



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT SINDHANUR

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M
Senior Civil Judge & J.M.F.C.
Sindhanur

O. S. No.119/2024
Dated: 02nd day of June 2026

PLAINTIFF: - 1. Mahesh Kumar S/o Bansilal Jain
Age: 48 years, Occ: Agri., & Business
R/o Adarsha colony, Sindhanur,
Tq. Sindhanur, Dist. Raichur.

(Represented by: Sri.SHPQ., Advocate)

-Vs -

DEFENDANT:- 1) P. Venkatasubbarao S/o P. Rahavalu
Age: 48 years, Occ: Agri., & Business,
R/o Banniganur village
Tq. Sindhanur, Dist. Raichur.

(Represented by: Sri.KS., Advocate)

Date of Institution of the suit	:	04.06.2024
Nature of the suit	:	Specific performance
Date of the commencement of recording of evidence	:	09.01.2026
Date on which the Judgment is pronounced	:	02.06.2026



Total duration : Year/s Month/s Day/s
01 11 29

J U D G M E N T

This suit filed by the plaintiff against the defendant seeking direction to the defendant to execute registered sale deed in favour of plaintiff in respect of suit property.

2. The plaint in brief is as under:-

The plaintiff is filing this suit against the defendant for Specific performance of Contract based on the registered agreement of sale bearing doc No: SND-1-00178/2022-23 dated: 06-04-2021 in respect of agriculture lands Sy.No. 39/*/3 measuring 02 acres 20 guntas and land Sy.No. 39/*/5 measuring 02 acres 20 guntas totally measuring 05-00 acres situated within the limits of Yapalparvi village, within Valkamdinni revenue circle Tq: Sindhanur Dist: Raichur. Being the owner and possessor, of the suit property, the defendant has approached the plaintiff and offered to sell the



suit property for his family and legal necessities. The plaintiff has accepted the offer and agreed to purchase the same, for a total sale consideration amount of Rs.30,50,000/- (Rupees thirty lakh fifty thousand only). The plaintiff agreed to purchase the suit property at the said consideration amount. On 04-04-2022 in the presence of witnesses the defendant has received substantial part as advance sale consideration amount of Rs.30,00,000/- from the plaintiff, by receiving the same on same day, the defendant has executed agreement of sale in favour of plaintiff in the presence of witnesses and thereafter, the same agreement presented before the senior sub-registrar office Sindhanur for registration as such the said agreement was registered bearing document No: SND-1-00178/2022-23 dated: 06-04-2022, in favour of plaintiff in respect of suit property. The father of defendant by name Sri.P. Raghavalu has put his signature to the agreement as consent witnesses. In the said



agreement it has agreed that, the defendant has to execute the registered sale deed in favour of plaintiff by receiving the balance consideration amount of Rs.50,000/- from plaintiff. Further in the agreement the defendant has agreed that, he will inform the plaintiff after securing the form No.10, sketch map, mutation order, encumbrance certificate (E.C) and other relevant documents which are required for the registration of sale deed. And further the defendant agreed that, after securing all such documents he will execute registered sale deed of suit property on demand of plaintiff. And further the defendant agreed that he will deliver the possession of suit property in favour of plaintiff on the day of execution of sale deed. All these terms and conditions are clearly incorporated in the said agreement of sale. Thereafter the plaintiff several times has approached the defendant and requested him to conclude the contract by tendering the balance consideration amount of Rs.50,000/-, but the



defendant went on postponed the matter stating that, the relevant documents are not ready. The plaintiff thereafter frequently approached the defendant and demanded for execution of registered sale deed, but the defendant went on postponed the same on some pretext. Recently the plaintiff is came to know that the defendant is trying to sale the suit property to third person to deprive the right of plaintiff. Therefore on 03-04-2024 the plaintiff along with witnesses approached the defendant and demanded for execution of registered sale deed of suit property by tendering the balance consideration amount of Rs.50,000/-, but the defendant flatly refused to execute the sale deed and threatened that he will going to sale the suit property to third person and also he threatened that he will grab the advance consideration amount. The defendant was voluntarily approached the plaintiff and made offer to sale the suit property for above said sale consideration amount and executed registered



