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:OS.No.250/2024:



Presented on : 05-09-2024
Registered on : 05-09-2024
Decided on : 02-07-2026
Duration: 01 year, 11 months, 27 days.

**IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC,
SAKALESHPURA.**

:PRESENT :

Smt. Shruthi K.S.,B.A.,LL.B.

I Addl. Civil Judge & JMFC,

Sakaleshpura

Dated this the 02nd day of July, 2026

O. S.No.250/2024

PLAINTIFF :

Puttaraju S/o Appaswamygowda, Aged
about 53 years, R/o Yadakeri Village,
Yesaluru Hobli, Sakaleshpura Taluk,
Hassan District.

(Reptd.by Sri.**G.H.M**>,Adv.)

/ Vs./

DEFENDANTS :

1. Y.A.Chandregowda S/o
Appaswamygowda, Aged about 60

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years,

2. Uma W/o Chandregowda, Aged about 55 years
3. Rakshitha.D S/o Chandregowda, Aged about 35 years
4. Rakesh S/o Chandregowda, Aged about 33 years.

All are R/o Yadikeri Village, Yesalur
Hobli, Sakaleshpur Taluk.

:JUDGMENT:

This is a suit filed by the plaintiff against the defendants for the relief of Specific Performance of the Contract based on the Sale agreement.

2. The summarized case of the plaintiff is that, the defendant No.1 is his brother. The suit schedule property is the ancestral property. The defendant No.1 has acquired the said property through partition that entered into between the family members of the plaintiff. He has sold the suit schedule property to the plaintiff vide 3 sale agreements dtd:07-02-2013, 02-01-2014 and 29-12-2022 for valuable sale consideration amount of Rs.3,80,000/-. He has also han dtd:07-02-2013, 02-01-2014 and 29-12-2022 ded over the possession of the property during the year 2011. Since the said date, the plaintiff

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is in continuous possession by cultivating the suit schedule property. At the time of agreement, the defendant No.1 has agreed to execute the sale deed in favour of the plaintiff. Consequent upon he obtaining 11E sketch on 02-01-2014 he received Rs.2,00,000/- and Rs.1,30,000/- respectively from the plaintiff as part of sale consideration and he has agreed to pay the balance sale consideration amount consequent upon obtaining of 11E Sketch. Later, he has received Rs.50,000/- from the plaintiff to obtain 11E sketch. Thus, in total, he has received an entire sale consideration amount of Rs.3,80,000/- from the plaintiff. Even after receipt of the entire sale consideration amount by the defendant No.1 and several requests made by the plaintiff, he failed to perform his part of contract. Hence, the plaintiff constrained to file the instant suit.

3. In pursuance to service of summons, defendants appeared before the Court through their Counsel. Even after rendering sufficient opportunity, they failed to file their written statement.

4. In order to substantiate the case, the plaintiff has examined himself as P.W.1 and he has filed his Chief Examination Affidavit in lieu of his Chief Examination and

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produced 3 documents, which have been been marked as Exs.P.1 to 3 and closed his side.

5. Heard arguments and perused the materials available on record.

6. On the basis of the above pleadings, the points that would arise for my consideration are:

1. Whether the plaintiff proves that defendant No.1 agreed to sell the suit schedule property for a valuable sale consideration of Rs.3,80,000/- and has executed 3 Sale agreements respectively dtd: dtd:07-02-2013, 02-01-2014 and 29-12-2022 ?

2.Whether the plaintiff further proves that he is every ready and willing to perform his part of contract ?

3. Whether plaintiff further proves that he is entitled for the relief as claimed therein ?

4. What Order ?

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7. My finding to the above points are as under:

POINTS NO.1 to 3 : In the Negative

POINT NO.4: As per final order

for the following:

:REASONS:

POINTS NO.1 to 3:- *Since these points are interlinked with one another they are taken up together for common discussion in order to avoid repetition of facts and evidence available on record:-*

8. This Court on careful perusal of the documents available on record it is seen that this is a suit filed by the plaintiff for the relief of Specific Performance of Contract. The burden entirely lies on the plaintiff to prove the execution of the alleged 3 Sale agreements dtd:07-02-2013, 02-01-2014 and 29-12-2022 respectively. Non filing of the written statement by the defendant *ip so facto* by the defendant does not prove the case of the plaintiff. The plaintiff has to fulfil his burden by proving the execution of Sale agreement and his readiness and willingness to perform his part of contract.

9. The plaintiff in order to establish his case has filed his Chief Examination Affidavit in lieu of his Chief Examination, wherein, he has reiterated the entire averments of the plaint. In order to substantiate his contention he relied upon 3

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documents, and the same were marked as Exs.P.1 to 3. Ex.P.1 is the RTC extract pertaining to the land bearing Sy.No.45/2 of Igoor Village, Sakaleshpura Taluk; Ex.P.2 is the Sale agreement dtd:07-02-2013; Ex.P.3 is the Sale agreement dtd:02-01-2014. This Court on careful perusal and analysis of the said documents, it appears that the defendant No.1 has executed those agreements in favour of the plaintiff for valuable sale consideration of Rs.3,80,000/- with an intention to sell the suit schedule property, out of which, he has paid Rs.2,00,000/- as an advance sale consideration by agreeing to repay the balance sale consideration of Rs.1,30,000/- on 15-05-2013 and Rs.50,000/- at the time of registration of sale deed. On perusal of the shara made in Ex.P.2 wherein, it has been clearly mentioned as to the defendant has received Rs.1,30,000/- from the plaintiff. Further, on going through an another document Ex.P.3 it appears that defendant agreed to pay the remaining balance sale consideration amount of Rs.50,000/- to the plaintiff at the time of registration of Sale deed after obtaining the 11E sketch. But, the plaintiff has not examined any other witnesses in support of his case. Moreover, no documents have been produced by him to prove the payment made by the defendant as consideration amount. However, he claimed that he is in possession of the suit schedule property and the possession of the same was also handed over to him during the year 2011.

