

KATK620010072017



Presented on : 08-12-2017
Registered on : 08-12-2017
Decided on : 18-06-2026
Duration : 8 years, 6 months, 10 days

**IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C. AT
MADHUGIRI**

O.S.No.450/2017

**PRESENT: SRI.AMARANATHA B.N.
B.A. LL.B
Prl.Civil Judge & JMFC
Madhugiri**

DATED ON THIS THE 18th DAY OF JUNE, 2026

PLAINTIFF:

Sri.Shankar Prajwal,
S/o V.H.Pennappa,
Aged about 33 years,
Resident of
Vitalapura village,
I.D.Halli Hobli,
Madhugiri Taluk.

(By Sri.MM, Advocate)

//Versus//

DEFENDANT:

Sri.Subramani T.,
S/o Thimmarayappa,
aged about 51 years,
Resident of
Thondoti village,
I.D.Halli Hobli,
Madhugiri Taluk.

(By Sri.PCN, Advocate)

Date of Institution of Suit	08.12.2017		
Nature of Suit	Specific Performance.		
Date of Commencement of evidence	15.06.2024		
Date of Judgment	18.06.2026		
Total Duration	Years 08	Months 06	Days 10

***Prl.Civil Judge and JMFC,
Madhugiri.***

JUDGMENT

- The plaintiff has filed this suit against the defendant for the relief of specific performance of the suit agreement of sale dated 03.12.2015, with a prayer to direct the defendant to execute the registered sale deed in favour of the plaintiff in respect of the suit schedule properties in terms of the suit agreement of sale dated 03.12.2015 and to deliver the possession of the suit schedule properties to the plaintiff. If the defendant fails to execute the sale deed, then the sale deed may be executed through process of the court. In respect of following properties:

Sl.No.	Property Particulars
1.	Land bearing Sy.No.175 measuring 4 acres 32 guntas, situated at Thondoti village, I.D.Halli Hobli, Madhugiri Taluk bounded on East-Property of

	Sanjeevarayappa, West-Property of Koli Narasimhappa, North-Property of Vasanthappagari and South-Property of Venkataravanappa.
2.	Land bearing Sy.No.178 measuring 1 acre 34 guntas, situated at Thondoti village, I.D.Halli Hobli, Madhugiri Taluk bounded on East-Property of Narasegowda, West-Property of Venkataravanappa, North-Property of Koli Narasimhappa and South-Property of Narasappa.

2. The plaintiff in the plaint presented by him contended that defendant being the absolute owner and in possession of the suit schedule property for his family legal necessities and benefit of the family offered to sell the suit schedule property to the plaintiff for valuable sale consideration. Accordingly sale talks taken place between the parties finally the defendant agreed to sell the suit schedule properties for a sum of Rs.1,00,000/- per acre and total sale consideration of Rs.6,67,500/- and the plaintiff agreed to purchase the suit schedule properties for a sum of Rs.1,00,000/- per acre. Accordingly on 03.12.2015 the defendant executed agreement of sale in favour of plaintiff upon receiving advance sale consideration amount of Rs.2,10,000/- from the plaintiff in the presence of witnesses. Further contended that on 30.05.2016 the defendant has received advance sale consideration of Rs.1,60,000/- in the presence of witnesses namely

S.Mahalingaiah S/o Siddappa, R/o I.D.Halli village and D.E.Anand S/o Dodda Eralakkappa, R/o Doddalavatta village. Accordingly the defendant has received a sum of Rs.3,70,000/- as advance sale consideration. Further contended that the defendant agreed to execute the sale deed upon receiving balance sale consideration and upon collecting necessary documents and deliver the possession to the plaintiff.

