



**IN THE COURT OF PRL. CIVIL JUDGE AND
JMFC., KUNIGAL**
Present:

Smt. Sujatha A.B, B.A.L., L.L.B.,

Prl. Civil Judge & JMFC., Kunigal.

DATED THIS THE 13th DAY OF JULY 2026

ORIGINAL SUIT No.277/2019

Plaintiff:

Smt. Sowmya
W/o. Ramesh A.C,
Aged about 34 years,
R/at: House NO.72,
Sri. Manjunatha Nilaya,
1st Main, 19th Cross,
Behind NTTF, Shivapura,
Bangalore North.
Bangalore-5600058.
Now R/at: NO.76/77,
Sri. Venkateshwara Nilaya,
3rd Cross, KEB Road,
Magadi Main Road,
Anjananagara, Bangalore.
(By Sri.LVV., Advocate)

V/s

Defendants:

- 1.** Sri. Raju
S/o. Late Mudlaiah
Aged about 56 years,
- 2.** Sri. R.Thimmegowda
S/o. Raju
Aged about 24 years,



Both are residing at
R/o: Shingatihalli Village,
Yediur Hobli, Kunigal Taluk,
Tumakur District.

- 3. Smt Savitha**
W/o. Gangappa H.E,
Aged about 32 years,
R/o: Shingatihalli Village,
Yediur Hobli, Kunigal Taluk,
Tumakur District.
Now Residing at
Hanumegowdanapalya
Village, Kasaba Hobli,
Kunigal Taluk,
Tumakur District.
[D.1& 2 Rep. by Sri.LVV.,Adv.,
D.3 Rep. by Sri. BGM,Adv.,]

Date of Institution of Suit	19.07.2019
Nature of the Suit	Specific performance
Date of Commencement of Evidence	09.12.2021
Date of pronouncement of Judgment	13.07.2026
Total Duration	Years Months Days
	06 11 24

Sd/-
(SUJATHA A.B.,)
Pri. Civil Judge & JMFC,
Kunigal.

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

This suit is filed by the plaintiff against the defendants for the relief of Specific Performance of Contract by directing the defendants to execute a sale deed in favour of the plaintiff in respect of the suit property.

2. Description of the suit schedule property:

The property bearing Sy.No.7/P-P3, measuring 1-20 guntas, situated at R/o: Shingatihalli Village, Yediyur Hobli, Kunigal Taluk, bounded by:

East	:	Land of Huchanna and Vajraiah
West	:	Previously land of Papanna and Halla, Now Land of plaintiff's mother by name Venkatalakshmamma
North	:	Previously land of Lakkanna, Now Land of plaintiff's mother by name Venkatalakshmamma
South by	:	Previously land of defendants, Now Land of plaintiff's mother by name Venkatalakshmamma

**3. The Plaintiff's case in brief is as follows:**

It is the case of the plaintiff that the defendant No.1 is the father of the defendant No.2 and defendants are being the absolute owner of the suit schedule property and they intended to sell the same for their family legal necessities like to discharge the hand loans raised by them and for family maintenance and they offered the plaintiff to purchase the suit schedule property. Accordingly the plaintiff accepted the offer made by the defendants and agreed to purchase the suit schedule property, after negotiation the sale consideration of Rs.3,15,000/- was fixed to the schedule property, after that the plaintiff and defendants are entered in to a contract in respect of suit schedule property and the defendants are executed a registered agreement of sale dated 28.06.2017 in favour of plaintiff in respect of suit schedule property by receiving an amount of Rs.2,80,000/- as a part of sale consideration in the presence of witness to that effect there is clear recital in



the registered agreement of the sale and further the defendants are agreed to execute the regular registered sale deed in favour of plaintiff within 2 years by making survey and fixing up the haddubasthu of the suit schedule property from the competent authority.

4. It is further stated by the plaintiff that the defendants are further agreed to receive balance sale consideration of amount of Rs.35,000/- from the plaintiff at the time of execution of registered sale deed and also agreed to deliver the possession of the suit schedule property in her favour at the time execution of registered sale deed, but after execution of registered agreement of sale dated 28.06.2017 the defendants being a close relative of plaintiff on mutual understanding delivered the possession of the suit schedule property in her favour, accordingly the plaintiff invested huge amount of money and developed the suit schedule property and also planted coconut plants and now they are yielding fruits,



accordingly now the plaintiff is in physical possession and enjoyment over the suit schedule property.

