

KAMD200011522019 	Presented on : 23-10-2019 Registered on : 14-11-2019 Decided on : 23-06-2026 Duration : 6 years, 8 months, 0 days
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**IN THE COURT OF THE I ADDL.SENIOR CIVIL JUDGE
AND J.M.F.C., AT KRISHNARAJAPETE.**

**: PRESENT:
SRI. H.R, DEVARAJU, BA., LLB.,**

I ADDL. SENIOR CIVIL JUDGE & JMFC,
K.R.PETE.

DATED THIS THE 23rd DAY OF JUNE-2026

O.S.No.54/2019

Plaintiff/s : Sri. Moganna
S/o Javaregowda
aged about 55 years,
R/o Sadugonahalli village,
Kasaba hobli,
K.R.Pete Taluk,
Mandya district.

(By Sri.KRM, Adv.)

V/s

Defendant/s : 1. Smt. S.R. Sowbhagyamma
W/o Late Krishnegowda,
aged about 65 years,

2. Sri. Manjunatha
S/o late Krishnegowda
(Dead by his Lrs)

2(a). Smt. Charitha
W/o Late Manjunatha,
aged about 32 years,

2(b) Sri. Adi S.M.
S/o Late Manjunatha,
aged about 12 years,

2(c) Smt. Ajay S.M.
S/o Late Manjunatha
aged about 10 years,

D-2(a) & (b) are
minors, represented by
his mother i.e., D-2(a)
namely Smt. Chaithra.

3. Sri. Prabhakara
S/o Late Krishnegowda
aged about 40 years,

4. Smt. Shobha
D/o Late Krishnegowda
aged about 38 years,

5. Smt.Kumuda
D/o Late Krishnegowda
aged about 36 years,

All are R/o
Sadugonahalli village,
Kasaba hobli,
K.R.Pete taluk,
Mandya district.

(By Sri. MRP., Adv, for D-1 & 3
Smt. SU., Adv for D-2(a),
D-4, 5, D2(b) & (c)-exparte)

Date of institution of the suit	23.10.2019
Nature of the suit	Specific Performance of agreement of sale
Date of the commencement of recording of the evidence	07.01.2025

Date of Pronouncement of judgment	23.06.2026		
Total Duration	Year/s	Month/s	Day/s
	06	08	00

(DEVARAJU H.R)

I Addl. Sr.CJ & J.M.F.C.

K.R.Pete.

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:J U D G M E N T:

The present suit is filed by the plaintiff seeking the relief of specific performance of contract and prays for issuance of direction to the defendants to execute the sale deed in his favour as per the agreement of sale deed dated 25.04.2018 and hand over the possession in his favour or alternatively sought for refund of earnest amount of Rs.5,50,000/- with interest at the rate of 24% p.a. from the date of execution of the agreement of sale till realization and such other reliefs court deems fit to grant under the facts and circumstances of the case.

SCHEDULE

The property bearing Sy.No.29/1 measuring 0.02 guntas situated at Sadugonahalli village, Kasaba hobli, K.R.Pete taluk, Mandya district bounded on East-

Property belongs to Chikkegowda, West by Sarkari Road, North by remaining property, South by Hemagiri Road.

2. The brief facts of the case are as under:

It is submitting that, the suit schedule property is ancestral property of the defendants and they are absolute owners of the suit schedule property, the defendants for the repayment of hand loan, they have been executed the sale agreement on 25.04.2018 by agreeing to sell the suit schedule property for valid sale consideration amount of Rs.7,90,000/- by receiving advance sale consideration amount of Rs.5,50,000/- on the same day in presence of witnesses and agreed to receive remaining sale consideration amount of Rs.2,40,000/- at the time of registration of sale deed. The defendants have promised that, whenever the plaintiff called with balance sale consideration and along with required documents and they will ready to execute the sale deed as per the agreement. This being a fact even the request made by the plaintiff in many occasions the defendants postponing the execution of same for one and another reason. Finally, the plaintiff has issued legal notice on 11.04.2019 calling upon the defendants to come and execute the sale deed, said legal notice served on the defendant No.1 and notice of defendant No. 2 and 3 returned with endorsement as not claimed. Even though the defendants failed to execute the sale deed as per the agreement.

