

KABR310001062021



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
& J.M.F.C., AT DEVANAHALLI**

PRESENT

SRI. NATARAJ YADAV .S, M.B.A., LL.B.,

*Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.*

Dated this day of 03rd July, 2026

O.S.No.82/2021

BETWEEN:

Smt. Mamatha : **Plaintiff**
W/o N. Munegowda
Aged about 35 years,
R/at: #29, 4th cross,
KHB Colony,
Gandhinagara, Yelahanka,
Bangalore-560064

(Pltf. - By Sri. M.R.M., Advocate.,)

AND:

1. Sri. Rakesh. S.K : **Defendants**
S/o Late Kumar S.H
Grandson of Late Jayamma
and Late Hanumanthappa
Aged about 25 years,
2. Sri. Nithin Gowda
Aged about 23 years,



*S/o Late Kumar S.H
Grandson of Late Jayamma
and Late Hanumanthappa*

3. *Smt. Radhamma
Aged about 45 years,
W/o Late Kumar S.H
Daughter in law of Late Jayamma
and Late Hanumanthappa*
4. *Smt. Anjinamma
Aged about 55 years,
W/o Late Ramanjinappa
D/o Late Jayamma
and Late Hanumanthappa*
5. *Smt. Rathnamma
W/o Somanna
Aged about 50 years,
D/o Late Jayamma
and Late Hanumanthappa*

(Defts.1 to 6 - Exparte)

Date of institution of suit : 20-01-2021

Nature of the suit : Specific Performance of Contract

*Date of commencement of
Recording of the evidence : 01-03-2024*



*Date on which the judgment
was Pronounced*

: 03-07-2026

Year/s Month/s Day/s

Total duration

: **05 05 14**

Sd/-

(NATARAJ YADAV .S)

*Prl. Senior Civil Judge & JMFC.,
Devanahalli.*

J U D G M E N T

The present suit was instituted by the plaintiff seeking a decree for specific performance of the Agreement to Sell dated 24.07.2019 allegedly executed by late Smt. Jayamma in favour of the plaintiff in respect of the suit schedule property. The plaintiff also sought consequential relief of directing the defendants, being the legal representatives of late Smt. Jayamma, to execute and register the sale deed upon receipt of the balance sale consideration of Rs.2,00,000/- (Rupees Two Lakhs only).

FACTS OF THE PLAINTIFF'S CASE

2.1 It was the case of the plaintiff that late Smt. Jayamma was the absolute owner and was in peaceful possession of the suit schedule property during her lifetime.



2.2 Defendant Nos.1 and 2 were the grandsons of late Smt. Jayamma through her first son, late Kumar. Defendant No.3 was the daughter-in-law of late Smt. Jayamma and the mother of defendant Nos.1 and 2. Defendant Nos.4 and 5 were the daughters of late Smt. Jayamma. Defendant No.6 was the daughter-in-law of late Smt. Jayamma, being the wife of her second son. Thus, all the defendants were the legal heirs and representatives of late Smt. Jayamma.

2.3 It was pleaded that late Smt. Jayamma agreed to sell the suit schedule property in favour of the plaintiff for a total sale consideration of Rs.15,00,000/- (Rupees Fifteen Lakhs only) and executed an Agreement to Sell dated 24.07.2019.

2.4 According to the plaintiff, an amount of Rs.7,00,000/- (Rupees Seven Lakhs only) was paid in cash on 10.06.2019 and another sum of Rs.6,00,000/- (Rupees Six Lakhs only) was paid in cash on 24.07.2019, making a total advance payment of Rs.13,00,000/- (Rupees Thirteen Lakhs only).

2.5 It was further pleaded that only a sum of Rs.2,00,000/- (Rupees Two Lakhs only) remained payable and late Smt. Jayamma agreed to execute the registered sale deed on receiving the said balance consideration.