5. According to plaintiff she has approached the defendants to perform their part of contract by receiving the balance consideration as agreed under the agreement of sale, but the defendants are postponed the matter from time to time by promising that they will definitely perform their part of contract, but finally they are failed to perform their part of contract, in turn the plaintiff is always ready and willing to perform her part of contract to get the sale deed in her own cost in accordant with law. Plaintiff stated that suit schedule property is granted in the name of defendant No.1, accordingly the katha and pahani of the suit schedule property mutated in his name as per MR No.12/2001-0 and his name find place in RTC extract in the column No.9 and 12 and now defendants are taking undue advantage of katha and pahani of the suit schedule property stands in the name of defendant



No.1, they are trying to create further encumbrance over the suit schedule property behind back of plaintiff.

6. So plaintiff stated that defendants are failed to perform their part of contract, immediately the plaintiff got issued a legal notice dated 28.06.2019 to the defendants through RPAD by calling upon them to perform their part of contract as agreed under registered agreement of sale the said notice issued to the defendants are duly served on the defendants, after service of legal notice the defendant No.1 given a reply notice by creating his own false story and the averments made in the reply notice are all false and frivolous allegation of the defendants and further the defendants failed to execute registered sale deed in favour of plaintiff. Hence the plaintiff filed this suit and prayed to decree the suit.

7. In pursuance of suit summons the defendant No.1 and 2 have appeared through their counsel and filed written statement by denying contentions of the plaintiff



and defendants have admitted relationship of defendant No.1 and 2 and denied the execution of sale in favour of plaintiff. According to defendants the suit of the plaintiff is not maintainable and she has not approached the court with the clean hands. They further contended that plaintiff with the instigation of some persons who are enimical towards them filed this false suit to harass them. Defendants stated that they are not only the absolute owner of the suit schedule property and same is their joint family property and other family members. Defendants are not having any absolute right to execute the any type of documents in respect of suit schedule property because other family members also entitled for their right, title and share over the suit schedule property. So plaintiff is also fully knows this fact that the suit schedule property is the joint family property of the defendants and their family members.

8. Defendants stated that they are borrowed the loan amount Rs.2,80,000/- from the plaintiff and towards



security purpose to the said loan amount it was written as sale agreement and hence question of consideration does not arise. Defendants stated that in the year 2017 they approached the plaintiff for financial hand loan of Rs.2,80,000/- on interest. As a result plaintiff then imposed condition that, the defendants agreed to execute document styled as a sale agreement in respect of suit schedule property and plaintiff assured them at the time of repay the loan amount, she will agreed to execute the cancellation of sale agreement, accordingly on believing the words of plaintiff and being a close relatives of defendants they executed the document styled as a sale agreement on 28.06.2017 but it is only a security deed, it is only for a salable interest. The defendants stated that after that they regularly paid interest to the plaintiff but in view of the understanding between plaintiff with defendants no endorsement issued by the plaintiff to the said interest. So defendants are always ready to pay the loan amount to plaintiff. But after that it is shock to



defendants after received legal notice that, the plaintiff is going to grab the suit schedule property and create a false story to file this type of false suit against them and harass them. So defendants gave a suitable reply to the said notice issued by the plaintiff. Hence suit filed by the plaintiff is liable to be dismissed. Among these grounds they prayed to dismiss the suit.

9. Upon considering the pleadings of the parties, my learned Predecessor has framed the following issues;

: I S S U E S :

1. ***Whether the plaintiff proves that, defendants have executed the agreement of sale dated 28.06.2017 ?***
2. ***Whether the plaintiff proves defendants have received Rs.2,80,000/- as advance sale consideration under agreement dated 28.06.2017 ?***
3. ***Whether the plaintiff proves she is always ready and willing to perform her part of the contract ?***
4. ***Whether the plaintiff is entitled for the reliefs prayed for?***
5. ***What order or decree?***



10. During the pendency of the suit, as per order on IA No. 5, daughter of defendant No.1 was impleaded in the suit. But the defendant No.3 has failed to file written statement and adduced her evidence. In order to substantiate the case, the plaintiff got examined herself as PW1 and got marked the document as Ex.P.1 to P.11 and two witnesses have been examined as PW.2 to PW.3. On the other hand, the defendant No.1 has been examined as DW.1 and he got marked the documents as Ex.D1 to D.12 and he has examined one witness on his behalf as DW.2.