3. The plaintiff in the plaint presented by him further contended that the plaintiff mobilizing the balance sale consideration approached the defendant many times and requested him to perform his part of contract in terms of agreement of sale dated 03.12.2015, but the defendant postponing to the same on one or other reasons and he denied to execute the sale deed in favour of the plaintiff. Hence the efforts made by the plaintiff to get the sale deed not fruitful. Hence the plaintiff on 27.09.2017 got issued legal notice to the defendant calling upon him to execute the sale deed in favour of the plaintiff as per the agreement of sale dated 03.12.2015. Upon service of notice the defendant issued reply denying the entire sale transaction and denied the execution of the suit agreement of sale dated 03.12.1015. Thereafter the plaintiff came to know that the

defendant is trying to alienate the suit schedule property in favour of 3rd party for higher price with sole intention to defeat and defraud the right of the plaintiff over the suit schedule property. Further contended that the plaintiff is always ready and willing to complete the sale transaction in terms of agreement of sale dated 03.12.2015, but due to non co-operation of the defendant the sale transaction is not completed. Hence the plaintiff without any other alternative approached this court with this suit, by stating so filed this suit.

4. Upon service of suit summons the defendant appeared and contested the suit by filing written statement. The defendant in the written statement filed by him denied the contents of the plaint and ownership of the defendant over the suit schedule properties and execution of suit agreement of sale dated 03.12.2015 agreeing to sell the suit schedule property and receipt of advance sale consideration amount of Rs.2,10,000/- on 03.12.2015 and Rs.1,60,000/- on 30.05.2016 and also denied the readiness and willingness of the plaintiff. Further contended that the defendant has not executed agreement of sale dated 03.12.2015. Hence approaching the defendant and demanding him to execute the sale deed does not arise.

5. The defendant in the written statement filed by him further contended that the item No.1 of the suit schedule property belongs to one Nagappa and suit item No.2 of the suit schedule property belongs to one Narasamma, said Nagappa and Narasamma are husband and wife and they have no LRs. The said Nagappa is the cousin brother of the father of the defendant and defendant has taken care of the welfare of said Nagappa and Narasamma. Further contended that after the death of Nagappa and Narasamma the defendant continued in possession and enjoyment of the suit schedule properties, but katha of the said properties continued in the name of Nagappa and Narasamma and the defendant has not changed the katha in his name. Hence the defendant has no right to sell the suit schedule property in favour of the plaintiff and defendant has not executed any agreement of sale agreeing to sell the suit schedule property in favour of the plaintiff and there is no necessity to the defendant to sell the suit schedule property in favour of the plaintiff. Further contended that the defendant had a sister namely Rathnamma. Hence the defendant alone cannot alienate the suit schedule property even after the change of katha in the name of defendant. Hence the suit of the plaintiff

for the relief of specific performance is not maintainable and defendant has no alienable right. The plaintiff with sole intention to knock off the suit schedule property created the agreement of sale and shara with the assistance of scribe and witnesses and there is no transaction between the plaintiff and defendant as pleaded by the plaintiff and there is no relationship between the plaintiff and defendant as purchaser and vendor as pleaded by the plaintiff. Hence the plaintiff is not entitled for the relief of specific performance as prayed in the plaint. Hence the suit of the plaintiff is liable to be dismissed, by stating so prays to dismiss the suit.

6. Based on the pleadings my learned predecessor has framed the following issues;

ISSUES

1. Whether plaintiff proves that defendant has executed agreement of sale dated 03.12.2015 agreeing to sell the suit schedule properties in his favour?
2. Whether plaintiff proves that he was always ready and willing to perform his part of contract?
3. Whether the plaintiff is entitled for the reliefs as sought for?
4. What order or decree?

