

(1990) 01 MAD CK 0001
In the Madras High Court
Case No : Appeal No. 862 of 1981

Mariamamma Varghese

APPELLANT

Vs

K.V. Balasubramainam and 11 others

RESPONDENT

Date of Decision : 11-01-1990

Acts Referred:

Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 — Section 6

Citation : (1990) 01 MAD CK 0001

Hon'ble Judges : Nainar Sundaram, J;Bellie, J

Bench : Division Bench

Advocate : S.V. Jayaraman for Mr. A.S. Vijayaraghavan, for the Appellant; K. Govindarajan, V. Radhakrishnan, G. Nagarajan and Mr. V. Sridevan, Special Government Pleader, for the Respondent

Judgement

1. This First Appeal is directed against the judgment and decree of the Subordinate Judge, Coimbatore, in O.S.No.141 of 1980. The plaintiff in

the suit is the appellant herein. The respondents originally arrayed in the First Appeal were defendants in the suit. Some of them died pending the

Appeal and their legal representatives have been brought on record. The plaintiff wanted specific performance of an agreement of sale dated

29.6.1978, marked in the case as Ex. B-3 and the plaintiff is the second assignee of that agreement. The Court below non-suited the plaintiff

mainly on the ground that the agreement of sale was cancelled by the original agreement holders. This finding is being put in issue in this First

Appeal. Here is another way of enforcing the agreement of sale. In the Judgment of the court below, there is a reference to this aspect, but that has

not appeal. Here is another way of enforcing the agreement of sale. In the Judgment of the court below, there is a reference to this aspect, but that

has not been strictly put against the plaintiff. The impediment is that the transaction, assuming it could fructify through the hands of the Court, will

come within the mischief of section 6 of Tamil Nadu Urban Land (Ceiling and Regulation) Act 24 of 1978, hereinafter referred to as the Act. That

provision inhibits the coming into existence of any such transaction as the present one and further says that such transaction will be null and void.

The court is not supposed to lend its hands for the purpose of arriving at this result, assuming that the plaintiff has got a case on merits otherwise.

As against the proceedings under the Act, the plaintiff did raise a voice before the authorities under the Act and her voice has been stifled and she

came to this court by way of W.P. No. 1967 of 1984 and today we have dismissed that writ petition.

The result is a decree for specific performance cannot be obtained at the hands of the Court, which will be practically nullifying the statutory

provision, found in S. 6 of the Act. Keeping this in mind, we are obliged to dismiss the first appeal and accordingly we dismiss it; but, we make no

order as to costs.