11. Heard arguments from both side. Perused the materials on record.

12. My findings on the above said Issues are as follows:-

Issue No.1	: In the Affirmative,
Issue No.2	: In the Affirmative,
Issue No.3	: In the Affirmative,
Issue No.4	: In the Affirmative,
Issue No.5	: As per the final order, for the following;

**:REASONS:**

13. Issues No.1 and 2:- As these issues are interrelated to each other. So in order to avoid the repetition of facts, i combined these two issues for my discussion.

It is the contention of the plaintiff that originally the suit property belongs to defendant No.1 and since he was in need of money and hence he has offered to sell the suit property to her and same was agreed by the plaintiff and accordingly negotiation took place and sale consideration was fixed for Rs.3,15,000/- and defendants received Rs.2,80,000/- as per agreement of sale dated 28.06.2017 as advance sale consideration. It is further agreed that defendants will get survey and fixing up the Haddubasthu to execute sale deed but the defendants in spite of several requests, have not come forward to execute the sale deed. Hence, the plaintiff has filed the present suit.



14. On the other hand the defendant No.3 inspite of her appearance has not filed any written statement and defendant No.1 and 2 have filed their written statement by claiming that they have availed loan from plaintiff and further admitted the execution of agreement of sale just for the purpose of securing the money and they have not intended to sell suit property. Accordingly they prayed to dismiss the suit.

15. In order to prove her case, the plaintiff got examined herself as PW.1 and got marked the documents Ex.P.1 Sale agreement, Ex.P.1(a) to (d) Signatures of the witness, Ex.P.2 C/C of Encumbrance certificate, Ex.P.3 RTC extract, Ex.P.4, Legal notice, Ex.P.5 Postal receipt, Ex.P.6 Postal Acknowledgement, Ex.P.7 Replay notice, Ex.P.8 RTC extract, Ex.P.9 & 10 Photos, Ex.P.11 CD. The plaintiff has also examined two witnesses on her behalf as PW.2 and 3. On the other hand, the defendant No.1 has been examined as DW.1 and he got marked the documents Ex.D.1 to 3 Photos, Ex.D.4 & 5 Postal receipt &



Acknowledgement, Ex.D.6RTC extract, Ex.D.7 C/c of Mutation register, Ex.D.8 to 11 Photos, Ex.D.12 CD. After the cross examination of the DW.1, he has examined one witness on his behalf as DW.2.

16. In order to support her case, the plaintiff has produced the original agreement of sale dated 28.06.2017 at Ex.P.1. On perusal of the said document, it appears that the suit property was agreed to be sell by defendant No.1 and 2 for sale consideration amount of Rs.3,15,000/- and in the said document it was mentioned that Rs.2,80,000/- has been received by them as advance amount. On perusal of the Ex.P.1, there was an express condition mentioned that within 2 years the defendants have agreed to obtain survey and fixing of Haddubasthu of suit schedule property to execute sale deed. The plaintiff has produced RTC extract of Sy.No.7/P/P3 at Ex.P.3 in which present defendant No.1 name is appearing to the extent of 1 acre 20 guntas and his name came to be mutated MR. LND RUC(YDR) 261/1991-92 MR



NO.12/2001-02 ದರಖಾಸ್ತು and in the said RTC at column No.11 there is mentioning of non-alienation period for 15 years and also discloses mortgaging of the said property to the SBI manager of Seegehalli for Rs.5,00,000/-.

17. It is noted that apart from verifying the documentary evidences, plaintiff has also adduced oral evidences in her favour. To support her case two witnesses by name Channegowda and Gangadharaiah, who are the witnesses of sale agreement. In examination-in-chief of PW.2 and Pw.3 they have deposed that plaintiff has paid Rs.2,80,000/- to the defendants and they were present at the time of execution of sale agreement and both plaintiff and defendants signed the said document in their presence.