7. The plaintiff in order to prove his case entered the witness box and gave evidence as PW1 and produced the documents which are marked as per Ex.P1 to Ex.P6. The plaintiff in support of his case examined two witnesses as PW2 and PW3. In spite of sufficient opportunities, the defendant has not adduced any evidence. Hence the evidence of defendant taken as Nil.
8. Heard arguments of Sri.MM advocate for plaintiff and Sri.MJS advocate for defendant.
9. On perusal of the pleadings, oral and documentary evidence adduced by the parties, I answer the above said issues as hereunder:

ANSWERS

Issue No.1 : In the Negative

Issue No.2 : In the Negative

Issue No.3 : In the Negative

Issue No.4 : As per final order

For the following:

:REASONS:

10. **ISSUE No.1:-** The plaintiff in order to prove that the defendant being the owner of suit schedule properties agreed to sell the suit schedule properties and executed agreement of sale dated

03.12.2015 in favour of the plaintiff relied upon the oral evidence of PW1 to PW3 and Ex.P1 to Ex.P6. On the other hand the defendant in support of his case not adduced any evidence.

11. The PW1 in the examination-in-chief reiterated the contents of the plaint. But the PW1 in the cross-examination deposed that ದಾವಾ ಸ್ವತ್ತು ಪ್ರತಿವಾದಿಗೆ ಸೇರಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. Further the PW2 and PW3 in the examination-in-chief deposed in support of the case of the plaintiff. But the PW2 in the cross-examination deposed that ಪ್ರತಿವಾದಿ ದಾವಾ ಸ್ವತ್ತಿನ ಮಾಲೀಕರು ಎಂಬುದಕ್ಕೆ ಪಹಣಿ ನೋಡಿರುತ್ತೇನೆ. ಸದರಿ ಪಹಣಿ ಪ್ರತಿವಾದಿಯ ಹೆಸರಿನಲ್ಲಿ ಇರುವುದಿಲ್ಲ. ಆದರೆ ಪ್ರತಿವಾದಿಯ ಚಿಕ್ಕಮ್ಮರವರ ಹೆಸರಿನಲ್ಲಿ ಇರುತ್ತದೆ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಚಿಕ್ಕಮ್ಮ ಪ್ರತಿವಾದಿಯ ಸಾಕು ತಾಯಿ ಆಗಿರುತ್ತಾರೆ. ದಾವಾ ಸ್ವತ್ತಿನ ಖಾತೆ ಪ್ರತಿವಾದಿಯ ಸಾಕು ತಾಯಿಯ ಹೆಸರಿನಲ್ಲಿ ಇರುತ್ತದೆ ಎಂಬುದಕ್ಕೆ ನಾನು ಯಾವುದೇ ದಾಖಲೆಯನ್ನು ನೋಡಿರುವುದಿಲ್ಲ. Further deposed that ವಾದಿ 2 ಲಕ್ಷ 10 ಸಾವಿರ ರೂಗಳನ್ನು ನಗದು ಮುಖಾಂತರ ಒಮ್ಮೆ ಪಾವತಿಸಿರುತ್ತಾರೆ. ಅಷ್ಟನ್ನು ಹೊರತು ಪಡಿಸಿ ನನ್ನ ಸಮಕ್ಷಮ ಯಾವುದೇ ಹಣಕಾಸಿನ ವ್ಯವಹಾರ ಆಗಿರುವುದಿಲ್ಲ. Further the PW3 in the cross-examination deposed that ದಾವಾ ಸ್ವತ್ತುಗಳು ಪ್ರತಿವಾದಿಗೆ ಸೇರಿರುತ್ತವೆ ಎಂಬುದಕ್ಕೆ ನಾನು ದಾಖಲೆಗಳನ್ನು ನೋಡಿರುವುದಿಲ್ಲ. ಸಾಕ್ಷಿ ಮುಂದುವರೆದು ದಾವಾ ಸ್ವತ್ತುಗಳು ಪ್ರತಿವಾದಿಯ ಚಿಕ್ಕಮ್ಮರವರಿಗೆ ಸೇರಿರುತ್ತವೆ ನಾನು ಮಾಡಿಸಿಕೊಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿರುತ್ತಾನೆ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ. Further deposed that ಕರಾರು ಪತ್ರ ಬರೆಯುವಾಗ ದಾವಾ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿದ ಪ್ರತಿವಾದಿಯ ಚಿಕ್ಕಮ್ಮನ ಹೆಸರಿನಲ್ಲಿ ಇದ್ದ ಪಹಣಿಯನ್ನು ಇಟ್ಟುಕೊಂಡಿದ್ದರು ಆದರೆ ಅವರ ಚಿಕ್ಕಮ್ಮನ ಹೆಸರು ನನಗೆ ನೆನಪಿರುವುದಿಲ್ಲ. Hence on perusal of cross-examination of PW1 to PW3 it goes to