3. Plaintiff further submits that, he is always ready and willing to perform his part of contract as per the agreement of sale and he is ready with the balance sale consideration amount of Rs.2,40,000/- and now also ready to deposit the same in the court. Even provide sufficient opportunities, the defendants have failed to do so. Hence the plaintiff having left no alternative way has filed this suit for specific performance of contract against the defendants.

4. After registration of the suit, suit summonses were issued against the defendants. The defendant No.1 and 3 put their appearance through their advocate Sri. MRP., during pending of the suit defendant No.2 died, hence his legal heirs brought on record as defendant No. 2(a) to (c). The defendant No.2(a) put her appearance through her advocate Kum. SU., Defendant No.2(b) and (c) and defendant No. 4 and 5 have remained absent before this court, hence they placed exparte. The defendant No.3 has filed written statement. The defendant No. 1 has adopted the written statement of defendant No.3 as her written statement by filing memo.

5. The defendant No.1 and 3 have admitted the allegation of facts made by the plaintiff that, suit schedule property is their ancestral and joint family property and they are in possession of the suit schedule property as absolute owners. However, they have denied

the allegation of facts made by the plaintiff that they have executed the agreement of sale on 25.04.2018 by agreeing to sell the suit schedule property for valid consideration amount of Rs. 7,90,000/- thereby they have received amount Rs. 5,50,000/- as advance amount in the presence of the witnesses.

6. The defendant No.1 and 3 have further contended that, plaintiff has created the agreement of sale as executed by the defendants. They have not executed any agreement of sale in favour of plaintiff and there is no necessity for them to alienate the suit schedule property. The market value of the property at Sadugonahalli village is Rs. 8,00,000/- per gunta. Hence, there is no necessity for the defendants to execute the sale agreement for meager amount. Hence, they pray for dismiss the suit.

7. On the basis of the above pleadings of both the parties, this court has framed the following issues;

- 1. Whether the plaintiff proves that the defendants have executed an agreement of sale on 25.04.2018 by agreeing to sell the suit schedule property for valuable sale consideration amount of Rs. 7,90,000/- and thereby they have received part sale consideration amount of Rs. 5,50,000/- on the same day as earnest amount?**
- 2. Whether the plaintiff proves his readiness and willingness to perform his part of contract?**

3. Whether the plaintiff is entitled for the reliefs as sought for in the suit?

4. What decree or order?

8. In order to prove the above issues, the plaintiff himself has examined as PW-1 and furnished 11 documents as Ex.P-1 to Ex.P-11 and examined one more witness namely Sri.Shankarnag as PW-2 and closed his side evidence. The defendants fail to lead evidence within reasonable time. Hence, evidence of defendants is taken as nil on 18.06.2026.

9. Heard arguments. Perused the materials on record.

10. My findings on the above issues are as under:

Issue No.1 : In the Affirmative,
Issue No.2 : In the Affirmative,
Issue No.3 : In the Affirmative,
Issue No.4 : As per the final order,
for the following:

REASONS

11. Issue No.1 to 3 : Since the reasoning for all the said issues overlap with each other to avoid repetition and for convenience' sake they are all taken together for consideration.

12. It is the case of the plaintiff that, defendants have enter into an agreement of sale dated 25.04.2018 by agreeing to sell the suit schedule property for valuable sale consideration amount of Rs.7,90,000/- and the defendants have received a sum of Rs.5,50,000/- as earnest money. As per agreement

the defendants have agreed to execute the registered sale deed whenever the plaintiff demands but they failed to perform their part of contract. Hence, he has filed present suit. On the other hand defendants have denied the very execution of agreement of sale as alleged by the plaintiff. Hence, burden lies on the plaintiff to prove the due execution of the agreement of sale.

13. As already stated *supra* the plaintiff by name Sri. Moganna has examined himself before this Court as PW-1. The PW-1 has filed an affidavit under Order 18 Rule 4 of C.P.C in lieu of his examination-in-chief, wherein he reiterated entire plaint averments.

14. In support of his case the plaintiff has produced an agreement of sale said to have been executed by the defendants as per the Ex.P-1, wherein it appears that on 25.04.2018 the defendants have executed an agreement of sale in favour of the plaintiff by agreeing to sell the suit schedule property for a sum of Rs. 7,90,000/- and received sum of Rs.5,50,000/- as advance and agreeing to receive balance consideration amount of Rs.2,40,000/- at the time of registration of the regular registered sale deed. Further it appears that the defendants have agreed to execute the registered sale deed whenever plaintiff demands.