18. It is further noted that, on the other hand defendants strongly contended that they have availed loan from the plaintiff and executed sale agreement but it is only a security deed. It is again noted that the defendants have not at all denied their signatures in the



agreement of sale. Furthermore the plaintiff has also issued the notice dated 28.06.2019 as per Ex.P.4 and for the said notice the defendant No.1 has given reply as per Ex.P.7 and in the same the defendants have taken similar contention as taken in the written statement. But it is noted the if the plaintiff has misused Ex.P.1 then what was the impediment for defendants to take necessary action in that regard and in fact so far they haven't proceed in that regard is also weighing against them. Furthermore, with regard to financial condition of the defendants Ex.P.2 RTC clearly indicates that defendant No.1 has availed loan from the Bank is also gone against them. Further contentions of the defendants with regard to receiving of loan from the plaintiff also gives raise to take a view that the defendants are in need of money. Further Ex.P.1 agreement of sale is the registered document and non taking action by the defendants against the plaintiff for misusing the document that too when witnesses of the plaintiff have clearly supported the



case of the plaintiff with regard to execution of agreement of sale then it is sufficient and necessary to hold that defendants have executed agreement of sale in favour of plaintiff.

19. It is also noted that if plaintiff had misused the document which is titled as agreement of sale dated 28.06.2017 alleged to be executed by defendants then why defendants didn't take any action against the plaintiff till today is hard to understand. Since witnesses of sale agreement who is PW.2 and PW.3 are supported the case of the plaintiff. In turn it is also clear that the defendants have executed agreement of sale as per Ex.P.1 in favour of plaintiff. On the other hand apart from denying the sanctity of above document the defendants have not been able to prove their contentions in any manner. Hence mere contentions that same was executed casually to secure the amount taken from plaintiff cannot be acceptable on this regard. Thus, there are no any valid grounds to disbelieve the genuineness of suit document



at Ex.P-1. Further need of money by the defendant No.1 is also supports the contention of the plaintiff. Hence, keeping in view of the above said facts, this court opines that plaintiff has succeeded to prove the execution of suit document by defendants and receiving of advance amount as mentioned in the sale agreement. Accordingly, I answer **Issue No.1 and 2 are in the Affirmative.**

20. Issue No.3:- In a suit for specific performance of contract, the onus of the burden is on the plaintiff to not only prove the execution of suit document but also to prove her readiness and willingness to perform her part of contract. As per section 16 (c) of the Specific Relief Act, the initial burden is on the plaintiff to prove her readiness and willingness to perform her part of contract. The term readiness refers to financial capacity and term willingness refers to conduct of the plaintiff in getting sale deed executed from the defendants. As per Ex.P1 the total consideration was fixed at Rs.3,15,000/-. Prior to 1 year of execution of agreement of sale the plaintiff has paid a



sum of Rs.2,80,000/- to the defendants as a earnest money. The readiness and willingness to perform her part of contract must not only to be shown at the time of execution of agreement of sale, but also has to be shown throughout the proceedings till execution of registered sale deed.

21. It is the contention of the plaintiff that she is always ready and willing to perform her part of contract. But it is noticed that in the suit Ex.P.1 was executed on 28.06.2017 with a condition to execute the sale deed was agreed to be within 2 years and in that case present suit came to be filed on 19.07.2019, which means the plaintiff has taken proactive steps by issuing the notice on 28.06.2019 by intimating the defendants to receive balance sale consideration within a week. Furthermore, the plaintiff has also deposited balance sale considerable of Rs.35,000/- on 20.07.2019 before the court and after completion of 2 years from the date of execution of sale the plaintiff has filed the suit and same also supports her



contention that she has shown her readiness and willingness to perform her part of contract.

22. It is noted that plaintiff alleged that as per her final demand with the defendants they are trying to create further encumbrance over the suit schedule property. Moreover approach of the plaintiff at the initial stage itself shows her eagerness to get execute sale deed in her favour. Further the defendants have not disputed the capacity of the plaintiff. Moreover on time approach of plaintiff through proper channel clearly shows that defendants had other options in their mind other than executing the sale deed in her favour. Hence, this court is of the opinion that, the plaintiff has succeeded to prove her readiness and willingness to perform her part of contract. Hence, issue No.3 is answered in the **Affirmative.**

23. Issue No.4:- Since in this case the defendant No.1 and 2 contended that they are not only absolute owners to the suit schedule property and same is their



joint family property and other family members are also entitled for their right, title and share over the same but initially the defendants have not disclosed the defendant No.3 name as she is the daughter of defendant No.1 but during the pendency of the suit the defendant No.3 herself impleaded in the suit. But in spite of that she has not filed written statement by taking contention that she is also having share over the suit schedule property.

