

KAVN310012272021



**IN THE COURT OF ITINERARY SENIOR CIVIL JUDGE
HUVINAHADAGALI**

Dated this the 6th day of March 2026

PRESENT

MADHUSUDHANA D K. B.A. LL.B.

Itinerary Senior Civil Judge
Huvinahadagali

OS. No. 53/2021

**PLAINTIFF: Sri. Beluru Kotrappa
S/o Late Siddalinganagouda
Aged 71 years
R/o Huvinahadagali Town
Huvinahadagali Taluk.**

(By Sri. D.Siddanagouda Advocate)

V/s

**DEFENDANT: Sri. Channabasappa
S/o Late Tirukappa
Aged 45 Years
R/o Kattebennuru Village
Huvinahadagali Taluk.**

(By Sri. B.Shivananda Advocate)

Date of institution of Suit	:	19.07.2021
Nature of suit	:	Specific Performance Of Contract
Date of commencement of evidence	:	01.04.2022
Date on which Judgment was pronounced	:	06.03.2026
Total duration	:	Years Months Days 04 07 15

MADHUSUDHANA D K

Itinerary Senior Civil Judge
Huvinahadagali

JUDGMENT

The Plaintiff has filed the above Suit for the relief of Specific Performance of Contract based on the Registered Sale Agreement dated 10.01.2017 executed by the Defendant by agreeing to sell the Property in the Sy.No.31/B measuring 2A 70C situated at Kattebennuru Village. The above Property will be referred to as the Suit Schedule Property in future.

2. The Case of the Plaintiff is that, the Defendant is the Absolute Owner of the Suit Schedule Property and he had approached the Plaintiff by expressing his intention to sell the same for a Valuable Consideration of ₹ 6 Lakhs and the Plaintiff has agreed to purchase the Suit Schedule Property and therefore, the Plaintiff has paid ₹ 5 Lakhs towards Advance Sale Consideration and the Defendant had agreed to execute the Registered

Sale Deed by receiving the Balance Sale Consideration of ₹ 1 Lakh and the Defendant had executed a Registered Sale Agreement in the presence of Attesting Witnesses. The Plaintiff has requested the Defendant to execute the Sale Deed but, the Defendant had postponed the same on one or other reasons. Therefore, on 13.07.2020, the Plaintiff has issued a Legal Notice on the Defendant. The Defendant has received the Legal Notice and he has issued a Reply Notice dated 14.08.2020 and the Defendant has contended that, he had received only ₹ 1 Lakh as a Loan from the Plaintiff, Defendant has not intended to sell the Property and he is ready to repay the Loan to the Plaintiff. Therefore, the Plaintiff has filed the Suit and he has prayed for the Decree for Specific Performance of Contract.

3. On Service of the Summons, the Defendant has appeared and filed his Written Statement.

4. The Defendant has reiterated his Reply Notice contentions by contending that, *he has borrowed a Loan of ₹ 1 Lakh from the Plaintiff with Interest at the rate of 6% PA and the Plaintiff has demanded for execution of Sale Agreement towards Security for the Loan. Therefore, in the presence of Witnesses by name S.Basavaraja, Kuri Mallappa, M. Shankarappa and H.Ningappa, the Defendant had borrowed the Loan of ₹ 1 Lakh from the Plaintiff.* Therefore, the Defendant has prayed for dismissing the Suit.

5. On the basis of the Rival Pleadings of the Parties, My Predecessor in the Office has framed the following :

ISSUES

- 1) Whether the plaintiff proves that the defendant being the owner of the Suit Schedule Property agreed to sell the same for a valuable consideration of Rs.6,00,000/- and executed registered agreement of sale dated 10.01.2017 by receiving an advance consideration amount of Rs.5,00,000/-?**
- 2) Whether the Defendant proves that he has received Loan of Rs.1,00,000/- only from the Plaintiff and executed nominal sale agreement as collateral security of the said loan contended in the Written Statement?**
- 3) Whether the defendant proves that the Plaintiff has created the said Agreement of sale as contended in the Written Statement?**
- 4) Whether the plaintiff proves his Readiness and Willingness to perform his part of Contract?**
- 5) Whether the plaintiff is entitled the relief as sought for?**
- 6) What order or decree**

6. The Plaintiff has examined himself has the PW1 by marking Ex.P1 to Ex.P11 and also examined one of the Attesting Witnesses of the Ex.P1 as PW2. The Defendant has examined himself and Two Witnesses as DW1 to DW3 and he did not mark any Documents in his evidence.

7. The Plaintiff's Counsel has addressed Arguments but, the Defendant's Counsel did not appear to address his Arguments.

8. On appreciation of the factual and Legal aspects involved in the above Case, My answers to the above Issues are as follows:

ANSWERS

ISSUE NO.1 : In the Affirmative

ISSUE NO.2 : In the Negative

ISSUE NO.3 : In the Negative

ISSUE NO.4 : In the Affirmative

ISSUE NO.5 : In the Affirmative

**ISSUE NO.6 : As per the final Order,
for the following:**

REASONS

9. **ISSUES NO.1 TO 5:** The above Issues are interconnected and therefore, to avoid repetition of giving reasoning, they are discussed together.

