

KAMD500015492022



**IN THE COURT OF THE 1st ADDL. SENIOR CIVIL JUDGE &
J.M.F.C.**

AT NAGAMANGALA

DATED THIS THE 2nd DAY OF APRIL, 2026

PRESENT

SRI.NARASIMHA MURTHY M.

B.A.LLM., UGC – NET, JRF,

1st ADDL. SENIOR CIVIL JUDGE & JMFC, NAGAMANGALA

ORIGINAL SUIT No.66/2022

PLAINTIFF :

N.S.Nagarajaiah

S/o Late N.Siddaveerappa,

Aged about 72 years,

Deed writer,

R/at opposite to Badagoodamma

temple road, T.B.Extension,

Nagamangala Town,

Kasaba Hobli, Nagamangala Taluk,

Mandya District.

Vs

DEFENDANT:

P. Harshavardhan

S/o Late Puttaswamy,

Aged about 22 years,

Student, R/o near Mulakatte Arch,

Mulakatte road, Nagamangala Town,

Kasaba Hobli, Nagamangala Taluk,

Mandya District.

(Rep. by Sri. **Kempegowda** Advocate

Date of institution of the suit	29-08-2022		
Nature of the suit	SUIT FOR SPECIFIC PERFORMANCE OF CONTRACT		
Date of commencement of recording of evidence	20-11-2023		
Date on which the Judgment was pronounced	02-04-2026		
TOTAL	YEAR 03	MONTH 07	DAY 03

(NARASIMHA MURTHY M.)
Ist ADDL. SENIOR CIVIL JUDGE & JMFC,
NAGAMANGALA.

J U D G M E N T

The plaintiff has filed the present suit against the defendant for the relief of Specific Performance of contract with respect of suit schedule property.

2. The case of the plaintiff in the nutshell as follows :-

The mother of the defendant by name Padmavathi H.M. is the absolute owner in possession and enjoyment of the suit property. The mother of defendant has offered to sell the suit schedule property to the plaintiff and the plaintiff accepted her offer. Accordingly, on 05.12.2018

mother of the defendant has entered into an registered agreement of sale with the plaintiff for sale consideration amount of Rs.5,50,000/- and she has received a sum of Rs.5,00,000/- as advance amount out of sale consideration of Rs.5,50,000/- and also agreed to execute the sale deed within 6 months in favour of the plaintiff by receiving balance sale consideration amount of Rs.50,000/- at the time of execution of registered sale deed. At the time of agreement of sale the defendant was minor and the mother of the defendant was executed agreement of sale on behalf of defendant. The plaintiff was/is always ready and willing to perform his part of the contract and the plaintiff was/is always ready to pay the balance sale consideration of Rs.50,000/- but, the mother of defendant has not performed her part of contract. The plaintiff has approached the mother of the defendant to execute the sale deed by receiving balance sale consideration of Rs.50,000/- but, she has postponed the same. Hence, the plaintiff issued legal notice to the mother of the defendant on 13.08.2019 calling upon her to execute the sale deed by receiving balance sale

consideration amount of Rs.50,000/-. The said notice was served to the mother of defendant but, she has not turned up to perform her duty. Further, mother of defendant was died due to Covid-19. On 31.12.2021 the plaintiff issued legal notice to the defendant calling upon him to execute the sale deed as per agreement dated 05.12.2018. Hence, the plaintiff has filed the present suit seeking the relief of specific performance.

3. The defendant has appeared before the court through her counsel and filed written statement. In his written statement he has denied the entire averments of the plaint except mother of the defendant is the absolute owner of the suit property and due to Covid-19 mother of the defendant was died. Further, he has submitted that the suit of the plaintiff is not at all maintainable either under law or on facts. Further submitted that, defendant's brother-in-law by name M.Ravi S/o Marigowda has obtained loan of Rs.3,00,000/- through cheque from the plaintiff. Hence, the security of this loan the mother of the defendant has executed the agreement of sale in favour of the plaintiff.

But, now the said loan amount returned to the plaintiff in cash. Later, when the defendant requested the plaintiff to cancel the agreement of sale, the plaintiff asked for one month time because he was not well. Then, the mother of the defendant died untimely. Then, the plaintiff took advantage of this opportunity and filed this suit. The plaintiff has not made grandmother of the defendant and she is necessary party to the suit. Hence, the suit is bad for non-joinder of necessary party. In fact, the value of the suit schedule property is Rs.15,00,000/- and prays to dismiss the suit.

4. Heard the arguments of plaintiff and perused the materials available on record.

5. On the basis of above pleadings, the following issues are framed by this Court :-

1. Whether the plaintiff proves that defendant mother was executed agreement of sale deed dated 05.12.2018 and agreed to sale the

suit schedule property for sale consideration of Rs.5,50,000- ?