2.6 The plaintiff averred that during the lifetime of late Smt. Jayamma, he repeatedly requested her to execute the sale deed by



accepting the balance consideration. However, she postponed the execution of the sale deed on one pretext or another.

2.7 Subsequently, late Smt. Jayamma expired intestate leaving behind the present defendants as her legal representatives.

2.8 After her demise, the plaintiff approached the defendants requesting them to honour the contractual obligations undertaken by late Smt. Jayamma and to execute the sale deed. According to the plaintiff, the defendants initially postponed the matter and ultimately refused in September, 2020.

2.9 It was further pleaded that the plaintiff learnt that the defendants were attempting to alienate the suit schedule property in favour of third parties on account of escalation in the market value of the said property.

2.10 The plaintiff claimed that he had always been ready and willing to perform his part of the contract and was prepared to pay the balance sale consideration of Rs.2,00,000/- at all material times.

2.11 The plaintiff issued a legal notice dated 07.09.2020 calling upon the defendants to execute the sale deed after receiving the balance sale consideration. Despite service of the said notice, the defendants neither complied with the demand nor executed the sale deed.



2.12 Having been left with no other efficacious remedy, the present suit came to be filed by the plaintiff before this Court.

DEFENDANTS' CASE

3.1 Summons of the suit were issued to all the defendants upon institution of the suit.

3.2 Despite due service of summons upon all the defendants, none of the defendants entered appearance before this Court within the prescribed period. Consequently, all the defendants were proceeded ex parte.

3.3 Since there was no contest from any of the defendants, the matter was posted for recording of ex parte plaintiff's evidence.

3.4 The plaintiff examined his witnesses and tendered documentary evidence in support of his case, details whereof are set out hereinbelow.

PLAINTIFF'S EVIDENCE

4.1 In order to establish his case, the plaintiff examined his duly constituted General Power of Attorney holder as PW-1.

4.2 PW-1 tendered his affidavit by way of examination-in-chief reiterating the averments made in the plaint. Since the defendants had already been proceeded ex parte, the testimony of PW-1 remained



unchallenged and unrebutted. During his evidence, PW-1 proved the following documents:

- (i) Ex.P1: Special Power of Attorney executed by the plaintiff in favour of PW-1.*
- (ii) Ex.P2: Agreement to Sell dated 24.07.2019.*
- (iii) Ex.P3: Tax receipt relating to the suit schedule property.*
- (iv) Ex.P4: Copy of legal notice dated 07.09.2020.*
- (v) Ex.P5: Postal receipt evidencing dispatch of the legal notice.*

4.3 The plaintiff further examined one Shankar as PW-2.

4.4 PW-2 deposed that he was one of the attesting witnesses to the Agreement to Sell dated 24.07.2019. He categorically stated that late Smt. Jayamma voluntarily executed the agreement in favour of the plaintiff and acknowledged receipt of an advance sale consideration of Rs.13,00,000/-. He further deposed that late Smt. Jayamma agreed to execute the sale deed upon receipt of the remaining sale consideration of Rs.2,00,000/-.

4.5 The testimony of PW-2 also remained unrebutted and unchallenged as there was no cross-examination on behalf of any of the defendants.

4.6 After examining PW-2, the plaintiff closed his ex parte evidence.



ARGUMENTS OF THE LEARNED COUNSEL FOR THE PLAINTIFF

5. The learned counsel for the plaintiff advanced the following arguments in support of the suit:

(i) It was argued that late Smt. Jayamma was the absolute owner of the suit schedule property and that she had voluntarily and without any coercion, undue influence or misrepresentation agreed to sell the suit schedule property in favour of the plaintiff for a total sale consideration of Rs.15,00,000/- and had executed the Agreement to Sell dated 24.07.2019 in that regard.

(ii) It was argued that the plaintiff had paid a total advance consideration of Rs.13,00,000/- to late Smt. Jayamma, out of which Rs.7,00,000/- was paid on 10.06.2019 and Rs.6,00,000/- was paid on 24.07.2019 at the time of execution of the Agreement to Sell and that the said payments were duly acknowledged by late Smt. Jayamma in the Agreement to Sell dated 24.07.2019.