show that the defendant is not the owner of the suit schedule properties and as on the date of execution of alleged agreement of sale dated 03.12.2015 the katha of the suit schedule properties standing in the name of Nagappa and Narasamma.

12. The plaintiff in support of his case produced the documents which are marked as per Ex.P1 to Ex.P6. Ex.P1 is the agreement of sale dated 03.12.2015 claims to have been executed by defendant in favour of the plaintiff, Ex.P2 and Ex.P3 are the RTC Extracts in respect of the suit schedule properties standing in the name of Nagappa and Narasamma respectively, Ex.P4 is the copy of legal notice dated 29.07.2017 got issued by the plaintiff to the defendant calling upon him to execute the sale deed in terms of the agreement of sale dated 03.12.2015, Ex.P5 is the postal acknowledgment and Ex.P6 is the reply to notice given by the defendant.
13. On perusal of the material evidence on record it goes to show that as on the date of filing of suit the katha of the suit schedule properties standing in the name of Nagappa and Narasamma and the persons in whose name katha is standing on 03.12.2015 not executed the suit agreement of sale dated

03.12.2015 in favour of the plaintiff. Further it is relevant to note that the plaintiff in order to prove that the defendant is the owner of the suit schedule properties and in possession of the suit schedule properties or the defendant is the only Legal representative of Nagappa and Narasamma in whose name the kahta of the suit schedule properties standing as on the date of filing of suit or as on the date of execution of the agreement of sale dated 03.12.2015 not produced any documents. On the other hand on perusal of the oral evidence of the PW1 to PW3 it is clear that the defendant is not the owner of the suit schedule properties.

14. Further it is relevant to note that it is the specific case of the plaintiff that the defendant being the owner and in possession of the suit schedule properties agreed to sell the suit schedule properties and executed suit agreement of sale and received advance sale consideration amount of Rs.2,10,000/- on 03.12.2015 and Rs.1,60,000/- on 30.05.2016, but except Ex.P1 the plaintiff has not produced any document to prove the payment of advance sale consideration of Rs.3,70,000/-. Further the PW2 and PW3 not deposed anything with regard to payment of Rs.1,60,000/- to the defendant on 30.05.2016 and

there is no reference in the agreement of sale with regard to payment of Rs.1,60,000/- on 30.05.2016. Hence only based on the oral evidence of PW1 it cannot be held that the plaintiff paid a sum of Rs.1,60,000/- on 30.05.2016 to the defendant as advance sale consideration.

15. Further it is relevant to note that on perusal of Ex.P2 and Ex.P3 it goes to show that as on the date of filing of suit the katha of the suit schedule properties standing in the name of Nagappa and Narasamma and the plaintiff has not pleaded as to how the defendant acquired the suit schedule properties nor produced any documents to prove ownership and possession of the defendant over the suit schedule properties on 03.12.2015 to execute the agreement of sale in favour of the plaintiff. Hence the plaintiff fails to prove that the defendant is the owner and possession of the suit schedule properties and agreed to sell the suit schedule properties and executed agreement of sale dated 03.12.2015.
16. The counsel for the plaintiff argued that the plaintiff in order to prove that the defendant has executed the agreement of sale dated 03.12.2015 produced the original agreement of sale and

