

KARN210004852022



IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC., AT : CHANNAPATNA

BEFORE

Smt.SHUBHA

B.A.L. L.L.B.,
Senior Civil Judge & JMFC, Channapatna.

O.S. No. 70/2022

Dated this the 30th day of January 2023

PLAINTIFF : Rangeswamygowda aged
about 61 years, S/o Late
Dasappa, R/at Yashas
Nilaya, House No.15,
2nd Cross, Agrahara
Extension, 7th Ward,
Ramanagara Town,
Ramanagara District
(By Sri. M.A.P. Advocate)

-VS-

DEFENDANTS : 1 R.Basavaraju aged about
42 years

2 Smt.Geetha H.R. aged about 33 years, W/o R.Basavaraju. Both are R/at Anche Palya, Kumbalagudu Post, Kengeri Hobli, Bangalore City-74.

(By Sri. T.K.A., Advocate)

Date of institution of the suit : 19-04-2022

Nature of the suit. : Suit for Specific Performance of Contract

Date of commencement of recording of the evidence. : 21-01-2023

Date on which the judgment was pronounced. : 30-01-2023

Total duration.	Years	Months	Days
	-	9	11

J U D G M E N T

1. This is a suit filed by the plaintiff seeking the relief of specific performance of contract against the defendants directing them to execute a absolute sale deed in his favour in respect of the suit schedule property and to put him in possession of the suit

schedule property and if the defendants fails to execute a proper and regular sale deed in pursuance of the decree to be passed, then the same may be executed by this court through its machinery and for costs.

2. The plaintiff has averred in the plaint that the defendants have entered into an agreement of sale dated 30-03-2021 agreeing to sell the suit schedule property land bearing Sy.No.104/18 (Old SY.No.104/1 and 104/3) measuring 07 acres 34 guntas situated at Marchanahalli, Malur Hobli, Channapatna Taluk, bounded on East by: Tank, West by: Boundary of Maddur, North by: Govt.Halla and South by: Property of Kamalamma. The plaintiff has further submitted that the defendants for purchase of another land and for return of hand loan during the 1st week of March 2021 approached him with an intention to sell suit schedule property when he had agreed to purchase the same. That on 30-03-2021 sale negotiations held between himself and defendant, sale price was fixed at Rs.49,00,000/- (Rupees Fourty Nine Lakh/-). That plaintiff has paid a sum of Rs.4,00,000/- and

Rs.10,000,00/- through Cheque Nos.948866 and 948864 of Punjab National Bank, Ramanagara Branch, the defendants have drawn the said amount. Further on 6.4.2021 plaintiff paid a sum of Rs.4,00,000/-(Four Lakh) to the account of defendant No.1 through RTGS No.PU.N.B.R. 5202104061026378, Rs.10,00,000/- to the account of defendant No.2 through RTGS No. PU.N.B.R. 52021040610264296, on 30.3.2021 paid a sum of Rs.6,00,000/- and Rs.4,00,000/- to the account of 2nd defendant through RTGS No.PU.N.B.R. 52021033010066822 and PU.N.B.R. 52021 the defendants have received an advance amount of Rs.24,00,000/- (Rupees Twenty Four Lakhs) before the attesting witnesses, and executed registered sale agreement, also agreed to execute a regular sale deed by receiving balance sale consideration amount of Rs.25,00,000/-(Rupees Twenty Five Lakh) within 11 months. Further the defendants have handed over their original registered Sale deed on 07.01.2020 to him. The defendants for one or other reason postponing the execution of sale deed. Therefore the

plaintiff had got issued a legal notice on 03-02-2022 calling upon the defendants to receive the balance amount and also for execution of regular sale deed through RPAD. But the defendants intentionally not replied to the said notice. The defendant intentionally and deliberately violated the terms and conditions of the said agreement.

3. It is further contended that the plaintiff was/is always ready and willing to perform his part of contract in terms of sale agreement and to get register the sale deed after paying balance sale consideration of Rs.25,00,000/ (Rupees Twenty Five Lakh). Hence, without any option the plaintiff has filed the present suit for Specific Performance of Contract.