10. I have already narrated the Case pleaded by the Plaintiff and by the Defendant at the inception of the above Judgment and therefore, I did not reiterate the same here.

11. The Ex.P1 is the Registered Sale Agreement executed by the Defendant at the Sub-Registrar's Office in Huvinahadagali and the PW2 S.Basavaraj and one Sri.H.Ningappa have Attested the Registered Sale Agreement. The Ex.P3 is the RTC Extract of the Suit Schedule Property which is standing in the name of the Defendant Sri. Channabasappa. The Column No.10 of the RTC Extract shows that, *as per Mutation No.34/97-98 dated 17.04.1998, the Suit Schedule Property is mutated in the name of the Defendant.* The Registered

Sale Agreement Transaction is also entered in the Encumbrance Certificate marked as Ex.P2. The Ex.P2 and Ex.P3 prove that, *the Defendant is the Owner and Khatedar of the Suit Schedule Property.* The Registered Sale Agreement marked as Ex.P1 contains the recitals to the effect that, *for his Family Necessities, the Defendant has agreed to sell the Suit Schedule Property for ₹ 6 Lakhs and he had received Advance Sale Consideration Amount of ₹ 5 Lakhs from the Plaintiff on 10.01.2017.* It is needless to discuss about the lengthy cross-examination conducted by the Defendant's Counsel on the PW1 and PW2 for the reason that, *if the Defendant had not received ₹ 5 Lakhs towards Advance Sale Consideration, it was not necessary for the Defendant to execute the Registered Sale Agreement by showing the Sale Consideration as ₹ 6 Lakhs and Advance Sale Consideration as ₹ 5 Lakhs by visiting the Sub-Registrar's Office.*

12. During the cross-examination of the DW1, he has admitted that, *he has completed his BA Degree and after Studying LLB for One Year, the Defendant has stopped his Studies.* The said fact shows that, *the Defendant is not an illiterate but, he is a Graduate and he has also studied LLB for One Year.* Therefore, the Court could not believe the Defendant's contentions about *the Plaintiff forcing him to execute the Registered Sale Agreement by showing Sale Consideration as ₹ 6 Lakhs and tendered Advance Consideration as ₹ 5 Lakhs.* Though, there are no Pleadings in the Reply Notice of the Defendant about his Necessity for ₹ 1 Lakh for contesting in the APMC Elections, the Defendant has alleged about borrowing of ₹ 1 Lakh from the Plaintiff for contesting in APMC Elections. The Reply Notice of the Defendant was issued by him on

14.08.2020. The Written Statement of the Defendant was filed on 19.08.2024. At the time of giving the Reply Notice to the Plaintiff, the Defendant was aware of the purpose of alleged Loan of ₹ 1 Lakh borrowed by him from the Plaintiff for his APMC Elections. But, at the time of giving his Reply Notice in the Year 2020, the Defendant did not say anything about the purpose of the Loan. But, after 4 Years from issuing the Reply Notice, the Defendant contends about the purpose of Loan was for contesting in APMC Elections for the Firsst Time in his Written Statement. Therefore, it appears that, the Defendant has invented the purpose of the Loan only at the time of filing his Written Statement in the Suit. The fact that, the Defendant had studied One Year LLB Course and he was an Aspirant for APMC Elections presupposes that, *the Defendant is having sufficient knowledge about the worldly affairs and Business Transactions*. Therefore, it is highly impossible to believe the Defendant's contentions about borrowing of only ₹ 1 Lakh and executing Registered Sale Agreement in the presence of Witnesses as if he is selling the Suit Schedule Property for ₹ 6 Lakhs and receiving Advance Sale Consideration of ₹ 5 Lakhs from the Plaintiff.

13. The PW2 has identified his Signature in the Ex.P1 as per Ex.P1(c). The PW2 has also deposed that, *one Ningappa had also signed the Ex.P1 as another Attesting Witness and one Lingappa was the Scribe who drafted the Sale Agreement*. In his Reply Notice, the Defendant had not stated anything about the Rate of Interest at which he had borrowed the alleged Loan of ₹ 1 Lakh from the Plaintiff. In his Written Statement, the Defendant has contended that, *he had borrowed ₹ 1 Lakh from the Plaintiff for Interest at the Rate of 6% PA*.