(iii) It was argued that the execution of the Agreement to Sell dated 24.07.2019 stood duly proved through the testimony of PW-1, who was the duly constituted General Power of Attorney holder of the plaintiff, and through the testimony of PW-2, who was one of the attesting witnesses to the said agreement, and that the said testimonies remained unrebutted and unchallenged as the defendants had failed to appear and contest the proceedings despite due service of summons.



(iv) It was argued that the plaintiff had always been ready and willing to perform his part of the contract and had repeatedly requested late Smt. Jayamma during her lifetime to execute the registered sale deed by accepting the balance consideration of Rs.2,00,000/-. However, late Smt. Jayamma had continued to postpone the execution of the sale deed on one pretext or another and had ultimately expired intestate without executing the sale deed.

(v) It was argued that after the demise of late Smt. Jayamma, the plaintiff had approached the defendants, who were the legal heirs and representatives of late Smt. Jayamma, and had requested them to honour the contractual obligations undertaken by their predecessor-in-interest and to execute the registered sale deed in favour of the plaintiff upon receipt of the balance consideration of Rs.2,00,000/-. However, the defendants had initially postponed the matter and had ultimately refused to execute the sale deed in September, 2020.

(vi) It was argued that the plaintiff had issued a legal notice dated 07.09.2020 calling upon the defendants to execute the registered sale deed after receiving the balance sale consideration of Rs.2,00,000/- and that despite due service of the said notice, the defendants had neither complied with the demand nor executed the sale deed, which clearly demonstrated the willful and deliberate refusal of the defendants to honour the contractual obligation undertaken by their predecessor-in-interest.



(vii) It was argued that the fact that the plaintiff had already paid Rs.13,00,000/- out of the total agreed sale consideration of Rs.15,00,000/-, which constituted nearly 87% of the total consideration, clearly demonstrated and established his genuine interest in completing the transaction and obtaining the registered sale deed and that the balance consideration of only Rs.2,00,000/- was readily available with the plaintiff and was always tendered and offered to the defendants.

(viii) It was argued that the defendants being the legal heirs and representatives of late Smt. Jayamma were bound by the contractual obligations undertaken by their predecessor-in-interest and were therefore legally obligated to execute and register the sale deed in favour of the plaintiff upon receipt of the balance sale consideration of Rs.2,00,000/-.

(ix) It was argued that the plaintiff had approached this Court within the period of limitation prescribed under law and that there was no circumstance whatsoever that would disentitle the plaintiff from obtaining the equitable relief of specific performance of the Agreement to Sell dated 24.07.2019.

(x) It was therefore prayed that the suit be decreed as prayed for and that the defendants be directed to execute and register the sale deed in respect of the suit schedule property in favour of the plaintiff upon receipt of the balance sale consideration of Rs.2,00,000/-.

**POINTS FOR CONSIDERATION**

6. Upon hearing the learned counsel for the plaintiff and upon careful perusal of the pleadings, oral evidence and documentary evidence placed on record, the following points arose for consideration before this Court:

1: Whether the plaintiff proves that late Smt. Jayamma executed the Agreement to Sell dated 24.07.2019 in respect of the suit schedule property after receiving an advance sale consideration of Rs.13,00,000/-?

2: Whether the plaintiff proves that he had always been ready and willing to perform his part of the contract at all material times?

3: Whether the plaintiff was entitled to a decree for specific performance of the Agreement to Sell dated 24.07.2019 and for consequential reliefs as prayed for?

4: What order or decree?

