

KAMS310064662022



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC,
HUNSUR**

-:PRESENT:-

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,
I ADDL. CIVIL JUDGE & JMFC,
HUNSUR.**

DATED THIS THE 17TH DAY OF MARCH, 2026

O.S.No.353/2022

PLAINTIFF:

1. Smt. Pramila
W/o Murugesh,
Aged about 40 years,
R/at Halepura Village,
Kasaba Hobli,
Mysuru District.

(By Sri. S.L.G., Advocate)

// Versus //

DEFENDANTS :

1. Sri. Shivannegowda
S/o Late. Marilingegowda,
Aged about 68 years.
2. Sri. Shantharaju
S/o Shivannegowda,
Aged about 35 years,
Both are R/at Halepura Village,
Kasaba Hobli,
Hunsur Taluk.

(Def. No.1 & 2 Exparte)

Date of institution of the suit : 21.09.2022
Nature of the suit : Specific Performance of Contract
Date of recording evidence : 28.03.2025
Date of closing evidence : 28.03.2025
Date of Judgment pronounced : 17.03.2026
Total Duration : 3 years 5 months 26 days

(Namrata S Hosmath)
I Addl.Civil Judge & JMFC.,
Hunsur.

-:: J U D G M E N T::-

The plaintiff has filed the above suit against the defendants for the reliefs of Specific Performance of Contract and in alternative the plaintiff has sought for refund of advance amount of Rs.1,50,000/- with interest at the rate of 24% per annum and such other reliefs.

2. The factual matrix of the case is as follows:

It is the case of the plaintiff that, the defendants, citing to discharge antecedent loan and to meet domestic expenses expressed their willingness to sell the suit schedule property. After mutual discussions,

the parties agreed upon a sale consideration of Rs. 2,00,000/-. Pursuant thereto, the plaintiff paid an advance amount of Rs. 1,50,000/-, and a registered agreement of sale dated 11.02.2021 was executed by the defendants in favour of the plaintiff in the presence of witnesses.

3. It is further contended that, the defendants undertook to execute the sale deed in favour of the plaintiff upon receipt of the balance consideration amount of Rs.50,000/- within one year from the date of agreement and also agreed to delivery possession of the property at the time of registration. The plaintiff asserts that she has always been ready and willing to perform her part of the contract. Despite repeated requests and readiness to pay the balance amount, the defendants have failed and refused to execute the sale deed.

4. The plaintiff further submits that, a legal notice was issued through counsel, calling upon the defendants to execute the sale deed, but even after service of the said notice, the defendants have not complied. Hence, the plaintiff was constrained to file the present suit.

5. In pursuance of the suit summons, the Defendant No.1 and 2 have failed to appear before this Court, Hence, they were placed exparte.

6. In order to prove the plaintiff's case, the plaintiff was examined as PW.1. She filed her affidavit in lieu of examination-in-chief, wherein she reiterated the averments made in the plaint. The plaintiff got marked 6 documents, which were exhibited as Ex.P1 to P6.

7. Now the points that arise for the consideration of this court are;

POINTS

1. Whether the plaintiff proves that the defendants have entered a registered sale agreement with her in respect of suit schedule property on 11.02.2021 of consideration of Rs.2,00,000/-?

2. Whether the plaintiff proves that she has paid earnest amount of Rs.1,50,000/- to the defendants as on the date of sale agreement?

3. Whether the plaintiff further proves that she was always ready and willing to perform her part of contract?

4. Whether the plaintiff is entitled for relief of specific performance of contract as sought for?

5. Whether the plaintiff is entitled for the alternative relief of refund of earnest money with interest at the rate of 24 % per annum?

6. What decree or order?

8. Heard the arguments addressed by the learned counsel for the plaintiff and perused the materials placed on record.

9. Now the points that arise for the consideration of this court are;

Point No.1 : In the Affirmative
Point No.2 : In the Affirmative
Point No.3 : In the Affirmative
Point No.4 : In the Negative
Point No.5 : In the Affirmative
Point No.6 : As per final order for the following;

:: R E A S O N S ::

10. **Point No.1 to 5:-** These points are taken up together for common discussion in order to avoid repetition of facts and evidence.

11. According to the plaintiff, the defendants entered into an agreement of sale on 11.02.2021, agreeing to sell the suit schedule property for valuable consideration of Rs.2,00,000/- in favour of the plaintiff and received an advance amount of Rs.1,50,000/- from her on the date of the agreement. The defendants also agreed to receive the balance sale consideration of Rs.50,000/- and execute sale deed within one year from the date of agreement. Since the date of agreement, the plaintiff has always been ready and willing to perform her part of contract. Even though, the plaintiff is making repeated request and demands, the defendants failed to perform their part of contract. That apart, a legal notice was issued calling upon the defendants to perform their part of contract. But, they neither complied the notice nor replied the same.