4. In pursuance of the summons issued by this court the defendants have appeared before this court through their counsel Sri.T.K.A. but inspite of giving sufficient opportunity they have not filed their written statement. Hence the written statement of defendants is taken as nil.

5. On the basis of the pleading, the following points arise for consideration:

POINTS

- 1 Whether the plaintiff proves that the defendants have agreed to sell the suit schedule property for Rs.49,00,000/ (Rupees Fourty Nine Lakh) and received Rs.24,00,000/- (Rupees Twenty Four Lakh) as advance sale consideration and agreed to execute a regular sale deed in terms of agreement of sale dated 30-03-2021 within 11 month ?
- 2 Whether the plaintiff proves that he has has been always ready and willing to perform his part of contract?
- 3 Whether the plaintiff is entitle for the relief of specific performance of contract as prayed for?
- 4 Whether the plaintiff is entitle for a judgment and decree as prayed for ?
- 5 To what order or decree?

6. In order to prove the case, the plaintiff has examined himself as PW-1, examined one attesting witness as PW-2 and relied upon in all 17 documents marked at Exs.P-1 to P-17 and closed his side.
7. After careful consideration of both oral and documentary evidence adduced by the plaintiff and after hearing arguments, my finding to the above Points are as under:
- 1 : In the Affirmative
 - 2 : In the Affirmative
 - 3 : In Affirmative
 - 4 : In Affirmative
 - 5 : As per final order for the following :

REASONS

8. **POINT NOS.1 to 4:-** As these points are inter linked with each other, I take them at one stretch for my consideration and determination to avoid repetition of facts.

9. The subject matter of the suit is the property i.e., land bearing Sy.No.104/18(Old SY.No.104/1 and 104/3) measuring 07 acres 34 guntas situated at Marchanahalli, Malur Hobli, Channapatna Taluk, bounded on East by: Tank, West by: Boundary of Maddur, North by: Govt.Halla and South by: Property of Kamalamma which is herein after referred as suit schedule property for brevity.
10. The plaintiff has filed this suit seeking the relief of specific performance of the contract dated 30-03-2021. The contents of plaint averments are already taken on record as stated supra.
11. In order to prove the case of the plaintiff, the plaintiff has got examined himself as PW-1 and got examined attesting witness as PW-2 and got marked 17 documents as per Ex.P-1 to 17.
12. **Readiness and Willingness of the plaintiff:** - In order to prove the case, the plaintiff has furnished Ex.P-1 which is a Sale agreement dated:30-03-2021 which shows that the defendants have agreed to sell

the suit schedule property in favour of plaintiff for Rs.49,00,000/- and received Rs.24,00,000/- as advance sale consideration amount and agreed to execute a Registered Sale Deed within 11 months by receiving balance sale consideration of Rs.25,00,000/-. Hence there was a specific time fixed for the execution of the Registered sale deed. Ex.P-2 is the RTC of Sy.No.104/18, Ex.P-3: is the M.R. No.H-10, Ex.P-4 is the Form No.15, Ex.P-5 & 6 are 2 Cheques, Ex.P-7 is the Endorsement issued by Bank, Ex.P-8 & 9: 2 RTGS Challans, Ex.P-10 is the Legal Notice, Ex.P-11 and 12: are the two postal receipts, Ex.P-13 and 14: are two Postal Acknowledgments, Ex.P-15 is the Original Sale Deed in the name of defendants, Ex.P-16: is the EC, Ex.P-17 is the Statement of Punjab National Bank. The date of agreement is 30-03-2021 and the plaintiff has issued a legal notice on 03.02.2022. Therefore by issuing notice to defendants the plaintiff has called upon the defendants to execute a registered sale deed. The defendants though appeared before the court but not filed any written statement nor cross examined the

plaintiff and his witness. Therefore, the plaintiff is entitled to get the sale deed executed in his favour.