15. Further the plaintiff has furnished Ex.P2 notice issued by him through his counsel to the defendants on 30.03.2019, Ex.P3 to 6 are the postal receipts, Ex.P7 is the postal acknowledgment, Ex.P8 to 11 are the unversed RPAD Cover along with notices.

16. On perusal of the records it appears that, oral and documentary evidence of the plaintiff remained unchallenged as defendants have not conducted cross examination of PW-1. The evidence of PW-1 coupled with Ex.P-1, it appears that on 25.04.2018 the defendants have executed an agreement of sale in favour of the plaintiff. The defendants have agreed to sell the suit schedule property for a sum of Rs. 7,90,000/- and received sum of Rs. 5,50,000/- as an advance on the same day and agreed to receive balance consideration amount of Rs.2,40,000/- at the time of registration of sale deed. Admittedly, plaintiff has not furnished RTC extract of the suit schedule property. However, defendants themselves admit that they are the absolute owners of the suit schedule property.

17. The plaintiff in support of his documentary evidence he has examined the scribe of the Ex.P1 as PW-2. The PW-2 namely Sri. M.V. Shankarnag S/o Venkatesh in his chief examination has deposed that, in his presence plaintiff and defendants put their signature on agreement of sale. The evidence of the PW-1 and 2 remained unchallenged.

18. Moreover, the defendants though filed written statement have not led any defense evidence. It is settled law that mere filing of written statement is not sufficient to prove the contention taken therein. The written

statement contain bundle of pleadings and it shall be substantiated by the defendants by adducing cogent and corroborate evidence to prove all the pleadings. When the defendants have not led any evidence, definitely defense taken by them in their written statement will have no much bearing and it cannot consider by the court. It is relevant to note here that decision reported in **AIR 1999 SC 1441 (between Vidhyadhar vs. Manikrao and another)** wherein the Hon'ble Apex Court held that;

“If a party to the suit does not enter the witness box, then it will give rise to inference adverse against him and the Court shall draw adverse inference under Sec.114 of Indian Evidence Act.”

19. The principle laid down in the above decision is aptly applicable to the facts of this case. Because, in the case on hand also, the defendants have not led evidence before the Court to substantiate the defense taken in the written statement by them. Hence, court has to draw adverse inference that whatever defense taken in the written statement are all not based on true facts and it has to be discarded. Thus the defendants fail to prove that plaintiff has created the document as executed by them. As such it is clear that the defendants have entered into an agreement of sale with the plaintiff for valuable sale consideration. Hence, the plaintiff is

entitled for relief as claimed. Accordingly, I hold issue No.1 to 3 in the **Affirmative**.

20. ISSUE NO.5:-In view of findings on the above issues, reasons and discussions, I proceed to pass the following:-

ORDER

The suit filed by the plaintiff for specific performance of agreement of sale is hereby decreed with cost.

Consequently, defendants are hereby directed to execute the registered sale deed in favour of plaintiff by receiving balance sale consideration amount of Rs.2,40,000/- from the plaintiff as agreed by them and deliver the possession of the suit schedule property in favour of plaintiff.

In default, plaintiff is at liberty to get registered sale deed through court process by depositing the balance sale consideration amount of Rs.2,40,000/-.

Draw decree accordingly.

(This judgment is dictated to the stenographer directly computerized by her, corrected and then pronounced by me in the open court on 23rd day of June - 2026)

(DEVARAJU H.R.)
I Addl.Sr.CJ & JMFC.,
K.R.Pete.

ANNEXURE**I. List of witnesses examined by plaintiff:**

PW-1 : Sri. Moganna
PW-2 : M.V.Shankarnag

II. List of documents exhibited by plaintiff:

Ex.P1 : Sale agreement,
Ex.P2 : Legal Notice,
Ex.P3 to 6 : Postal receipts,
Ex.P7 : Postal Acknowledgment,
Ex.P8 to 11 : Unserved RPAD Cover along
with notices.

III. List of witnesses examined by defendant:-NIL**IV. List of documents exhibited by defendant:-NIL**

I Addl.Sr.CJ & JMFC.,
K.R.Pete.

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