12. In order to prove the case of the plaintiff, she got marked Ex.P1 to Ex.P6. Ex.P1 is the Registered Agreement of Sale dated 11.02.2021, executed by defendants in favour of plaintiff by receiving advance amount of Rs.1,50,000/-, agreeing to receive the remaining amount of Rs.50,000/- and execute sale deed within 1 year from the date of agreement. Ex.P2 is the RTC of the suit schedule property for the year 2022-23, is in the name of Ramegowda S/o Karigowda

and defendant No.1. The plaintiff has not explained as to who is the said Ramegowda S/o Karigowda. Ex.P3 to Ex.P6 are the Legal Notice, postal receipts and postal acknowledgment.

13. It is pertinent to note that, according to the Sale agreement Ex.P1 the defendants have executed registered sale agreement in favour of plaintiff. As per the recitals of the sale deed the defendants had agreed to sale the suit schedule property to the plaintiff within one year from date of the agreement. The defendants have not choosen to appear before this court and they have been placed exparte, hence, the documentary evidence of plaintiff stands undisputed.

14. With regard to the readiness and willingness on part of the plaintiff, the plaintiff issued legal notice to the defendants calling upon them to execute registered sale deed. Ex.P6 are the postal acknowledgment which goes to show that, the notice has been duly served upon the defendants. It clearly goes to show that, the plaintiff was always ready and willing to perform her part of contract. The readiness and willingness is also prove. Further the plaintiff has also proved about payment of advance sale consideration of Rs.1,50,000/- to the defendants.

15. The defendants have not chosen to contest the suit since they failed to appear before the court in response to the suit summons. Hence, there is nothing to disbelieve the version of the plaintiff. As such, this Court is of the considered opinion that, the plaintiff has proved her case. However, the plaintiff has brought to the notice of the court that subsequent to the sale agreement executed in favour of plaintiff, the defendants have executed another sale agreement on 25.3.2022 in favour of one Sridhara R S/o Ramegowda. Accordingly, the said Sridhara has filed a suit before Hon'ble Addl. Senior Civil Judge and JMFC., Hunsur in OS No. 99/2024 against the present defendants seeking for the relief of specific performance. The said suit came to be decreed on 23.01.2025. When such being the case, the defendants are presently not the owners of the suit schedule property, hence, granting of relief of specific performance of contract would not serve the purpose.

16. The plaintiff has clearly established that the defendants had agreed to sell the suit schedule property to the plaintiff, and received advance sale consideration of Rs.1,50,000/-. When such being the case as already held plaintiff is not entitled for the

relief of specific performance of contract but she is entitled for alternative relief of refund of advance amount of Rs. 1,50,000/- with interest at the rate of 24% per annum. Accordingly, **point No.1 to 3 and point No.5 are answered in the Affirmative and point No.4 is answered in the Negative.**

17. **Point No.6**: For the reasons stated and discussed on foregoing issues, I proceed to pass the following;

ORDER

The Suit of the plaintiff is partly decreed with cost.

The relief claimed by the plaintiff for Specific performance of sale agreement is hereby rejected.

In the alternative the plaintiff is entitled for recovery of Rs.1,50,000/- with interest at the rate of 24 % per annum from the date of sale agreement till its realization.

The defendants are hereby directed to pay Rs. 1,50,000/- to the plaintiff with interest at the

rate of 24 % per annum from the date of sale agreement till its realization within 3 months.

Draw decree accordingly.

(Dictated to the Stenographer Grade-III, transcribed & computerized by her, transcript revised, corrected, signed and then pronounced by me in the open Court on this the 17th day of March, 2026)

(NAMRATA S HOSMATH)
I Addl. Civil Judge & JMFC.,
Hunsur.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR PLAINTIFF:

PW-1 : Pramila

LIST OF DOCUMENTS MARKED FOR PLAINTIFF:

Ex.P-1 : Registered Sale agreement
Ex.P-2 : RTC of Sy.No.12/3 for the year 2022-23
Ex.P-3 : Legal notice
Ex.P-4 & 5 : Postal Receipts
Ex.P-6 : Postal acknowledgment

LIST OF WITNESS EXAMINED FOR DEFENDANTS:

- Nil -

LIST OF DOCUMENTS MARKED FOR DEFENDANTS:

- Nil -

(NAMRATA S HOSMATH)
I Addl. Civil Judge & JMFC.,
Hunsur.