agreement of sale in favour of plaintiff by receiving the above said advance sale consideration amount. But now instead of executing sale deed, the defendant is threatening the plaintiff that, he will going to sell the suit property to third person to deprive the rights of plaintiff and to grab the advance sale consideration amount. Therefore without other go the plaintiff is landing before this court with this suit for the relief of specific performance of contract. The defendant is under the contractual obligation to perform his part of contract in receiving the balance consideration amount and to execute the Registered Sale deed of suit property in favour of this plaintiff. On the other hand, this plaintiff is always and even now also ready and willing to perform his part of contract by tendering the payment of balance consideration amount and to get the registered sale deed of the suit property in his name at his cost. The cause of action arose to the plaintiff to file this suit on 04-04-2021 when the



defendant received part consideration amount of Rs.30,00,000/- from the plaintiff and executed agreement of sale in favour of plaintiff. And on 03-04-2024 when the defendant refused to conclude the contract and threatened that he will going to sale the suit property to any third person and same is continuing one within the jurisdiction of this court. Hence without other go, the plaintiff was constrained to file this suit against the defendant for relief of specific performance of contract.

3. In response to the summons, the defendant has appeared through his counsel but not filed written statement. Thereafter, the plaintiff examined himself as Pw-1 and examined two witnesses as Pw-2 and Pw-3 and all documents produced by the plaintiff marked as Ex.P1 to Ex.P5 and closed his side.



4. Heard arguments on behalf of the plaintiffs. On the basis of the above pleadings, the following point arises for my consideration;

P O I N T S

1. Whether plaintiff proves that he was always ready and willing to perform his part of contract?
2. Whether the Plaintiff is entitling for the relief as prayed for?
3. Whether plaintiff is entitled for relief of refund of earnest money?
4. What order or decree?
5. My answerer to the above points as follows:
Point No.1 : In the Negative
Point No.2 : In the Negative
Point No.3 : In the Affirmative
Point No.3 : As per final order
for the following:

R E A S O N S

6. **Point No.1 & 2**:- On careful perusal of the pleadings, oral and documentary evidence available on record, it transpires that the defendant clearly admitted the execution



of agreement of sale as per Ex.P5. Apart from that the oral evidence of PW.1 is corroborated with the contents of document marked as Ex.P5. The agreement is registered one and has been proved by way of primary evidence. The said agreement attaches with probative value and this Court, under these circumstances, there was no reason to discard the authenticity, genuineness etc of the sale agreement. As such the defendant also admitted the execution of Ex.P5. But she denied the very purpose of execution. However, regarding execution of Ex.P5 is concerned the plaintiff has satisfactorily proved the execution of Ex.P5 agreement of sale. Now the crux of the matter is whether it was executed for security of loan or absolute sale.

7. Admittedly the suit land Sy.No.39/*/3, measuring 02 acres 20 guntas and land Sy.No.39/*/5, measuring 02 acres 20 guntas, totally measuring 05 acres, situated at Yapalparvi village, Tq. Sindhanur as shown at registered agreement for sale dated 06.04.2022 marked at exhibit P-5 . The price agreed for sale is just Rs. 30,50,000/- as shown at registered agreement for sale



dated 06.04.2022 marked at exhibit P-5. Admittedly the suit land measuring suit land Sy.No.39/*/3, measuring 02 acres 20 guntas and land Sy.No.39/*/5, measuring 02 acres 20 guntas, totally measuring 05 acres, situated at Yapalparvi village, Tq. Sindhanur is valuable land. It is made clear by this court for a meager sum of 30,50,000/- consideration as shown at registered agreement for sale dated 06.04.2022 marked at exhibit P-5, even an open plot cannot be purchased. The consideration shown at registered agreement for sale dated 06.04.2022 marked at exhibit P-5 is considered to be a meager sum of 30,50,000/-. The suit land Sy.No.39/*/3, measuring 02 acres 20 guntas and land Sy.No.39/*/5, measuring 02 acres 20 guntas, totally measuring 05 acres, situated at Yapalparvi village, Tq. Sindhanur. It is an irrigated land. The suit land suit land Sy.No.39/*/3, measuring 02 acres 20 guntas and land Sy.No.39/*/5, measuring 02 acres 20 guntas, totally measuring 05 acres, situated at Yapalparvi village, Tq. Sindhanur is large land and consideration shown there in is a meager sum of 30,50,000/-. The consideration amount for one



acre is shown for three acres. One acre costs Rs.30,50,000/- on it is irrigated land.

