or endorsement. However, the appellant/defendant raised objection only regarding the endorsement and signature as forged, and the suit is barred by limitation. He also contended that Ex.A.1 was not acted upon. But, the defendant has not proved his case, and he failed to prove the forgery by way of handwriting expert opinion or by examining any witness. The plaintiffs have examined the attestor as P.W.2 and proved the endorsement.

14. The learned counsel for the respondents/plaintiffs further argued that the defendant himself admitted joint possession as per his document/patta. Though the defendant claimed an oral lease, he has not proved the same. The plaintiffs are in joint possession is admitted by the defendant. So, the contention that Ex.A1 acted upon is not correct. During the time of filing of the suit, the COVID-19 pandemic happened, so the suit is not barred by limitation as per the direction of the Hon'ble Apex Court. The defendant has not raised

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any suggestion regarding limitation during the examination of P.W.1. Ex.A.1 was not acted upon, and it was executed only for security of the loan. So, Ex.A.2, the resale agreement, was executed. The plaintiffs have deposited the balance resale consideration of Rs.19,00,000/- into Court, and the same is not denied by the defendant. Hence, the plaintiffs are rightly entitled to the relief of specific performance. The trial Court has properly appreciated the evidences, citations of both sides and correctly granted the relief of specific performance. In support of the argument, the learned counsel has relied on the following citations.

(1) Judgment in A.S.No.451 of 2019 passed by the Madras High Court on 31.01.2020 in the case of C.Ramya /v/ C.Ganambal and Ors.

(2) (2023) 10 Supreme Court Cases 725 in the case of R.Hemalatha /v/ Kashthuri.

(3)Judgment of the Hon'ble Supreme Court rendered in Civil Appeal No.6543 of 2025 in Muruganandam /v/ Muniyandi (Died) Through LRs.

15. In reply, the learned counsel for the appellant/defendant has submitted that Ex.A.2 is a reconveyance of immovable property, so it must be registered, but Ex.A.2 is an unregistered one and so it is barred one as per

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Section 17(1) of the Indian Registration Act, as per judgment rendered in **R.Palanisubramanian /v/ M/s Trans Medica (India) Limited case** reported in **2026 Supreme (Mad) 962.**

16. The learned counsel for the respondents/plaintiffs has submitted that Section 49 of the Indian Registration Act contains a vital proviso, an unregistered document affecting immovable property can still be received as evidence. So an unregistered sale agreement is a valid one. Hence, the reply argument of the appellant/defendant is not correct.

17. The points for consideration in this appeal are:

1) Whether the suit is bad for non-joinder of Arivalagan?

2) Whether Ex.A.1 sale deed was acted upon as alleged by the appellant/defendant?

3) Whether the Ex.A.2 resale agreement and Ex.A.3 endorsement are forged one and whether the appellant/defendant has proved the same?

4)Whether Ex.A.2 is not valid for conveyance of immovable property since it is unregistered?

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5) Whether the suit is barred by limitation?

6) Whether the judgment and decree of the trial court are not sustainable in law, if so, whether the appeal is to be allowed?

18. <u>Point Nos.1 to 6:-</u>

I have carefully considered the arguments of both sides and the rulings relied on by either side, along with material records of the case. There is no dispute that originally the suit properties belonged to the plaintiffs prior to Ex.A.1 and Ex.A.2. The plaintiffs pleaded that the husband of the 5th plaintiff, namely Arivalagan, was working as secretary in Devinayakkanpatti Primary Agricultural Co-operative Bank and that since he was facing case proceedings for the allegation of misappropriation, he was directed to pay the said amount. It is the further case of the plaintiffs that the said Arivalagan agreed to pay Rs.15,00,000/-and that the defendant, who was the then President of that society, agreed to pay Rs.15 lakhs as an interest-free loan, for which the defendant sought execution of a sale deed in respect of immovable property towards loan security, so, the Ex.A.1 came to be executed. So, the defendant put a contention that the said Arivalagan is a necessary party and what necessity arose for the defendant to lend such a huge amount as loan without interest; but the said Arivalagan was not added as a party, and he was

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not examined by the plaintiffs. From perusal of the written statement and evidence of the defendant, it is clear that the defendant has not denied the fact that the said Arivalagan is the husband of the 5th plaintiff. It is also clear that the defendant has not specifically denied the plaintiffs' case that the defendant was working as President in the said society, where Arivalagan was working as secretary. It is pertinent to note here that the defendant as D.W.1 has categorically admitted that he knew the said Arivalagan. The defendant has not specifically denied that he has lent any loan for the said Arivalagan. So, this Court is of the considered view and is holding that the non-impleading and non examination of Arivalagan is not fatal to the plaintiffs' case and so, the suit is not bad for non-joinder of necessary party.

