



1 **O.S./168/2022 (J.)**

Presented on : 04-07-2022  
Registered on: 04-07-2022  
Decided on : 06-04-2026  
Duration : 3 years, 9 months, 2 days

**IN THE COURT OF PRL. CIVIL JUDGE & J.M.F.C**  
**AT MAGADI.**

**:Present :**

**Sri. Srinivasa.K.R, B.A.L.,LL.M.,**  
**Prl. Civil Judge & JMFC.,**  
**Magadi.**

**On this 06<sup>th</sup> day of April 2026**

**OS No.168/2022**

**Plaintiff:-**

Sri. Venkataramaiah,  
S/o. Late. Chowdaiah,  
Aged about 58 years,  
R/at: Near Annamma Temple,  
Jyothinagara, Kalyagate,  
Magadi Town,  
Ramanagara District.

**(By Sri.G.N., Advocate)**

**V/s**

**Defendant: 1.**

Smt.Indramma,  
W/o.Puttaiah,  
Aged about 73 years,

**2.**

Sri.Puttaiah,  
H/o Indramma,  
Aged about 81 years,

Both are residing at  
Cubbanpete, 3<sup>rd</sup> cross,

KARN420046112022



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**O.S./168/2022 (J.)**

2<sup>nd</sup> main, Bangalore  
and also residing at  
Kere Beedi, Magadi Town,  
Ramanagara District.

**(Exparte)**

Date of institution of the suit : 04.07.2022

Nature of the suit : Specific Performance

Date of the commencement of  
Recording of the evidence. : 29.10.2024

Date on which the judgment  
was pronounced : 06.04.2026

Total Duration : Year/s Month/s Day/s  
-03- -09- -02-

**(Srinivasa.K.R)**  
**Prl. Civil Judge & J.M.F.C.,**  
**Magadi.**

**JUDGMENT**

The Plaintiff has filed the suit against the defendants for the relief of specific performance of contract in respect of suit schedule property i.e., vacant site No. 165, Khaneshumari No. 170/5017/165/5462 measuring to an extent to east to west 20 feet and north to south 30 feet



situated at Jyothi Nagara, Magadi bounded:

- East : Road.
- West : Vacant site No.160.
- North : House of Nagamma and vacant site.
- South : House of Lakshmiddevamma W/o Rangaswamy.

**2. The brief case of the plaintiff is as follows :-**

The defendants are absolute owners of the suit schedule property and defendant No.1 acquired the suit schedule property through Hakku Patra issued by the Government of Karnataka and since, from the date of allotment, the defendants were in peaceful possession and enjoyment of the suit schedule property. The defendants offered to sell the suit schedule property for a total sale consideration amount of Rs. 1,20,000/- in favour of plaintiff and executed sale agreement dated 03.11.2006. At the time of entering in to sale agreement, the government stopped the registration with respect to suit schedule property. At



the time of execution of sale agreement, the defendants have received entire sale consideration amount of Rs. 1,20,000/- by the plaintiff and agreed to execute registered sale deed in favour of plaintiff and delivered the possession of suit schedule property. The plaintiff demanded the defendants to execute the sale deed in favour of plaintiff but, the defendants postponed the same on one or other reasons. The plaintiff was ever ready and willing to perform his part of contract.

Further contended that, since from the date of agreement, the plaintiff was in possession and enjoyment of suit schedule property and during the said period, unknown person by name Jayananadaswamy and Rudraswamy interfered the plaintiff's peaceful possession and enjoyment over the suit schedule property hence, plaintiff filed complaint before Magadi police station. The defendants intend to postpone performance of their part of contract hence, plaintiff issued legal notice to the



defendants on 08.08.2020 calling upon them to execute sale deed in his favour but, they have intentionally avoid the service of legal notice. Hence, present suit.

3. On service of suit summons to defendants, defendants not appeared before the court hence, defendants placed exparte.

4. In order to prove the case of plaintiff, the plaintiff himself examined as P.W-1 and got marked 19 documents as Ex.P-1 to P-19 and one witness examined on behalf of plaintiff as PW-2.

5. Heard the arguments by learned counsel for plaintiff and perused the records.

6. On the basis of pleadings and documents the following points are framed :

**P O I N T S**

1. Whether plaintiff proves that, defendant No.1 is the absolute owner of suit schedule property and defendants entered into an agreement for sale by agreeing to sell the



suit schedule property for a consideration amount of Rs.1,20,000/- and executed agreement for sale on 03.11.2006 and received entire sale consideration amount on the date of execution of agreement ?