24. It is noted that, during the cross-examination of DW.1 he deposed that *'It is true that suit property is granted by Government on dated 22.03.2002 with a condition to not to sell for 15 years. It is true that 3 month after lapse of said 15 years i have executed Ex.P1 in favor of plaintiff and it is true that khata and pahani of suit property standing in my name'*. He further admitted that *' I have known the content of Ex.P1. It is true that 2nd defendant had also making his signature after knowing its contents and what is mentioned in Ex.P1 is genuine and signatures shown in said Ex.P1 are belongs to me and*



defendant no.2'. Again he went on to admit that '*It is true that after knowing the contents of Ex.P1 only we made our signatures in it and thereafter same has got registered'*. Further if the document was executed by the defendants for the security purpose then they would have mentioned the same in the Ex.P.1 and above cross-examination of DW.1 discloses that by knowing the contents of the agreement of sale they have made their signature in it. No doubt defendant No.3 has filed the OS No.415/2019 for the relief of partition in respect of suit schedule property but said suit was filed after filing of this suit.

25. It is pertinent to note that one of the witness in Ex.P.1 is examined as DW.2 by the defendants wherein in his chief examination he deposed that the defendants have availed loan of Rs.2,80,000/- on 28.06.2017 and executed agreement of sale and he has signed the same. But during the course of cross-examination of DW.2, he admitted that defendant No.1 is his father-in-law and he



also deposed that he did not know about the filing of suit by his wife against the defendants. Further DW.2 deposed that "ವಾದಿ ಜಮೀನು ಖರೀದಿಸುವ ಉದ್ದೇಶದಿಂದಲೇ ಪ್ರತಿವಾದಿಗಳಿಗೆ ಹಣ ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ತನಗೆ ಗೊತ್ತಿಲ್ಲ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ." If the defendants availed loan as per the version of the witness then he could have straight away rejected the said suggestion of the counsel for plaintiff but he didn't do so. Further he deposed that "ಎಪಿ.1 ನ್ನು ನಾನು ಓದಿ ತಿಳಿದುಕೊಂಡು ನಾನು ಸಹಿ ಮಾಡಿರುವುದಿಲ್ಲ." Hence on considering the evidence of the DW.2 which is also not supports the contentions of the defendants.

26. Further, in this case plaintiff claimed that after the execution of agreement of sale the defendants have delivered the possession on mutual understanding and she has developed the suit schedule property. At the same time the defendants are claiming that they are in possession of the suit schedule property. But during the course of cross-examination of DW.1 he admitted that as per Ex.P.9 and 10 father of the plaintiff was buried in the suit schedule property. Since RTC of the suit schedule



property is appearing in the name of defendant No.1 and eventually both of them have failed to prove their possession over the suit schedule property. Further considering the possession of the parties is not a criteria in this suit as the suit is one for specific performance of contract.

27. I have gone through the decisions relied by the counsel for defendant No.1 and 2 with due respect in which **Civil Appeal No.613/2017 (Janardan Das & Ors. V/s. Durga Prasad Agrwall & Ors)**, wherein Hon'ble Apex court held that plaintiffs failed to demonstrate their readiness and willingness to perform their obligation in securing consent of all co-owners and in that note granting of specific performance would unfairly prejudice defendants especially sisters(co-owners) who never consented to sale to plaintiffs so discretion was exercised and plaintiff compensated with refund of earnest money would suffice and declined the specific performance. However in above mentioned case



during the agreement of sale effected between appellants and defendant No.1 who is one of the brother and legal heir of deceased surendranath Banerjee it was mentioned that his sisters i.e. defendant No.6 to 8 will come and execute sale deed within 3 months at Beripada Odisha and hence as per GPA defendant No.1 was carried out the agreement of sale. However on present suit defendant No.1 & 2 who are father and son are executed the agreement of sale on their individual capacity and moreover said land granted by Government in favour of defendant No.1 dated 22.03.2002 and RTC standing in his name to the complete extent and hence said aspect never completely matches the facts and circumstances of present suit and hence same is not helpful for the defendants.