examined the attesting witnesses as PW2 and PW3, hence the plaintiff proved the execution of the suit agreement of sale. It is relevant to note that it is the specific case of the plaintiff that the defendant is the owner of the suit schedule properties and agreed to sell the suit schedule properties and executed the agreement of sale dated 03.12.2015 as per Ex.P1. But on perusal of the material evidence on record and in view of the admission given by the PW1 to PW3 it is clear that the defendant is not the owner of the suit schedule properties and the plaintiff has not produced any document to prove the ownership and possession of the defendant over the suit schedule properties and the defendant had alienable right to sell the suit schedule properties. Hence merely the plaintiff, PW2 and PW3 deposed in support of the case of the plaintiff it cannot be held that the plaintiff proved that the defendant being the owner of the suit schedule properties agreed to sell the suit schedule properties and executed the suit agreement of sale dated 03.12.2015.

17. Further it is relevant to note that the defendant in the written statement filed by him categorically denied the execution of the agreement of sale and signature found in the Ex.P1 is forged.

But the plaintiff has not taken any steps to prove that the signature contained in Ex.P1 is the signature of the defendant. Hence in the absence of material documents to prove that the signature forthcoming in the Ex.P1 is the signature of the defendant only based on the oral evidence of PW1 to PW3 it cannot be held that the plaintiff proved that the defendant upon agreeing to sell the suit schedule property executed the agreement of sale dated 03.12.2015.

18. Upon perusing the oral and documentary evidence and in view of the reasons stated above this court is of the opinion that the plaintiff fails to prove that the defendant being the absolute owner of the suit schedule property executed agreement of sale dated 03.12.2015 in favour of the plaintiff upon receiving advance sale consideration amount of Rs.3,70,000/-. **Hence I answer Issue No.1 in the Negative.**

19. **ISSUE No.2:-** The plaintiff has filed this suit against the defendants for the relief of specific performance of agreement of sale dated 03.12.2015. The plaintiff in order to entitle for the relief of specific performance apart from proving the execution of suit agreement of sale, the plaintiff has to prove that the

plaintiff is always ready and willing to complete the sale transaction in terms of the suit agreement of sale which is mandatory as per Section 16 (c) of Specific Relief Act.

20. *It is settled principle of law that the readiness and willingness is in two parts. The first part of readiness is with regard to capacity of the purchaser to perform his part of contracts which includes financial capacity of the purchaser to pay balance sale consideration and to meet the registration charges, payment of stamp duty and other incidental expenses to get sale deed registered and the second part is with regard to willingness i.e., intention of the parties to complete the transaction as per the terms of the agreement of sale.*

21. *It is relevant to note that the Hon'ble Apex court in the matter of Sangitha Sinha Vs Bhawana Bhardwaj, in Civil Appeal No. 4972/2025 order dated 04.04.2025 held as here under:*

Para No.17:- *It is trite law that 'readiness' and 'willingness' are not one but two separate elements. 'Readiness' means the capacity of the Respondent No.1- buyer to perform the contract, which would include the financial position to pay the sale consideration. 'Willingness' refers to the intention of the Respondent No.1-buyer as a purchaser to perform his part of the contract, which is inferred by scrutinising the conduct of the*

Respondent No.1-buyer /purchaser, including attending circumstances.

Para No.18:- *Continuous readiness and willingness on the part of the Respondent No.1-buyer /purchaser from the date of execution of Agreement to Sell till the date of the decree, is a condition precedent for grant of relief of specific performance. This Court in various judicial pronouncements has held that it is not enough to show the readiness and willingness up to the date of the plaint as the conduct must be such as to disclose readiness and willingness at all times from the date of the contract and throughout the pendency of the suit up to the decree.*

22. In the present case in view of finding on Issue No.1 and for the reasons stated therein this court is of the opinion that the plaintiff fails to prove that the defendant being the owner of the suit schedule properties executed the suit agreement of sale dated 03.12.2015 as per Ex.P1. Hence the question of considering the the readiness and willingness does not arise.
23. Further it is relevant to note that on perusal of Ex.P1 it goes to show that as per Ex.P1 and contents of the plaint total sale consideration amount is Rs.6,67,500/- and plaintiff paid Rs.2,10,000/- as advance sale consideration and the plaintiff has not produced any documents to prove that the plaintiff is having sufficient money to pay the balance sale consideration

and meet the registration and such other incidental charges for the registration of the sale deed.