2. Whether the plaintiff further proves that, plaintiff was always been ready and willing to perform his part of contract?
3. Whether the plaintiff is entitled for the relief of specific performance of contract ?
4. What decree or order ?
7. I answer the Point No.1 to 4 as follows:

Point No.1: In the **Negative**.

Point No.2: In the **Negative**.

Point No.3: In the **Negative**.

Point No.4: As per final order,  
for the following

### **R E A S O N S**

8. **POINT NO.1 AND 2:** These points are interlinked with each other hence, to avoid the repetition of facts and evidence taken together for common discussion.



That the plaintiff specifically pleaded that, the suit schedule property belongs to defendants and the suit schedule property granted in favour of defendant No.1 as per Hakku Patra and defendants were in peaceful possession and enjoyment of the suit schedule property. The defendants approached the plaintiff and to sell the suit schedule property as they were need of urgent money for family legal necessities and offered to sell the same to the plaintiff. The plaintiff accepted the offer and agreed to purchase the suit schedule property for a total consideration of Rs.1,20,000/- . Accordingly on 03.11.20069 the defendants executed unregistered agreement of sale in favour of plaintiff and the defendants received entire sale consideration amount of Rs.1,20,000/- and delivered the possession of suit schedule property. The plaintiff was always ready and willing to perform his part of contract but, the defendants postponed the execution of sale deed in favour of plaintiff. The plaintiff issued legal notice on 08.08.2020 to the defendants but the



defendants intentionally avoided to receive the notice and not come forward to execute the registered sale deed. Hence, present suit.

9. The plaintiff in order to prove his case, plaintiff himself examined as P.W.1 and filed affidavit in lieu of examination in chief and reiterated all the plaint averments and further got marked 19 documents and one witness examined on behalf of plaintiff as PW-2. Ex.P-1 is the unregistered agreement of sale dated 03.11.2006, Ex.P.2 is the legal notice dated 08.08.2020, Ex.P.3 to 11 are the postal receipts and RPAD cover, Ex.P.12 is the certified of order sheet of O.S.No.234/2020, Ex.P.13 to 15 are the photos and CD, Ex.P.16 and 17 are the certified copy of complaint dated 18.12.2018 and statement, Ex.P.18 is the assessment list of building and Ex.P.19 is the Form No.3.

10. I have carefully gone through Ex.P.1 i.e., sale agreement dated 03.11.2006, as per recital of sale agreement, the suit schedule property granted in favour of



defendant No.1 as per Hakku Patra issued by Magadi Municipal and accordingly, suit schedule property is the self acquired property of defendant No.1 and the plaintiff also stated that, the suit schedule property granted in favour of defendant No.1 as per Hakku Patra but, the plaintiff not produced the said Hakku Patra issued in favour of defendant No.1 and also not specifically stated on which date the suit schedule property granted in favour of defendant No.1 and moreover, the plaintiff not produced relevant documents to show that as on the date of suit, suit schedule property stands in the name of defendant No.1. Further plaintiff contended that, since date of agreement he is possession and enjoyment of suit schedule property but, the plaintiff not produced any documents and also not adduced any independent witness to show that, he is in possession and enjoyment of suit schedule property since 2006.



11. One Sri.Ravi and Smt.Gayatri filed I.A.No.IX Order 1 Rule 10 to implead them as defendants stating they are the absolute owners and in possession and enjoyment of suit schedule property and Magadi TMC issued Hakku Patra in favour of them as per order of Hon'ble High Court of Karnakata in WP.No.23409/2023 and as per order of Hon'ble High Court of Karnataka, Magadi TMC issued letter dated 25.11.2024 stating the suit schedule property not granted to any one. No doubt the said application was rejected but, I have carefully gone through the order of Hon'ble High Court of Karnataka in WP.No.23409/2022. Wherein, it is stated that, the counsel has decided to allot site No.165 (khatha No.5018/165/5463) measuring 30 feet X 30 feet to the petitioners as an alternative site and the said site No.165 is suit schedule property.