8. The property for a price that the conscience of this court cannot justify to grant a decree for specific performance of contract as it is an irrigated fertile land it costs at least Rs.30,00,000/- per acre. Showing of low price is nothing but an exploitation which really clearly indicates that it is unfair because the fair market value of the property is far far above what has been offered, even assuming the contract as is executed, a Court would refuse enforcement. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 1998 (6) KLJ 547 in between Kareemsaheb Nabeesaheb Nadaf Vs Basavantappa Shankarappa Pattanshetti (deceased) by L.Rs. the para NO.6 of the order reads as under.

Regular Second Appeal No. 139 of 1992

Decided on 28-11-1997

6]. This virtually brings one to the essential issue that is at the core of this



dispute namely the question as to whether the doctrine of unconscionability will have to be applied in this case. The doctrine which has its roots in English Law has been enforced by the Courts in this country, though on a few occasions. **The first essential ingredient is that it must be demonstrated that having regard to the economic disparity between the parties which is manifest in the transaction, the agreement becomes unacceptable or unfair insofar as it is a transaction between unequal wherein the effort is to get hold of the property for a price that one's conscience cannot justify.** The basic test and in fact that second principle which the Courts would cull out from a situation such as this is the aspect of exploitation which really flows from the first principle and where the contract clearly indicates that **it is unfair because the fair market value of the property is far far above what has**



been offered, the Court would put itself on guard and even assuming the contract as is executed, a Court would refuse enforcement.

It is this principle really that is embodied in the substantial point of law that falls for determination in the present case and to my mind, while Courts are required to exercise judicial discretion the contract would have to pass the test of scrutiny on the rule of fairness and legality. The present record unmistakably indicates that the value of the property would have been more than three times than what has been indicated and also indicates that having regard to the two years period which was prescribed, that the defendant did not really intend or want to sell the property but that he had entered into the agreement because he needed the money in the hope that within the period of two years he would be able to have his house. The whole transaction is a colorable one and once the Court comes to this decision, the



enforcement of such an agreement will
have to be refused.

The ratio laid down by the Hon'ble High Court of Karnataka reported in (1998) 6 KLJ 547 in between Kareemsaheb Nabeesaheb Nadaf Vs Basavantappa Shankarappa Pattanshetti (deceased) by L.Rs. it is unfair because the fair market value of the property is far far above what has been offered, the Court would put itself on guard and even assuming the contract as is executed, a Court would refuse enforcement for showing the low price in the agreement for sale.

9. In view of law laid down by the Hon'ble High Court of Karnataka reported in 1998 (6) KLJ 547 in between Kareemsaheb Nabeesaheb Nadaf Versus Basavantappa Shankarappa Pattanshetti (deceased) by L.Rs in the present case also very meager amount of just meager Rs.30,50,000/- suit land Sy.No.39/*/3, measuring 02 acres 20 guntas and land Sy.No.39/*/5, measuring 02 acres 20 guntas, totally measuring 05 acres, situated at Yapalparvi village, Tq. Sindhanur is fixed thus



the plaintiff is not entitled for the relief of specific performance of contract. This court cannot permit the plaintiff to enrich at the cost of the defendant. On this ground also the suit of the plaintiff is not maintainable.