13. In this case by issuing notice to the defendants, the plaintiff has shown his readiness and willingness to preform his part of the contract. The defendants have not cross examined the PW-1. Therefore, it is a deemed admission of the facts alleged by the plaintiff. In this case by producing the said registered sale agreement, legal notice, the plaintiff has discharged his initial burden of proof. There is no contra evidence to disbelieve the evidence given by the plaintiff. The plaintiff has clearly proved the execution of the said registered sale agreement by the defendants. Therefore, the plaintiff is entitled for specific performance of the contract. The defendants must be directed to execute a regular sale deed in respect of the suit schedule property in favour of the plaintiff after receipt of balance consideration amount of Rs.25,00,000/- (Rupees Twenty Five Lakh) from the plaintiff. Hence, I have answered the **Point Nos. 1 to 4 in the Affirmative.**

14. **POINT NO.5** :- In view of my findings given on point No.1 to 4 and for the reasons discussed herein above paragraphs, I proceed to pass the following :

ORDER

The suit of the plaintiff is decreed with costs in the following terms:-

The defendants are hereby directed to execute a regular registered sale deed in favour of the plaintiff in respect of the suit schedule property by receiving balance sale consideration amount of Rs.25,00,000/-(Rs.Twenty Five Lakh from him within 2 months from the date of this judgment.

The plaintiff is at liberty to get the registered sale deed executed through Court Commissioner and for the delivery of the possession of the suit schedule property in appropriate

execution petition, in the event of defendant failing to comply with the above order of this court.

It is hereby further ordered that the defendants shall deliver vacant possession of the suit schedule property to the plaintiff soon after execution of the registered sale deed in terms of the above order.

Draw decree accordingly.

(Dictated to the Judgment Writer directly on the computer system, corrected & initialed and then pronounced by me in the open court on this the **30th day of January 2023**).

(SHUBHA)
Sr. Civil Judge & JMFC,
Channapatna.

ANNEXURE**List of the witnesses examined on behalf of plaintiffs :**

PW-1 :Rangaswamygowda

PW-2 : Govinda

List of Documents Marked for the Plaintiff :

Ex.P-1 : Sale agreement dt:30-03-2021

Ex.P-1 to (d) : Signatures of PW-1, defendant Nos.1 and 2

Ex.P-1(e) : Signature of PW-2

Ex.P-1(f) : Signature of Shashikumar and scribe

M.S.Ravishankar

Ex.P-2 : RTC of Sy.No.104/18

Ex.P-3 : M.R.H.10

Ex.P-4 : Form No.15

Ex.P-5 & 6 : 2 Cheques

Ex.P-7 : Endorsement issued by Bank

Ex.P-8 & 9 : 2 RTGS Challans

Ex.P-10 : Legal Notice dt:3.2.222

Ex.P-11 & 12 : 2 Postal Receipts

Ex.P-13 & 14 : 2 Postal Acknowledgments

Ex.P-15 : The Original Sale deed in the name of
defendants.

Ex.P-16 : E.C.

Ex.P-17 : Statement of Punjab National Bank

(SHUBHA)

Sr. Civil Judge and JMFC,
Channapatna

Judgment pronounced in the
open court (vide separately)

ORDER

The suit of the plaintiff is decreed
with costs in the following terms:-

The defendants are hereby directed
to execute a regular registered sale deed
in favour of the plaintiff in respect of the
suit schedule property by receiving
balance sale consideration amount of
Rs.25,00,000/- (Rupees Twenty Five
Lakh Only) from him within 2 months
from the date of this Judgment.

The plaintiff is at liberty to get the
registered sale deed executed through
Court Commissioner and for the delivery
of the possession of the suit schedule
property in appropriate execution
petition, in the event of defendant failing
to comply with the above order of this
court.

It is hereby further ordered that the defendants shall deliver vacant possession of the suit schedule property to the plaintiff soon after execution of the registered sale deed in terms of the above order.

Draw decree accordingly.

(SHUBHA)

Sr. Civil Judge and JMFC,
Channapatna.