28. It is further noted that defendant No.1 & 2 also relied upon decision reported in **Civil appeal NO. 6508/2025(Ramdas V/s. Sitabai & Ors)**, wherein said decision stem from the fact that initially respondent had



filed a suit for partition and delivery of possession of her share and it was allowed later appellant had challenged the same before High court wherein his case was dismissed. So by challenging the same he has approached the Hon'ble Supreme Court in which Apex court ruled in para no.15 that *purchaser of a co parcners undivided interest in the joint family property is not entitled to possession of what he had purchased. His only right is to sue for partition of the property and ask for allotment to him of that which, on partition, might be found to fall to the share of the co parcener whose share he had purchased.* So reliance in this regard may be placed on decision reported in M.V.S Manikayala Rao Vs M NarasimhaSwamy & Others [AIR 1966 SC 470] and thereby dismissed his claim. However present suit filed for the relief of specific performance of contract and possession is not concerned at this point of time and hence facts and circumstances of above case not matches with the present suit and hence same is not



helpful for the defendants.

29. It is noted that defendant No.1 & 2 are also relied upon decision in **RFA NO.100520/2018 (Sateesh V/s. Katteppa)** wherein Hon'ble High Court of Karnataka held that trial court didn't exercise power of discretionary under Section 20 of the Specific Relief Act, properly in granting specific performance of contract because plaintiff himself in his cross examination has admitted that he has possessed 3 acre of land and also own house in Ranebennur Town, whereas on the other hand respondent contended that suit property is the only house for his and family purpose and moreover in said case plaintiff has also not denied the said aspect that defendant has only suit property for his residence purpose and hence dismissed the appeal of petitioner. But on coming to the present suit here plaintiff has confronted RTC at Ex.P8 through Dw1 that defendant has possessed some lands in Sy.no.35. To support the same even Dw1 admitted in his cross-examination that he has



got land to the extent of 2 acre under Sy.no.35 from Government and 2 acre was also granted to his 1st wife pushpamma under same survey number. Furthermore the defendants have not taken contention that suit land is the only property for them and hence facts and circumstances of above case not matches with the present suit and hence same is not helpful for the defendants.

30. Further defendant No.1 & 2 also relied upon decision of Hon'ble Apex court in 2024 (3) AKR 480 (C. Channegowda V.B.N. Krishnappa) in which it was held that *plaintiff did not produce any evidence to show that as on the date of execution of agreement of sale, defendant was the absolute owner of suit property and he had not examined any of the attesting witness so plaintiff knew that defendant was not the owner at the time of execution of sale agreement and hence it was unenforceable.* In this regard Hon'ble Apex court as per Sec 17(1)(A) of Specific Relief Act had dismissed the



appeal. Whereas on coming to the present suit here defendants clearly admitting his possession over the suit property and 15 year restriction imposed to sell the suit property was also elapsed and in that regard said decision also won't come to his aid.

31. It is important to note that On the other hand, at the time of cross-examination of DW.1 RTC in respect of suit schedule property was marked by the plaintiff by way of confrontation as per Ex.P.8 and same goes to show that at page No.11 of said RTC the defendant No.1 name is appearing to the extent of 2 acres along with his wife name and their names came to mutated as per MR No.6/2008-09 and its mode of entry shown as per 'division dated 12.07.2009'. Again under this suit it is not the contention of defendants that apart from suit property defendants does not possess anything other than suit property to lead their livelihood and they were clearly in need of money during the time of execution of Ex.P1 and they admitted said as well and they also mortgaged suit



property in favor of manager of state Bank of Mysore for Rs 50,000/- and same also reflects the status of their financial condition.

32. It is further necessary to mention that though defendant No.1 & 2 doesn't possess complete right over the suit property by excluding the defendant No.3 but visibly it was clear that they have entered into agreement of sale dated 28.06.2017 by promising the plaintiff to execute the sale deed within 2 year by preparing survey and Haddubasthu with respect to suit property and he cannot take shelter that he thought said Ex.P1 was executed as a security for amount he had received on that day and later claimed that he was shocked by the notice sent by plaintiff on 28.06.2019. If that is the case till today he hasn't move forward in that regard and mere filing of suit by defendant No.3 against other defendants is not a ground to prevent a relief given to plaintiff and moreover Defendant No.3 apart from impleading herself she is not taking any action in this suit also not



supporting their contentions.