10. The Hon'ble Supreme Court of India in the case of Parakunnnan Veetill Joseph's Son Mathew v. Nedumbara Kuruvila's son and others AIR 1987 SC 2328 to canvass the proposition that specific performance should not be granted when litigation is used as an instrument of oppression to have an unfair advantage. Once again there is no dispute to this proposition of law, however, facts of each case have to be seen whether an unfair advantage is being derived so that the specific performance should be refused. The Hon'ble Supreme Court of India in the case of Parakunnnan Veetill Joseph's Son Mathew v. Nedumbara Kuruvila's son and others AIR 1987 Supreme Court 2328 held that the proposition that specific performance should not be granted when litigation is used as an instrument of oppression to have an unfair advantage. Once again there is no dispute to this



proposition of law, however, facts of each case have to be seen whether an unfair advantage is being derived so that the specific performance should be refused. the Hon 'ble Supreme Court of India reported in 1987 AIR SC 2328 in between Parakunnan Veetill Joseph's Son Mathew Vs. Nedumbara Kuruvila's Son and Ors is that Section 20 of the Specific Relief Act, 1963 preserves judicial discretion to Courts as to decreeing specific performance.

11. The Court should meticulously consider all facts and circumstances of the case. The Court is not bound to grant specific performance merely because it is lawful to do so. The motive behind the litigation should also enter into the judicial verdict. The Court should take care to see that it is not used as an instrument of oppression to have an unfair advantage to the plaintiff. In this regard it is beneficial to refer to the Hon'ble Supreme Court of India reported in reported in AIR 1987 SC 2328, =[1987 Supp (1) SCC 340] in between Parakunnan Veetill Joseph'S Son Mathew vs Nedumbara Kuruvila'S Son And Ors the para No.14 read as under. .



Civil Appeal No. 1109 of 1975.

Dated. 14.09.1987

14]. [Section 20](#) of the Specific Relief Act, 1963 preserves judicial discretion to Courts as to decreeing specific performance. The Court should meticulously consider all facts and circumstances of the case. The Court is not bound to grant specific performance merely because it is lawful to do so. The motive behind the litigation should also enter into the judicial verdict. The Court should take care to see that it is not used as an instrument of oppression to have an unfair advantage to the plaintiff. The High Court has failed to consider the motive with which Varghese instituted the suit. It was instituted because Kuruvila could not get the estate and Mathew was not



prepared to part with it. The sheet anchor of the suit by Varghese is the agreement for sale Ex A1. Since Chettiar had waived his rights there under, Varghese as an assignee could not get a better right to enforce that agreement. He is, therefore, not entitled to a decree for specific performance.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in reported in AIR 1987 SC 2328, =[1987 Supp (1) SCC 340] in between Parakunnnan Veetill Joseph'S Son vs Nedumbara Kuruvila'S Son And Ors is that the Court should meticulously consider all facts and circumstances of the case and the Court is not bound to grant specific performance merely because it is lawful to do so. Further the Hon'ble Supreme Court of India held that the motive behind the litigation should also enter into the judicial verdict. The Court should take care to see that it is not used as an instrument of oppression to have an unfair advantage to the



plaintiff. In the present case also as discussed above, in the present case also very meager amount of just meager Rs.30,50,000/- for suit land Sy.No.39/*/3, measuring 02 acres 20 guntas and land Sy.No.39/*/5, measuring 02 acres 20 guntas, totally measuring 05 acres, situated at Yapalparvi village, Tq. Sindhanur is fixed as shown at registered agreement for sale dated 06.04.2022 marked at exhibit P-5, thus the plaintiff is not entitled for the relief of specific performance of contract. This court cannot permit the plaintiff to enrich at the cost of the defendant. On this ground also the suit of the plaintiff is not maintainable.

12. The relief for specific performance lies in the discretion of the court and the court is not bound to grant such relief merely because it is lawful to do so. The exercise of the discretion to order specific performance would require the court to satisfy itself that the circumstances are such that it is equitable to grant decree for specific performance of the contract. While exercising the discretion, the court would take into consideration the circumstances of the case, the conduct of parties, and their



respective interests under the contract. No specific performance of a contract, though it is not vitiated by fraud or misrepresentation, can be granted if it would give an unfair advantage to the plaintiff and where the performance of the contract would involve some hardship on the defendant, which he did not foresee. The court's discretion to grant specific performance is not exercised to be exercised by this court if the contract is not fair .