12. Further I have carefully gone through the Ex.P.1 i.e., sale agreement dated 03.11.2006, in the said agreement it is stated that, “ಈಗ ನಮ್ಮಗಳ ಹೆಸರಿಗೆ ಮಾಗಡಿ ಪುರಸಭೆಯಲ್ಲಿ ಖಾತೆ,



ವಗೈರೆಯನ್ನು ನಮ್ಮಗಳ ಸ್ವಂತ ಖರ್ಚಿನಿಂದ ಬದಲಾವಣೆಯನ್ನು ಮಾಡಿಸಿಕೊಂಡು ಬಂದು ನಿಮಗೆ ತಿಳಿಸಿ, ಯಾವುದೇ ಹಣದ ಅವೇಕ್ಷೆಯನ್ನು ಪಡೆಯದೇ ಕ್ರಮವಾದ ಕ್ರಯಪತ್ರವನ್ನು ನಾವುಗಳು ನಿಮಗಾಗಲೀ ನಿಮ್ಮಗಳ ವಾರಸುದಾರರಿಗಾಗಲೀ ನೀವುಗಳನ್ನು ತಿಳಿಸಿದವರಿಗಾಗಲೀ ಕ್ರಮವಾದ ನೋಂದಣ ಕ್ರಯ ಪತ್ರವನ್ನು ಬರೆಯಿಸಿ ರಿಜಿಸ್ಟ್ರರ್ ಮಾಡಿಸಿಕೊಡಲು ನಾವುಗಳನ್ನು ಬದ್ಧರಾಗಿರುತ್ತೇವೆ.” Therefore, on perusal of recital of sale agreement it clearly shows that, at the time of execution of sale agreement, the khatha of suit schedule property not standing in the name of defendants. Hence, plaintiff fails to prove that, the defendant No.1 is the absolute owner and possessor of suit schedule property.

13. In a suit for specific performance the plaintiff must prove that, he/she is ever ready and willing to perform his/her part of contract. The proving of readiness and willingness is a condition precedent.

**At this juncture it is necessary to reiterate the**

**Section 16 of Specific Relief Act:**



**Section 16: Personal Bars to Relief – Specific Performance of a Contract cannot be enforced in favour of a person,**

**(a) who has obtained substituted performance of contract U/s.20,**

**(b) who has become incapable performing or violates any essential terms of the contract that on his part remains to be performed, or acts in fraud of the contract or willfully acts at variance with or in sub-version of the relation intended to be established by the contract or**

**(c) who fails to prove that, he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him other than terms the performance of which has been prevented or waived by the defendant.**

As per Section 16 (c) of the Act it clearly shows that, if a party fails to prove that he/she has performed or has always been ready to willing to perform his/her part of contract is



not entitled for the relief of specific performance of a contract. I have carefully gone through the plaint and Ex.P.1 sale agreement, as per plaint averments and Ex.P.1 the defendants executed agreement of sale on 03.11.2006 therefore, the plaintiff must prove readiness and willingness. The agreement was executed in the year 2006 but till 2020 the plaintiff not come forward to get the sale deed from the defendants.

14. The plaintiff contending that, he was always ready and willing to perform his part of contract. I have carefully gone through the records, the plaintiff contended that, he had approached several times to defendants but, the plaintiffs not produced any relevant documents to show that when he had approached to the defendants and demanded the defendants for execution of sale deed. On perusal of documents it clearly shows that, the plaintiff not ever ready and willing to perform his part of contract since 2006. As already stated the readiness and willingness is necessary to



prove by the plaintiff. Mere stating in the plaint averments that, he/they had approached to the defendants is not sufficient to prove readiness and willingness.

**At this juncture it is necessary to relay the decision of Hon'ble Supreme Court reported in (2020) 3 SCC 280. The Hon'ble Supreme Court at para 21 held that,**

**Para 21: Mere plea that he is ready to pay the consideration, without any material to substantiate this plea, cannot be accepted. It is not necessary for the plaintiff to produce ready money, but it is mandatory on his part to prove that he has been means to generate the consideration amount. Except the statement of PW-1, there is absolutely no evidence to show that, the plaintiff has the means to make arrangements for payment of consideration.**

**At this juncture it is necessary to relay the decision of Hon'ble High Court of Karnataka reported in 2016**



**SCC online KAR-8799. The Hon'ble High Court of Karnataka at para 16 held that :**

**Para 16: Readiness has contemplated under section 16(c) of the act indicates the financial capacity of a person to have the sale deed by paying the balance consideration amount. Willingness indicates eagerness who have a sale deed at the earliest. The legal notice was got issued on 18.11.1991 almost 1 year 7 months after the execution of the agreement of the sale. Suit came to be filed on 21.01.1992. If the plaintiff had paid the entire sale consideration it would have been something different. The plaintiff was expected to pay amount of Rs.37,100/- and what made him not to make the payment of balance of consideration is not forthcoming. He has not spoken as to when he actually he met the defendant requesting her to execute sale deed.**



**The Hon'ble Supreme Court in a decision reported in 2024 SCC online SC 981 held that, if the plaintiff not filed suit immediately after breach of contract, the plaintiff not entitled for the relief of specific performance even though suit filed within limitation period. The Hon'ble Supreme Court at para No.18 held that:**

**Para 18: The suit having been preferred after a long delay, the plaintiff is not entitled for specific performance on this ground.**

In the present case also as already stated that, the agreement of sale executed on 03.11.2006 and the plaintiff filed suit in the year 2020 i.e., after 14 years of execution of agreement and as per the plaint averments the plaintiffs not issued legal notice to the defendants for execution of sale deed from 03.11.2006 till 2020 and the plaintiff not stated on which date he had approached to the defendants and requested them to execute registered sale deed in his favour.