FINDINGS AND DISCUSSION ON POINT NO.1

7.1 The burden of proving this point was squarely upon the plaintiff.

7.2 The plaintiff examined his General Power of Attorney holder as PW-1. PW-1 reiterated the facts pleaded in the plaint and specifically deposed that late Smt. Jayamma agreed to sell the suit schedule property for a total sale consideration of Rs.15,00,000/-. He further deposed that an amount of Rs.7,00,000/- was paid in cash on 10.06.2019 and another amount of Rs.6,00,000/- was paid in cash



on 24.07.2019, thereby making the total advance consideration of Rs.13,00,000/-.

7.3 PW-1 produced the Agreement to Sell dated 24.07.2019, which was marked as Ex. PW-1/2. The said document recorded the terms agreed between the parties including the total sale consideration, the advance amount received by late Smt. Jayamma and the obligation of the vendor to execute the registered sale deed upon receipt of the balance consideration of Rs.2,00,000/-.

7.4 The plaintiff also examined one of the attesting witnesses to the Agreement to Sell as PW-2. PW-2 categorically deposed that he was present at the time of execution of the Agreement to Sell dated 24.07.2019. He identified the signatures of late Smt. Jayamma on the agreement and supported the plaintiff's case regarding payment of the advance consideration of Rs.13,00,000/-. The testimony of PW-2 inspired confidence and nothing was brought on record to disbelieve his version. His evidence corroborated the testimony of PW-1 on all material particulars.

7.5 The testimony of both PW-1 and PW-2 remained unrebutted and unchallenged as the defendants had chosen not to contest the proceedings despite due service of summons. There was nothing on record to suggest that the Agreement to Sell was fabricated or otherwise invalid. The execution of the document stood duly proved through the testimony of the plaintiff's attorney as well as an attesting witness.



7.6 In view of the aforesaid evidence on record, this Court was satisfied that the plaintiff had successfully established that late Smt. Jayamma executed the Agreement to Sell dated 24.07.2019 in respect of the suit schedule property after receiving an advance consideration of Rs.13,00,000/-.

Point No.1 was accordingly answered in the AFFIRMATIVE and in favour of the plaintiff.

FINDINGS AND DISCUSSION ON POINT NO.2

8.1 The burden of proving this point also lay squarely upon the plaintiff. It was well settled that readiness and willingness to perform the contractual obligations constituted an essential and indispensable requirement for grant of the equitable relief of specific performance. The plaintiff was therefore required to demonstrate his continuous readiness and willingness to perform his part of the contract at all material times.

8.2 PW-1 categorically deposed that the plaintiff was always ready and willing to pay the balance sale consideration of Rs.2,00,000/- and repeatedly requested late Smt. Jayamma during her lifetime to execute the sale deed. However, late Smt. Jayamma continued to postpone the execution of the sale deed on one pretext or another.

8.3 After the demise of late Smt. Jayamma, the plaintiff approached the defendants, who were her legal representatives, requesting



them to honour the contractual obligation undertaken by their predecessor-in-interest. However, the defendants continued postponing the execution of the sale deed and ultimately refused to perform the contract in September, 2020.

8.4 The plaintiff thereafter issued a legal notice dated 07.09.2020 calling upon the defendants to execute the sale deed after receiving the balance consideration of Rs.2,00,000/-. The copy of the legal notice and the postal receipt were produced as Ex.P4 and Ex.P5 respectively. The issuance of the legal notice immediately after refusal by the defendants lent considerable assurance to the plaintiff's plea that he continuously intended to complete the transaction.

8.5 It was significant that the balance sale consideration was only Rs.2,00,000/- out of the total agreed consideration of Rs.15,00,000/-. Nearly 87% of the total sale consideration had already been paid by the plaintiff. This circumstance probalised the plaintiff's case that he was genuinely interested in obtaining the registered sale deed rather than recovering the amount already paid.

8.6 The conduct of the plaintiff, commencing from payment of substantial consideration of Rs.13,00,000/-, repeated demands for execution of the sale deed during the lifetime of late Smt. Jayamma and after her demise, and the issuance of legal notice, clearly established his continuous readiness and willingness to perform his part of the contract at all material times.