13. It is made clear by this court that mere pleadings in the trial court is not sufficient,. The plaintiff has to prove beyond it. The plaintiff has to prove his readiness and willingness to perform his part of the contract. The plaintiff has to show that he has sufficient money in his bank account. It is made clear by this court that mere pleadings are in sufficient to prove readiness and willingness to perform his part of the contract. In this regard it is beneficial to refer to the decision of the Hon 'ble High Court of Karnataka reported in (2020) 1 KCCR 735 =[(2019) 4 AIR



KAR R 610] =[2019 SCC ONLINE KAR 1175] =[AIR 2020
(NOC 666) 224] in between Smt. Pushpalatha v. Sri. D. R.
Sadananda Murthy, the para No.46 reads as under.

R.F.A. No. 174 of 2014
and C/W
R. F.A. No. 1896 of 2013.
Dated-19.07.2019.

46. From the above judgments, it is crystal clear that it is not just a plaint averment that the plaintiff was ready and willing to perform his part of the terms of agreement is sufficient to entitle him for the relief of specific performance, but he is also required to prove that he has always been ready and willing to perform his part of the promise under the agreement.

The ratio (underline emphasized by me) laid down by the Hon 'ble High Court of Karnataka reported in (2020) 1 KCCR 735 =[(2019) 4 AIR KAR R 610] =[2019 SCC ONLINE KAR



1175] =[AIR 2020 (NOC 666) 224] in between Smt. Pushpalatha v. Sri. D. R. Sadananda Murthy, is that mere pleadings in the plaint that the plaintiff was ready and willing to perform his part of the terms of agreement is not sufficient to entitle him for the relief of specific performance, but he is also required to prove that he has always been ready and willing to perform his part of the promise under the agreement by his conduct.

14. Besides it the plaintiff did not produce any documents to show that he has sufficient amount available in his bank account. In a suit for specific performance of contract, the plaintiff must prove that he has sufficient amount in his bank account showing his part of his contract. The plaintiff could have produced bank pass-book or bank statement to show that he has remaining balance consideration amount to show that he has sufficient that he is ready and willing to perform his part of the contract. In this regard it is beneficial to refer to the decision of the Hon 'ble High



Court of Karnataka reported in (2020) 1 KCCR 735 =[(2019)
4 AIR KAR R 610] =[2019 SCC ONLINE KAR 1175]
=[AIR 2020 (NOC 666) 224] in between Smt. Pushpalatha v.
Sri. D. R. Sadananda Murthy, the para No.54 reads as under.

R.F.A. No. 174 of 2014

and C/W

R. F.A. No. 1896 of 2013.

Dated-19.07.2019.

54. Interestingly, in the case on hand, even though it is taken that a Power of Attorney holder can give his evidence on behalf of the plaintiffs, even in a suit for specific performance, still, PW-1 though in his evidence has stated that the plaintiffs were always ready and willing to pay the remaining consideration amount, **but, has not produced any documents to show that the plaintiffs had any financial capacity too, to pay the balance amount or that the funds to pay the**



balance amount was available with them.

The ratio (underline emphasized by me) laid down by the Hon 'ble High Court of Karnataka reported in (2020) 1 KCCR 735 =[(2019) 4 AIR KAR R 610] =[2019 SCC ONLINE KAR 1175] =[AIR 2020 (NOC 666) 224] in between Smt. Pushpalatha v. Sri. D. R. Sadananda Murthy, is that in order to prove the readiness and willingness to perform his part of the contract he shall produce documents documents to prove his financial capacity too, to pay the balance amount or that the funds to pay the balance amount was available with them.

15. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4865 =[AIRONLINE 2020 SC 88] =[2020 SCC ONLINE SC 86] in between Sukhwinder Singh Vs. Jagroop Singh the para No.9 reads as under.



Civil Appeal No. 760 of 2020
(Arising out of SLP (Civil) No.10949 of 2019),,
Dated-28-01-2020

9. The suit being the one for specific performance of the contract on payment of the balance sale consideration, the readiness and willingness was required to be proved by the plaintiff and was to be considered by the Courts below as a basic requirement if a decree for specific performance is to be granted.