33. It is necessary to mention that defendant No.1 & 2 also took contention that since plaintiff is their relative as per understanding arrived among themselves plaintiff didn't acknowledg for receiving of interest for the loan amount of Rs.2,80,000/- and same statement is bizarre because in the day of digital evolution he could have easily produced any evidence in that regard and more importantly it is wrong on his part to keep mum after execution of alleged agreement of sale dated 28.06.2017 in place of loan agreement at first hand and secondly it is their burden to show that they have issued interest regularly to plaintiff and they have failed in that regard also swings the pendulum towards the plaintiff and anyway irrespective of any relationship one should ensure basic documents in these crunch moments to support their claims otherwise their contentions will be crumbled in no time. Moreover Ex.P1 is a registered document and that itself is enough to give an impression that said



document styled as Agreement of Sale will hold the top place against alleged loan agreement in that case how would defendant No.1 & 2 proceeded so far without having any supportive documents is hard to comprehend.

34. It is again noted that defendants have examined witness as Dw2 and eventually he had shown his unawareness to the many aspects in his cross-examination and hence his evidence has no bearing on the outcome and same cannot be helpful to defendants to demonstrate their contentions. Further more immovable properties are unique, when agreement holder with her wish proceeds to purchase the properties then later without any fault on her side same cannot easily let it go to others. When plaintiff has proved execution of agreement of sale by defendants and also her readiness and willingness to get execute sale deed as she has issued notice to the defendants immediately after lapse of 2 years and she has also filed the suit after lapse of 2 years and I do not find any fault on behalf of the plaintiff.



35. Though in this case defendant No.3 in her impleading application contended that she is also having share as much of defendant No.1 and 2 and so document was created to deprive her right. But except filing of application the defendant No.3 has not made any attempt to file her written statement as well as to cross-examine the plaintiff and her witness. It is also clear that the defendant No.3 filed suit for partition in OS No.415/2019 and same is pending for consideration. If at all she got succeeded in the said suit and she will get her share in the suit schedule property and then the share of the defendant No.1 and 2 in the suit schedule property will be held by present plaintiff. Moreover, the defendant No.3 is not a stranger to the plaintiff. Since they are relatives but plaintiff has not taken precaution to obtain the consent of the defendant No.3 or not made any attempt to obtain her signature in Ex.P.1 as one of the party for the said agreement. Hence said risk has to be borne by the plaintiff with the outcome of the OS No. 415/2019 with



regard to right of the defendant No.3. Accordingly the plaintiff is entitled for relief of specific performance of contract in her favour. **Hence I answered issue No.4 is in Affirmative.**

36. Issue No.5:- As per my above discussion, suit of the plaintiff is to be decreed for the aforesaid reasons. **Hence, I proceed to pass the following;**

ORDER

The suit of the plaintiff for specific performance of contract is hereby decreed with costs.

The defendant No.1 and 2 are hereby directed to execute a registered sale deed by receiving balance sale consideration in respect of suit schedule property as per the terms of agreement of sale dated 28.06.2017 in favour of plaintiff within a period of three months from the date of this Judgment.

In the event of failure on the part of defendants to execute the registered sale deed as ordered, the plaintiff is at the liberty to get the



sale deed executed through the
process of the court.

Draw decree accordingly.

*(Dictated to the Stenographer, transcribed and typed by her,
corrected by me and then pronounced in the open Court on this the
13th day of July , 2026)*

Sd/-
(SUJATHA A.B.,)
Pri. Civil Judge & JMFC,
Kunigal.

:ANNEXURE:

WITNESS EXAMINED BY THE PLAINTIFF:-

PW.1 : Sowmya
PW.2 : Channegowda
PW.3 : Gangadharaiah C.N

DOCUMENTS MARKED BY THE PLAINTIFF:-

Ex.P.1 : Sale agreement
Ex.P.1(a) to d) : Signatures of the witness
Ex.P.2 : C/C of Encumbrance Certificate
Ex.P.3 : RTC extract
Ex.P.4 : Legal notice
Ex.P.5 : Postal receipt
Ex.P.6 : Postal Acknowledgment



Ex.P.7 : Replay notice

Ex.P.8 : RTC extract

Ex.P.9 & 10 : Photos

Ex.P.11 : CD

WITENSS EXAMINED BY THE DEFENDANT:-

DW.1 : Raju

DW.2 : Gangappa

DOCUMENTS MARKED BY THE DEFENDANT:-

Ex.D.1 to 3 : Photos

Ex.D.4 & 5 : Postal receipt & Acknowledgment

Ex.D.6 : RTC extract

Ex.D.7 : C/C of Mutation register

Ex.D.8 to 11 : Photos

Ex.D.12 : CD

**Sd/-
(SUJATHA A.B.,)
Pri. Civil Judge & JMFC,
Kunigal.**