8.7 There was no material on record to indicate that the plaintiff ever abandoned the contract or was unwilling to perform his obligations under the Agreement to Sell.

8.8 In view of the aforesaid, this Court held that the plaintiff had successfully discharged the burden cast upon him in respect of this point.

Point No.2 was accordingly answered in the AFFIRMATIVE and in favour of the plaintiff.

FINDINGS AND DISCUSSION ON POINT NO.3

9.1 The plaintiff had proved the execution of the Agreement to Sell dated 24.07.2019 by late Smt. Jayamma in respect of the suit schedule property.

9.2 The plaintiff had further proved payment of Rs.13,00,000/- towards the agreed sale consideration and had established his continuous readiness and willingness to perform his remaining obligation under the contract by paying the balance consideration of Rs.2,00,000/-.

9.3 The defendants had chosen not to contest the proceedings despite due service of summons. Consequently, the evidence adduced by the plaintiff had remained uncontroverted and unrebutted.



9.4 There was nothing on record to suggest that the Agreement to Sell was unlawful, unenforceable or otherwise incapable of specific performance.

9.5 The defendants were the legal representatives of late Smt. Jayamma and had inherited her estate. They were therefore bound by the contractual obligations undertaken by their predecessor-in-interest, subject to law.

9.6 The plaintiff had approached this Court within the period of limitation prescribed under the law. There was no evidence suggesting that grant of specific performance would result in any hardship or inequity to the defendants.

9.7 This Court found no reason whatsoever to deny the equitable relief sought by the plaintiff. The plaintiff had established his entitlement to a decree for specific performance of the Agreement to Sell dated 24.07.2019.

Point No.3 was accordingly answered in the AFFIRMATIVE and in favour of the plaintiff.

FINDINGS ON POINT NO.4 AND FINAL ORDER

10. In view of the findings recorded on Point Nos.1, 2 and 3 hereinabove, the present suit was found to be well-founded and deserving of being decreed. Accordingly, I proceed to pass the following;



ORDER

The suit of the plaintiff is DECREED in the following terms:

(i) The defendants, being the legal representatives and heirs of late Smt. Jayamma, are hereby directed to execute and register the sale deed in respect of the suit schedule property in favour of the plaintiff upon receipt of the balance sale consideration of Rs.2,00,000/- (Rupees Two Lakhs only) from the plaintiff.

(ii) The plaintiff is directed to tender and pay the balance sale consideration of Rs.2,00,000/- to the defendants at the time of execution and registration of the sale deed.

(iii) The defendants are directed to execute and register the sale deed within a period of two months from the date of this judgment and decree.

(iv) In the event the defendants failed and neglected to execute and register the sale deed within the period stipulated above, the plaintiff was at liberty to take steps to have the sale deed executed through the process of Court in accordance with law.

(v) No order was made as to costs, taking into consideration the facts and circumstances of the present case.



(vi) Decree Sheet be prepared accordingly.

(vii) File be consigned to Record Room.

*(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the **03rd Day of July, 2026**)*

Sd/-
(NATARAJ YADAV .S)
Prl. Senior Civil Judge & JMFC.,
Devanahalli.

ANNEXURE

Witness examined for the Plaintiff/s :

PW.1 : Sri. Mahesh Kumar

PW.2 : Sri. Shankar S.N

Documents exhibited for the Plaintiff/s :

Ex.P1 : Special Power of Attorney executed by
the plaintiff in favour of PW-1.

Ex.P2 : Agreement to Sell dated 24.07.2019.



- Ex.P3 : Tax receipt relating to the suit schedule property.*
- Ex.P4 : Copy of legal notice dated 07.09.2020.*
- Ex.P5 : Postal receipt evidencing dispatch of the legal notice.*

Witnesses examined for the defendant/s:

- Nil -

Documents exhibited for the defendant/s:

- Nil -

Sd/-
(NATARAJ YADAV .S)
Prl. Senior Civil Judge & JMFC.,
Devanahalli.