In the instant case though the defendant No.2 had denied the agreement as also the receipt of the earnest money, the same would not be of consequence as the agreement claimed by the plaintiff is with the defendant No.1 and the contention of the defendant No.2 to deny the same is without personal knowledge on that aspect. However, even in the absence of the defense put forth, the plaintiff was required to prove his readiness and willingness and that aspect of the matter was to be



considered by the Courts below. In the present case though the plaintiff examined himself as PW1, as also PW2 and PW3, the document writer, and the witness to the agreement who stated with regard to the execution of the agreement, the evidence to prove the readiness and willingness with regard to the resources to pay the balance sale consideration is insufficient. In the absence of denial by the defendant No.1, even if the payment of Rs.69,500/- and the claim by the plaintiff of having gone to the office of Sub-Registrar on 15.06.2004 is accepted, the fact as to whether the plaintiff had notified the defendant No.1 about he being ready with the balance sale consideration and calling upon the plaintiff to appear before the Sub-Registrar and execute the Sale Deed was required to be proved. **From among the documents produced and marked as Exhibit P-5 to P-9 there is no document to that effect, more**



particularly to indicate the availability of the balance sale consideration as on 15.06.2004 and as on the date of filing the suit. Despite the same, merely based on the oral testimony of PW1, the Courts below have accepted the case put forth by the plaintiff to be ready and willing to complete the transaction.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4865 =[AIROnline 2020 SC 88] =[2020 SCC Online SC 86] in between Sukhwinder Singh Vs. Jagroop Singh in order to prove readiness and willingness the plaintiff is required to produce documents showing he has availability if amount in his bank account . In the present case plaintiff did not produce any documents such as bank statement and bank pass-book to prove his readiness and willingness to perform his part of the contract to pay remaining balance consideration amount. Thus the trial court has rightly dismissed the suit. Trial court has rightly considered the



facts and law and rightly come to conclusion that the plaintiff failed to prove his part perform his part of the contract.

16. Hardship of the defendant may be one of the grounds which may be taken into consideration for exercising its discretion by the Court in refusing to grant a decree for specific performance of contract. Section 20 of the Specific Relief Act 1963 embodies a Common law that is grant of a decree for specific performance of a contract is a discretionary one. The Court may, in a given situation, take into consideration subsequent events and also various similar transactions of the plaintiff of entering into the agreement for sale with various persons as referred to above, the conduct of the plaintiff is not free doubt. It is made clear by this court that exparte decree is not automatic. Hence, the plaintiff is not entitled for the relief of specific performance of contract. Hence, I answered Point No.1 & 2 in Negative.



17. **POINT NO.3:-** Hence, it is just and proper to pass an order for refund of earnest money with 9% interest per annum there on directing the defendant to pay the same to the plaintiff. In the present also it is just and proper for this court to pass an order directing the defendant to pay the same. Hence point No.3 is answered in affirmative.

18. **POINT No.4:-** Foregoing reasons and answering above issues, this court arrived at an opinion that, plaintiff has established his case by placing cogent evidence on record. Therefore, this court proceeds to pass the following:

ORDER

Suit of the plaintiff is dismissed with cost.

However the plaintiff is entitled for refund of earnest money.

The defendant is directed to return earnest money within one month from the date of suit till its realization.



Draw decree accordingly.

(Dictated to the Stenographer directly on computer, computerized by him and corrected and then pronounced by me in open court on 02nd day of June 2026)

(Lakshmikanth J Miskin)
Senior Civil Judge & JMFC.,
Sindhanur

ANNEXURE

1. List of witnesses examined on behalf of plaintiff.

PW-1 : Mahesh Kumar
PW-2 : S.F. Khadri
PW-3 : Abdul Gafoor

2. List of documents marked on behalf of plaintiffs.

Ex.P1 to 4 : RTC extracts
Ex.P5 : Original agreement for sale
Ex.P5(a) : Signature of plaintiff
Ex.P5(b) : Signature of defendant
Ex.P5(c) : Consent witness signature
Ex.P5(d) &(e): Signatures of witnesses
Ex.P5(f) : Signature of deed writer

3. List of witnesses examined on behalf of defendants:

---- NIL ----

4. List of documents marked on behalf of defendants:

---- NIL ----

(Lakshmikanth J Miskin)
Senior Civil Judge & JMFC.,
Sindhanur