24. Further it is relevant to note that as per the case of the plaintiff that the defendant on 03.12.2015 executed agreement of sale, but the plaintiff issued legal notice calling upon the defendant to execute the sale deed dated 27.09.2017 i.e., after lapse of 1 year 08 months, but the plaintiff has not produced any document to prove that after executing the sale deed dated 03.12.2015 the plaintiff is always ready and willing to complete the transaction and he expressed his willingness to complete the sale transaction. Hence only based on the oral evidence of PW1 it cannot be held that the plaintiff is always ready and willing to complete the sale transaction.

25. Further it is relevant to note that though the plaintiff examined two witnesses in support of his case as PW2 and PW3, the PW2 and PW3 not deposed anything with regard to readiness and willingness of the plaintiff to complete the sale transaction. That apart the plaintiff has not produced any document to prove that on 30.05.2016 the plaintiff paid a sum of Rs.1,60,000/- out of balance sale consideration. Hence only based on the oral

evidence of PW1 it cannot be held that the plaintiff is always ready and willing to complete the sale transaction.

26. Upon perusing the oral and documentary evidence on record and in view of the decision referred above and for the reasons stated above, this court is of the opinion that the plaintiff fails to prove that the plaintiff is always ready and willing to complete the sale transaction in terms of suit agreement of sale dated 03.12.2015 which is mandatory to entitle for the relief specific performance as per Section 16 (c) of relief act. ***Hence I answer Issue No.2 in the Negative.***

27. **ISSUE NO.3:-** The plaintiff has filed this suit for the relief of specific performance of agreement of sale dated 03.12.2015. The plaintiff in order to entitle for the relief of specific performance of agreement of sale, the plaintiff has to prove that the defendants being the absolute owners of the suit schedule properties executed suit agreement of sale dated 03.12.2015. upon receiving the advance sale consideration of Rs.2,10,000/- on 03.12.2015 and Rs.1,60,000/- on 30.05.2016 and the plaintiff is always ready and willing to complete the sale

transaction in terms of the agreement of sale dated 03.12.2015.

28. In the present case in view of the finding on Issue No.1 and 2 and for the reasons stated therein this court held that the plaintiff fails to prove that the defendant being the absolute owner of suit schedule properties executed suit agreement of sale dated 03.12.2015 in favour of the plaintiff and the plaintiff is always ready and willing to complete the sale transaction. Hence, the plaintiff is not entitled for the relief of specific performance of agreement of sale dated 03.12.2015. **Hence, I answer Issue No.3 in the Negative.**

29. **ISSUE NO.4:-** In view of the reasons stated above and finding on Issue No.1 to 3, I proceed to pass the following:

ORDER

*The suit of the plaintiff is dismissed
with costs.*

Draw decree accordingly.

(Dictated to the stenographer, computerized by her, corrected by me and then pronounced in the open court today on this the 18th day of June, 2026)

**(AMARANATHA.B.N)
Prl. Civil Judge & JMFC.,
Madhugiri.**

ANNEXURE**LIST OF WITNESSES EXAMINED ON BEHALF OF PLAINTIFF**

PW1 : Shankar Prajwal,
PW2 : Rangareddy,
PW3 : Prabhakara reddy,

LIST OF EXHIBITS MARKED ON BEHALF OF THE PLAINTIFF

Ex.P1 : Agreement of sale,
Ex.P2 & 3 : RTC Extracts,
Ex.P4 : Copy of legal notice,
Ex.P5 : Postal acknowledgment,
Ex.P6 : Reply notice.

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS

- Nil-

LIST OF EXHIBITS MARKED ON BEHALF OF THE DEFENDANTS

-Nil-

(AMARANATHA B.N.)
Prl.Civil Judge & JMFC
Madhugiri.