- 2. Whether the plaintiff proves that, he has paid the earnest money of Rs.5,00,000/- to the defendant's mother at the time of executing the agreement of sale deed ?**
- 3. Whether the defendant proves that, suit is bad for non joinder necessary party ?**
- 4. Whether the defendant proves that, agreement of sale executed by the H.M.Padmavathi for surety of loan obtained by the M.Ravi S/o Marigowda ?**
- 5. Whether the plaintiff proves that, he has always ready and willing to perform of his part of contract ?**
- 6. Whether the plaintiff is entitled for the relief as sought for ?**
- 7. What order or decree?**

6. In order to substantiate his case, the plaintiff has examined himself as PW1 and got marked five documents at

Ex.P1 to Ex.P5. The plaintiff also examined two more witnesses i.e. PW2 and PW3.

7. On the other hand, in order to prove the defence, the defendant himself examined as DW1. Further, defendant led his evidence as DW1. In spite of sufficient opportunity DW1 has not tendered for cross-examination.

8. The Court proceeds to answer the above said issues as under:-

Issue No.1 : IN THE AFFIRMATIVE

Issue No.2 : IN THE AFFIRMATIVE

Issue No.3 : IN THE NEGATIVE

Issue No.4 : IN THE NEGATIVE

Issue No.5 : IN THE AFFIRMATIVE

Issue No.6 : IN THE AFFIRMATIVE

**Issue No.7 : As per the final order,
for the following:-**

REASONS

9. ISSUE No.1 TO 6 :- All these issues are interrelated with each other and involve appreciation of evidence and facts. Hence to avoid repetition, these issues are taken together for common discussion.

10. The plaintiff submitted that, on 05.12.2018 mother of the defendant has entered into an registered agreement of sale with the plaintiff for sale consideration amount of Rs.5,50,000/- and she has received a sum of Rs.5,00,000/- as advance amount out of sale consideration of Rs.5,50,000/- and also agreed to execute the sale deed within 6 months in favour of the plaintiff by receiving balance sale consideration amount of Rs.50,000/- at the time of execution of registered sale deed. At the time of agreement of sale the defendant was minor and the mother of the defendant was executed agreement of sale on behalf of defendant. The plaintiff was/is always ready and willing to perform his part of the contract and the plaintiff was/is always ready to pay the balance sale consideration of Rs.50,000/- but, the mother of defendant has not performed her part of contract. The plaintiff has approached the mother of the defendant to execute the sale deed by receiving balance sale consideration of Rs.50,000/- but, she has postponed the same. Hence, the plaintiff issued legal notice to the mother of the defendant on 13.08.2019 calling

upon her to execute the sale deed by receiving balance sale consideration amount of Rs.50,000/-. The said notice was served to the mother of defendant but, she has not turned up to perform her duty. Further, mother of defendant was died due to Covid-19. On 31.12.2021 the plaintiff issued legal notice to the defendant calling upon him to execute the sale deed as per agreement dated 05.12.2018. Hence, the plaintiff has filed the present suit seeking the relief of specific performance.

11. On the other hand, the defendant filed written statement. In his written statement he has denied the entire averments of the plaint except mother of the defendant is the absolute owner of the suit property and due to Covid-19 mother of the defendant was died. Further, he has submitted that the suit of the plaintiff is not at all maintainable either under law or on facts. Further submitted that, defendant's brother-in-law by name M.Ravi S/o Marigowda has obtained loan of Rs.3,00,000/- through cheque from the plaintiff. Hence, the security of this loan

the mother of the defendant has executed the agreement of sale in favour of the plaintiff. But, now the said loan amount returned to the plaintiff in cash. Later, when the defendant requested the plaintiff to cancel the agreement of sale, the plaintiff asked for one month time because he was not well. Then, the mother of the defendant died untimely. Then, the plaintiff took advantage of this opportunity and filed this suit. The plaintiff has not made grandmother of the defendant and she is necessary party to the suit. Hence, the suit is bad for non-joinder of necessary party. In fact, the value of the suit schedule property is Rs.15,00,000/- and prays to dismiss the suit.

12. To prove the case, the plaintiff himself examined as PW1 and got marked Ex.P1 to P5 i.e. registered sale deed dated 05.12.2018 at Ex.P1, Form No.11B of property No.152100502101100498 at Ex.P2, Endorsement at Ex.P3, Legal Notice dated 13.08.2019 at Ex.P4, Legal Notice dated 31.12.2021 at Ex.P5. The plaintiff also examined two more witnesses i.e. PW2 and PW3.

13. On the other hand, in order to prove the defence, the defendant himself examined as DW1.

14. On perusal of examination-chief of PW1, wherein, he has reiterated the averments of plaint. On perusal of the examination-chief of PW2 and 3, wherein, they have stated that, mother of the defendant executed the agreement of sale and received advance amount of Rs.5,00,000/- and agreed to execute the sale deed in favour of the plaintiff by receiving balance sale consideration amount of Rs.50,000/- and they have signed the agreement of sale. On perusal of examination-chief of DW1, wherein, he has reiterated the averments of the written statement.

15. The defendant cross-examined PW1/plaintiff wherein, he has denied that, the defendants have not executed any agreement of sale on 05.12.2018. Further, the defendant has not chosen to cross-examined PW2 and 3 and their evidence remained unchallenged. Furthermore, the defendant to prove his defence he has filed affidavit in lieu of his examination-in-chief. But, inspite of sufficient

opportunity the defendant/DW1 has not tendered for cross-examination.