19. The next contention of the appellant/defendant is that the Ex.A.1 sale deed was acted upon. It is strongly denied by the plaintiffs who contend that Ex.A.1 was executed only for the purpose of security towards loan. It is pleaded by the plaintiffs that Ex.A.1 was executed for Rs.17,44,100/- in respect of suit properties worth more than Rs.2 crores and the same has not been specifically denied by the defendant. The plaintiffs further pleaded that, in turn, the defendant has to execute the resale deed in favour of the plaintiffs

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on repayment of loan and accordingly Ex.A.2 resale agreement came to be executed between the plaintiffs and the defendant. These facts are not specifically denied by the defendant. The defendant has not proved that the suit property was not worth about more than Rs.2 crores and that it was worth the value as mentioned in Ex.A.1. Further, the possession of the suit properties was also in the joint name of the plaintiffs and the defendant. Moreover, the parental deeds of the suit property were not produced by the defendant, but the same were in the hands of the plaintiffs.

20. At this juncture, the defendant contended that the suit properties were orally leased out to the plaintiffs as the plaintiffs showed sentimental feelings. But the defendant has not proved the oral lease by letting in oral and documentary evidence. There is no other evidence available on the defendant's side except the defendant as D.W.1. Moreover, the defendant produced Ex.B.3 and Ex.B.4 patta and kist receipt, wherein the possession of the plaintiffs was not shown as leaseholders. The defendant has not challenged the same before the revenue authority. So, the contention of the lease is not proved by the defendant. It is pertinent to note here that a perusal of the written statement, the defendant has not specifically denied the Ex.A.2 resale agreement, but a

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thorough reading of the entire written statement makes it clear that the defendant has admitted the execution of the Ex.A.2 resale agreement. Hence, as rightly argued by the plaintiff's counsel, the Ex.A.1 sale deed was not acted upon and could not be brushed aside as there is no substance. Therefore, this holds that the defendant has not proved that the Ex.A.1 sale deed was acted upon.

21. The appellant/defendant has further put forth his case that Ex.A.2 resale agreement and Ex.A.3 endorsement are forged ones. Ex.A.2 and Ex.A.3 are unregistered ones. So the initial burden lies on the plaintiffs to substantiate the execution of Ex.A.2 and Ex.A.3. The plaintiffs have specifically pleaded that the Ex.A.2 resale agreement was entered into between the plaintiffs and the defendant since the Ex.A.1 sale was executed for security purposes of a loan. A thorough reading of the written statement shows that the defendant has not denied the signature found in Ex.A.2 and Ex.A.3. But in his written statement, he has specifically admitted the execution of the Ex.A.2 resale agreement. The defendant made the following allegation in paragraph No.5 of the written statement.

"5.It is submitted that in the plaint in para 4 it is stated that the plaintiffs and defendant had entered

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into whereby "agreement for sale if" on 05.03.2015. It is totally false that the defendant had not signed in any such document and also it is stated in para 8 of the plaint that an amount of Rs.1,00,000/- was paid towards part of the consideration and the period for performance was extended for a further period of one year is totally false and concocted story. Without admitting it is assumed that there is "agreement for sale if" on 05.03.2015 the time for performance of the contract was expired. But, the suit is filed on 29.10.2021. The long delay in filing of the suit is not explained by the plaintiffs. For all the contracts for the re-purchase, the stipulated time will be an essential term of contract. The plaintiffs had deliberately failed to perform their part of the obligation within the stipulated time. As the plaintiffs had committed the default and as they had committed breach of the contract, they are not at all entitled to ask for the specific performance of the contract...".

22. A careful reading of the above allegation made in the written statement shows that it can be safely presumed that the defendant admitted the Ex.A.2 resale agreement, but only claimed that the plaintiffs have not performed their contract within the extended period. Moreover, the plaintiffs have examined the attestor of Ex.A.3 endorsement, one Periyakarupan, as

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P.W.2. P.W.2 has clearly deposed about the Ex.A.3 endorsement and signature of the defendant. Hence, this Court is of the considered view that the plaintiffs have clearly established execution of the Ex.A.2 resale agreement and Ex.A.3 endorsement.