But, the Learned Counsel for the Defendant has put the suggestions to the PW2 that, *the Plaintiff had stated in a Panchayath that, the Plaintiff had lent ₹ 2 Lakhs and therefore, including the Interest at the Rate of 3%, the Defendant has to repay the said Loan.* The PW2 has denied the suggestion as false. It is also suggested to the PW2 by the Defendant's Counsel that, *on the date of Panchayath, the Defendant had paid ₹ 3 Lakhs to the Plaintiff in the presence of PW2 and other Persons and the Plaintiff has refused to give the Receipt to the Defendant.* I have already observed that, *the Reply Notice was issued in the Year 2020 and the Written Statement was filed in the Year 2024.* There are no contentions and Pleadings in the Reply Notice and in the Written Statement of the Defendant about holding a Panchayath and Plaintiff demanding Interest at the Rate of 3% for the Loan of ₹ 2 Lakhs and Defendant giving ₹ 3 Lakhs to the Plaintiff in the said Panchayath. But, during the cross-examination of the PW2, the Counsel for the Defendant has tried to make out a New Case by putting the above suggestions.

14. The Defendant has pleaded that, *the Plaintiff has created the Registered Sale Agreement.* During his cross-examination, the DW1 has deposed that, *the Plaintiff had obtained My Signature not even giving time to read the contents of the Ex.P1.* The DW1 was asked in the cross-examination *Did you ask the Plaintiff to get the Promissory Note?* The DW1 has said that, *the Plaintiff has not agreed for the Promissory Note.* The DW1 was again asked *Did you ask the Plaintiff to get the Mortgage Deed?* The DW1 has said that, *I did not ask the Plaintiff to get the Mortgage Deed.* The above evidence of the DW1 shows that, *the Defendant has signed the Ex.P1 and executed the same before the*

Sub-Registrar's Office in the presence of Witnesses. Therefore, there is no scope for the Defendant to say about creation of Sale Agreement by the Plaintiff as the Defendant himself admits that, *he has signed the Sale Agreement.* The Defendant is a Graduate and an Aspirant for contesting in APMC Elections and therefore, he is supposed to know about borrowing Loan from the Banks by Pledging or Mortgaging his Property. But, the Defendant contends that, *due to his dire necessity, he was forced to execute the Registered Sale Agreement for ₹ 5 Lakhs for the Meager Loan of ₹ 1 Lakh.* Therefore, if the Plaintiff did not give any time and he did not permit the Defendant to read the Ex.P1 before signing the same, it was not necessary for the Defendant to put his Signature to it. It was open for the Defendant to borrow the Money from Bank, any Private Finance Company or from any Private Money Lender. But, in spite of obtaining Loan from the said Modes, the Defendant is trying to say that, *due to his dire necessity he was forced to sign the Registered Sale Agreement.* The Transaction is proved to be Sale Agreement Transaction on the basis of Oral and Documentary Evidence. The DW2 has deposed that, *though, he was present at the time of Registration of the Ex.P1 but, he was standing out side the Sub-Registrar's Office and he did not put his Signature as an Attesting Witness.* Therefore, it is difficult to believe the contentions of the DW2 about his Affidavit Evidence. If the DW2 was actually present at the time of Registration of the Ex.P1, the Defendant could have insisted for obtaining the Signature of the DW2 as one of the Witnesses on his side of the Transaction. Therefore, ***the Defendant has failed to prove his contentions as per the Issue No.2 and Issue No.3.***

The Plaintiff has proved the Sale Agreement and his Readiness and Willingness to perform his part of the Contract on the basis of his Evidence. Therefore, ***the Issue No.1, the Issue No.4 and the Issue No.5 are answered in the Affirmative.***

15. **ISSUE NO.6** : For the above discussion, I proceed to pass the following:

ORDER

The Suit of the Plaintiff is hereby decreed with Costs.

The Defendant is directed to receive the Balance Sale Consideration from the Plaintiff and to execute the Registered Sale Deed of the Suit Schedule Property within Two Months from the Date of Decree.

If the Defendant did not execute the Sale Deed, the Plaintiff can obtain the Sale Deed through Court on his own expenses.

Draw Decree Accordingly.

MADHUSUDHANA D K
Itinerary Senior Civil Judge
Huinahadagali

ANNEXURES**List of witnesses examined for the Plaintiff**

PW1:Sri.Beluru Kotrappa

PW2:Sri. S. Basavaraja

List of exhibits marked for the Plaintiffs

Ex.P1:Registered Sale Agreement

Ex.P2:Encumbrance Certificate

Ex.P3:RTC Extract

Ex.P4:Legal Notice dated 13.07.2020

Ex.P5:Postal Acknowledgment

Ex.P6:Reply Notice dated 14.08.2020

Ex.P7 to

Ex.P11:Valuation Slips

List of witnesses examined for the Defendant

DW1:Sri.Belagavi Channabasappa

DW2:Sri.M. Shankrappa

DW3:Sri. Kuri Mallappa

List of exhibits marked for the Defendant

Nil

Sd/-

MADHUSUDHANA D K

Itinerary Senior Civil Judge

Huvinahadagali