16. On perusal of the Ex.P1 wherein it is clear that the mother of defendant has executed registered agreement of sale in favour of the plaintiff on 05.12.2018 and received the advance sale consideration amount of Rs.5,00,000/- and agreed to execute the registered sale deed in favour of the plaintiff by receiving balance sale consideration of Rs.50,000/-. Furthermore, the defendant was minor on his behalf of his mother executed the aforesaid agreement of sale. As stated supra, the plaintiff in his cross-examination, he has denied that, the defendant has not executed the agreement of sale. Furthermore, the plaintiff to prove his case also examined one of the attested witness and scribe to the agreement of sale as PW2 and PW3. The said PW2 and PW3 in their examination-chief they have stated about the agreement of sale executed by the mother of the defendant and receipt of the advance amount of Rs.5,00,000/- and agreed to execute the sale deed by receiving the balance of

Rs.50,000/- for the family necessities. The defendant has not chosen to cross-examine PW2 and PW3 and their evidence remained unchallenged. Furthermore, the defendant also not tendered for cross-examination. In this case, the defendant has not adduced any documentary evidence to disbelieve the case of the plaintiff. In this case, the defendant has not lead any evidence in support of his defence to show that, agreement of sale executed by H.M.Padmavathi i.e. mother of the defendant for surety of loan obtained by M.Ravi S/o Marigowda. Further, the defendant has contended that, his grandmother of the defendant by name Jayamma is also necessary party to the suit and the plaintiff has not made her party to the suit and as such, the suit is bad for non joinder of necessary party. As stated supra, in this case as per Ex.P1 i.e. registered agreement of sale, mother of the defendant and defendant was minor and on his behalf of she has executed agreement of sale in favour of the plaintiff. As such, the defendant has not adduced any documentary evidence to show that, grandmother of the defendant is necessary party of the suit.

The plaintiff and defendant submitted that, due to Covid-19 mother of the defendant by name Padmavathi H.M. was died. The plaintiff has submitted that he is ready and willing to perform his part of contract. On perusal of the legal notice at Ex.P4 and P5 wherein, the plaintiff issued legal notice through his counsel calling upon the defendant and his mother to execute the sale deed in his favour. On perusal of the Ex.P2 – i.e. Form No.11B wherein, it appears that, the suit schedule property stands in the name of the mother of the defendant. The plaintiff has proved that, the mother of defendant and also defendant was minor and on his behalf, she has agreed to sell the suit schedule property in his favour and executed the registered agreement of sale on 05.12.2018 and received advance sale consideration of Rs.5,00,000/- and agreed to execute the sale deed in favour of the plaintiff by receiving balance sale consideration of Rs.50,000/-. Further, the plaintiff has proved that, he was/ is ready and willing to perform on part of his contract. Hence, the plaintiff is entitled for the relief of specific performance of contract as sought in the plaint.

Accordingly, I answer, issue No.1, 2, 5 and 6 in the **AFFIRMATIVE** and issue No.3 and 4 in the **in the NEGATIVE**.

17. ISSUE No.7 :- In view of the aforesaid findings on above issues, this Court proceeds to pass the following:-

ORDER

The suit of the plaintiff is hereby decreed with costs.

The defendant is hereby directed to execute the sale deed in favour of plaintiff in terms of registered agreement of sale dated 05.12.2018 in respect of suit schedule property within 3 months from the date of this judgment by receiving balance sale consideration of Rs.50,000/- from the plaintiff. If the defendant fails to comply the order of the Court, the plaintiff is at liberty to get the sale deed through process of this Court.

Draw decree accordingly.

*(Dictated to the Stenographer, typed by him, Judgment corrected and signed by me, then pronounced by me in the Open Court on this the **2nd day of April, 2026**).*

(NARASIMHA MURTHY. M)
Ist ADDL. SENIOR CIVIL JUDGE & JMFC,
NAGAMANGALA.

ANNEXURE**THE LIST OF WITNESSES EXAMINED ON BEHALF OF PLAINTIFF-BANK.**

PW1 : N.S.Nagarajaiah
PW2 : S.V.Suresha
PW3 : R.Krishnashetty

THE LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANT/S

DW1 : Harshavardhan

THE LIST OF DOCUMENTS EXHIBITED ON BEHALF OF PLAINTIFF-BANK

Ex.P1 : Registered agreement of sale dated
05.12.2018
Ex.P1(a) to (d) : Signatures
Ex.P2 : Form No.11B
Ex.P3 : Endorsement
Ex.P4 : Legal Notice dated 13.08.2019
Ex.P5 : Legal Notice dated 31.12.2021

THE LIST OF DOCUMENTS EXHIBITED ON BEHALF OF DEFENDANT/S

- NIL -

(NARASIMHA MURTHY. M)

Ist ADDL. SENIOR CIVIL JUDGE & JMFC,
NAGAMANGALA.