23. It is a settled principle that whenever a party challenges a document as forged, the burden of proof is strictly on the challenger as per Section 103 of the Indian Evidence Act. This Court has reaffirmed the said principle in various cases that a party setting up the plea of forgery must prove the same, and the document holder of the deed cannot be asked to prove the negative. So, while the defendant is taking a plea of forgery, he has to prove the said forgery. If it is so, when the defendant pleaded forgery, he had to take proactive steps, such as applying for a forensic handwriting expert opinion as required by Sections 45 and 73 of the Indian Evidence Act. The material records clearly show that the defendant has not taken such steps. The defendant has not taken steps for a handwriting expert opinion regarding his signature found in Ex.A.2 and Ex.A.3 for comparison with his admitted signature. There is no other material filed by the defendant, nor has he lodged a police complaint on coming to know that his signature is forged or taken any

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legal action known to law. But, the defendant has not shown any such action. Therefore, this Court is of the considered view that the plaintiffs have clearly proved Ex.A.2 resale agreement and Ex.A.3 endorsement, whereas the defendant has miserably failed to prove the plea of forgery.

24. The defendant has next raised a strong allegation that Ex.A.2 and Ex.A3 are unregistered and so, they could not be taken as a valid transfer or conveyance of immovable property as per Section 17(1A) of the Registration Act and as per Section 53A of the Transfer of Property Act by making reliance on the judgment passed by this Court in **A.S.No.169 of 2017 reported in 2026 Supreme (Mad) 962 (supra)**. The learned counsel for the plaintiffs put explained argument that, as per the proviso to Section 49 of the Registration Act, an unregistered sale agreement for immovable property can be received as evidence in a suit for specific performance by relying on the ruling of the Hon'ble Supreme Court in **Hemalatha's case reported in (2023) 10 Supreme Court Cases 725**. The Hon'ble Supreme Court clearly held that an unregistered agreement to sell shall be admissible in evidence in a suit for specific performance, and the Proviso is an exception to the first part of Section 49. The Hon'ble Supreme Court, in a recent case of

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Muruganandam /v/ Muniyandi in Civil Appeal No.6543 of 2025 in 2025 INSC 652, decided on 08.05.2025, again held that the unregistered agreement for sale can be received as evidence.

25. The Hon'ble Supreme Court has quoted its earlier decision in **S.Kaladevi v. V.R.Somasundaram 4 (2010) 5 SCC 401**, in which it is held that an unregistered document may be received as evidence of a contract in a suit seeking specific performance. The relevant portion of the decision is as follows:

> *"12. The main provision in Section 49 provides that any document which is required to be registered, if not registered, shall not affect any immovable property comprised therein nor such document shall be received as evidence of any transaction affecting such property. Proviso, however, would show that an unregistered document affecting immovable property and required by 1908 Act or the Transfer of Property Act, 1882 to be registered may be received as an evidence to the contract in a suit for specific performance or as evidence of any collateral transaction not required to be effected by registered instrument. By virtue of proviso, therefore, an unregistered sale deed of an immovable property of the value of Rs. 100/- and more*

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could be admitted in evidence as evidence of a contract in a suit for specific performance of the contract. Such an unregistered sale deed can also be admitted in evidence as an evidence of any collateral transaction not required to be effected by registered document. When an unregistered sale deed is tendered in evidence, not as evidence of a completed sale, but as proof of an oral agreement of sale, the deed can be received in evidence making an endorsement that it is received only as evidence of an oral agreement of sale under the proviso to Section 49 of 1908 Act."

(emphasis supplied)

26. The decision rendered by the Division Bench of this Court in **Ponnammal /v/ K.V.Janarthanam' case** reported in **(2016 (3) MWN (Civil) 718)**, it is clearly held that since Section 53A of the Transfer of Property Act has been omitted with effect from 24.09.2001, now the present legal positions are (i) An unregistered sale agreement can be received as evidence in a suit for specific performance instituted under Chapter II of the Specific Relief Act, 1963; (ii) Section 53A of the Transfer of Property Act, 1882, found in the previous Section, has been omitted with effect from 24.09.2001.