Therefore, in the absence of material evidence about reediness and willingness the plaintiff is not entitled for the relief of specific performance. Hence, the plaintiff failed to prove that, he was ever ready and willing to perform his part of contract.

15. It is also relevant here to point out that, no doubt as per section 20 & 22 of Specific Relief act, court has got power to grant the relief of specific performance and order for refund of earnest money. It is well settled principle that without seeking of refund of earnest money by the plaintiff court cannot grant refund of earnest money suo-moto.

**At this juncture it is necessary to rely the decision of Hon'ble Supreme Court reported in (2023) 3 SCC 714. The Hon'ble Supreme Court at para 35 & 36 held that,**

**35. On a plain reading of the above – reproduced provision, we have no reason to doubt that the plaintiff in his suit for specific performance of a contract is not only entitled to seek specific**



performance of the contract for the transfer of immovable property but he can also seek alternative reliefs including refund of any earnest money, provided that, such a relief has been specifically incorporated in the plaint. The court, however, has been vested with wide judicial discretion to permit the plaintiff to amend the plaint even at a later stage of the proceedings and seek the alternative relief of refund of the earnest money. The litmus test appears to be that unless a plaintiff specifically seeks the refund of the earnest money at the time of filing of the suit or by way of amendment, no such relief can be granted to him. The prayer clause is a sine qua non for grant of decree of refund of earnest money.

36. Applying these principles to the facts of the case in hand we find that, the respondent has neither prayed for the relief of refund of earnest money in the original plaint nor he sought any



**amendment at a subsequent stage. In the absence of such a prayer, it is difficult to accept that the courts would suo-moto grant the refund of earnest money irrespective of the fact as to whether section 22(2) of the SRA Act is to be construed directory or mandatory in nature.**

In the present case also the plaintiff except seeking the relief of specific performance, plaintiff not sought the relief of refund of earnest money. Under such circumstances, the question of discussing whether the plaintiff is entitled for the alternative relief of refund of earnest money also does not arise. When the plaintiff failed to prove that, the defendant No.1 is the absolute owner and possessor of suit schedule property and his readiness and willingness the plaintiff is not entitled for the relief of specific performance as he sought in the plaint. Accordingly, I answer the point No.1 and 2 in the **Negative.**



16. **POINT NO.3:-** As discussed above the plaintiff failed to prove that, defendant No.1 is the absolute owner of suit schedule property and he was ever ready and willing to perform his part of contract. Hence, the plaintiff is not entitled for the relief as claimed in the plaint. Accordingly, I answer the point No.3 in the **Negative.**

17. **POINT NO.4:-** In view of above discussions and answers given to above point No.1 to 3 I proceed to pass the following:

**ORDER**

The suit of the plaintiff is hereby dismissed with costs.

Draw decree accordingly.

(Dictated to stenographer directly on the computer, typed by her and corrected by me and then pronounced in the open court on this the **06<sup>th</sup> day of April, 2026.**)

**(Srinivasa.K.R)**  
**Prl. Civil Judge & J.M.F.C.,**  
**Magadi.**



**ANNEXURE**

**List of witnesses examined for plaintiff:**

P.W.1 : Sri.Venkataramaiah S/o Late Chowdaiah.  
P.W.2 : Sri.Somanna.T.N S/o Narasimhaiah.

**List of document exhibited for the plaintiff:**

Ex.P-1 : Unregistered agreement of sale dated 03.11.2006.  
Ex.P.2 : Legal notice dated 08.08.2020.  
Ex.P.3-11 : Postal receipts and RPAD cover.  
Ex.P.12 : Certified of order sheet of O.S.No.234/2020.  
Ex.P.13-15 : Photos and CD.  
Ex.P.16-17 : Certified copy of complaint dated 18.12.2018 and statement.  
Ex.P.18 : Assessment list of building.  
Ex.P.19 : Form No.3.

**List of witnesses examined for defendant:**

-Nil-

**List of documents exhibited for the defendant:**

-Nil-

(Srinivasa.K.R)  
Prl. Civil Judge & J.M.F.C.,  
Magadi