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The first sale agreement was executed during the year 2013. The plaintiff has also not produced any documentary proof in order to substantiate his possession over the suit schedule property. There is no any recital in the sale agreement about handing over of the possession of the schedule property. But, there is a recital made in Ex.P.3 that defendants are in possession of the suit schedule property.

10. It is well settled principle of law that it is a condition precedent that any person who sues for the relief of Specific Performance of Contract has to prove his continuous readiness and willingness to perform his part of contract right from the date of execution of the agreement till the date of decree.

11. Now, this Court by bearing in mind the above settled principle of law and by looking into the contentions taken by the plaintiff it is seen that he had paid the entire sale consideration amount to the defendant No.1 to execute sale deed in his favour. Further, on perusal of documents those marked at Exs.P.2 and 3, it clearly reveals as to the defendant No.1 is due to pay Rs.50,000/- as balance sale consideration towards the contract. Therefore, it could be construed that the plaintiff has already paid the major portion of the sale consideration amount. Thus, there is no doubt about the financial capacity of the plaintiff to perform his part of contract. Whereas, suspicion

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arises in the mind of the Court about non issuance of notice to the defendant No.1 prior to institution of the instant suit calling upon him to perform his part of contract. By observing the said lapse, this Court is of the view that what prevented him to issue notice prior to filing of the said suit, and as such, there is a procedural lacuna on the part of the plaintiff which gives room for suspicion as to his readiness and willingness in performing his part of the contract.

12. Further, recapitulating the arguments canvassed by the learned Counsel for the plaintiff, he has argued that even though the agreement was executed in the year 2014, a suit was pending before the Court in O.S.No.175/2014 and the same came to be disposed on 15-12-2021. Consequently, he was unable to sue against the defendant seeking the relief of Specific Performance of Contract. But, the Sale agreement came to be executed in the year 2014. The suit was disposed in the year 2021. The plaintiff has not taken any steps as against the defendant since 2014 to 2024 for non execution of the sale agreement by the defendant. Thus, there has been no correspondence between plaintiff and defendant after lapse of nearly 10 years. The plaintiff has not even issued any legal notice to the defendant. As per the settled principle of law, even though time is not the specific essence of contract, the same has to be performed within the reasonable period of time.

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13. This Court would rely upon the decision rendered by the Hon'ble Apex Court in **Saradamani Kandappan Vs.Rajalakshmi- 2011(12) SCC 18**, wherein it has observed that;

24. The principle that time is not of the essence of contracts relating to immovable properties took shape in an era when market value of immovable properties were stable and did not undergo any marked change even over a few years (followed mechanically, even when value ceased to be stable). As a consequence, time for performance, stipulated in the agreement was assumed to be not material, or at all events considered as merely indicating the reasonable period within which contract should be performed. The assumption was that grant of specific performance would not prejudice the vendor-defendant financially as there would not be much difference in the market value of the property even if the contract was performed after a few months. This principle made sense during the first half of the twentieth century, when there was comparatively very little inflation, in India. The third quarter of the twentieth century saw a very slow but steady increase in prices. But a drastic change occurred from the beginning of the last quarter of the twentieth century. There has been a

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*galloping inflation and prices of immovable properties
have increased steeply, by leaps and bounds.*

Therefore, on careful reading of the above principle that enshrined the the decision referred supra and further on careful evaluation of the case of the plaintiff on merits, this Court is of the view that it is well settled law that which may be reasonable and valid when made can that passage of time and consequently change in circumstances become arbitrary and unreasonable. Hence, in the case on hand, the plaintiff has sued after lapse of 10 years of sale agreement. Therefore, under the said lapse, it could not be considered as plaintiff was ever ready and willing to perform his part of the contract. Granting of relief under the Specific Performance of Contract is a discretionary relief which takes into account; the circumstances of the case, period of contract. In the instant case, sale agreement was entered into between the parties on 02-01-2014. There is no specification of time in the said agreement. However, suit is filed during the year 2014. The condition prescribed in the sale agreement is within 15 days from the date of preparation of 11E sketch. But, the plaintiff has not given any proper explanation as to whether 11E sketch was prepared or not. Therefore, the plaintiff has failed to prove his readiness and willingness to perform his part of contract. Accordingly, Points No.1 to 3 are answered in the **‘Negative’**.

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POINT NO.4:-

14. In the result, and in view of my findings on the above point, this Court proceed to pass the following:

:ORDER:

The suit filed by the plaintiff is hereby dismissed.

No order as to costs.

(Dictated to the stenographer,transcribed by him, corrected by me and then pronounced in the open Court on this the **2nd day of July, 2026**)

(Shruthi.K.S.)
I Addl.Civil Judge and JMFC
Sakaleshpura
24.

:ANNEXURES:

I LIST OF WITNESSES EXAMINED FOR THE PLAINTIFF:-

P.W.1 : Puttaraju

II LIST OF EXHIBITS MARKED FOR THE PLAINTIFF:-

Ex.P.1 : RTC for the land bearing Sy.No.45/2

Ex.P.2 : Sale agreement dtd:07-02-2013

Ex.P.3 : Sale agreement dtd:02-01-2014

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**II LIST OF WITNESSES EXAMINED AND DOCUMENTS
MARKED FOR THE DEFENDANTS:**

- NIL-

**(Shruthi.K.S.)
I Addl.Civil Judge and JMFC
Sakaleshpura**