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27. In this case, the Ex.A.2 unregistered resale agreement was executed on 05.03.2015 and the Ex.A.3 endorsement was made on 25.02.2018. As already held, the defendant has admitted the execution of Ex.A.2 resale agreement, and he has failed to prove his plea of forgery upon Ex.A.2 and Ex.A.3. So, Ex.A.2 and Ex.A.3 happened after 24.09.2001. Therefore, in the light of the above legal positions settled by the Hon'ble Supreme Court and by this Court, the Ex.A.2 re-sale agreement and Ex.A.3 endorsement are admissible in evidence even though they are unregistered. The decision relied on by the defendant, reported in 2026 Supreme (Mad) 962, is not applicable to the facts of this case. Therefore, this Court holds that Ex.A.2 and Ex.A.3 are admissible in evidence and the defendant has not proved that they are forged.

28. The learned counsel for the defendant has lastly placed the argument that the suit is barred by limitation. The Ex.A.2 was executed on 05.03.2015, whereas the suit was filed on 29.10.2021. On perusal of the judgment of the trial Court, it is rightly held that the suit is not barred by limitation as per Article 54 of the Limitation Act. Article 54 of the Act reads thus:

> *"Article 54 of the Indian Limitation Act, 1963 sets a* ***three-year limitation period*** *for filing a suit for the specific performance of a contract,*

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starting either from the ***date fixed for performance*** *or, if no such date is fixed, when the plaintiff has* ***notice that performance is refused****."*

29. As already held, Ex.A.2 and Ex.A.3 are proved by the plaintiffs. Ex.A.2 resale agreement was executed on 05.03.2015 with specific period of contract for three years. Ex.A.3 endorsement was made on 25.02.2018, extending for one year. Hence, Ex.A.3 was made within three years from 05.03.2015. So, the limitation starts from 25.02.2019. The suit was filed on 29.10.2021, as admitted by the defendant in his written statement. Hence, the suit is filed within three years from the expiry of the period. Moreover, the Hon'ble Supreme Court issued guidelines for limitation in *Suo Motu* Writ Petition No.3 of 2020 due to Covid-19 happened in the years 2020 and 2021. The defendant has not proved that the suit is barred by limitation by producing any acceptable material.

30. From the above facts and circumstances, the plaintiffs have clearly proved the Ex.A.2 resale agreement and Ex.A.3 endorsement. There is no plea raised by the defendant that the plaintiffs were not ready with the sale consideration. The Hon'ble Supreme Court held in **A.Kanthamani /v/**

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Nasreen Ahmed case reported in (2017) 4 Supreme Court Cases 654 that "it is not necessary for the plaintiffs to produce the money or vouch a concluded scheme for financing the transaction to prove their readiness and willingness, much less purchaser need not prove possession of sufficient money for financing transaction during stipulated period." In this case, the plaintiffs issued legal notice under Ex.A.4 to the defendant expressing their readiness with the entire amount to be at the Sub Registrar Office of Periyakulam on 29.09.2021 and calling upon the defendant to perform his contract to come to the Sub Registrar Office. But the defendant sent a reply, and he did not go there. Thereafter, the plaintiffs filed the suit. At the time of filing, the plaintiffs have deposited the entire balance sale consideration of Rs.19,00,000/- into the trial Court and the same is not denied by the defendant. So, the plaintiffs proved their willingness and readiness to perform their part of contract.

31. The trial Court has correctly appreciated the evidence adduced on both side and after considering the arguments and citations relied on by both, the trial Court correctly held that the respondents/plaintiffs are entitled to the relief of specific performance. For all these reasons, the judgment and decree

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of the trial Court is sustainable in law and the same needs no interference by way of this appeal. Therefore, the points are answered against the appellant/defendant. Thus, the appeal fails.

32. In the result, this Appeal Suit is dismissed. The judgment and decree dated 23.08.2023 rendered in O.S.No.233 of 2021 on the file of the learned Additional District and Sessions Judge, Periyakulam are confirmed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

08.10.2026

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
VSD

To

1.The Additional District and Sessions Court,
Periyakulam.

2.The Record Keeper,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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P.VADAMALAI, J.

VSD

Pre-Delivery Judgment made in
A.S(MD)No.305 of 2023

08.10.2026

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