



**IN THE COURT OF THE III ADDL. CIVIL JUDGE AND
JMFC., AT TUMAKURU**

Dated this 10th day of October 2025

:: PRESENT ::

SRI. SACHIN P.M.

B.A., L.L.B., (Hons)

**III Addl. Civil Judge and JMFC.,
Tumakuru**

ORIGINAL SUIT NO.800/2022

Plaintiff/s:

*Sri. D. Krishnappa
S/o Late D.Naganna
Aged about 80 years,
R/o Dodderi Village and Hobli,
Madhugiri Taluk -572 112.*

**(Represented by Sri. G.S.R.S.,
Advocate for plaintiff)**

// Versus //

Defendant/s : **1.**

*Sri. Chikkaramaiah
S/o Late Chikkanarasimhaiah
Aged about 60 years,*

2.

*Smt. Mangalamma,
W/o Chikkaramaiah
Aged about 53 years,*

3.

Sri. Mahesh



*S/o Chikkaramaiah
Aged about 40 years,*

4. *Smt. H.C. Khushbu
W/o Rangaswamaiah,
Aged about 37 years,*

5. *Shyla
D/o Chikkaramaiah
Aged about 35 years,*

6. *Swetha
D/o Chikkaramaiah
Aged about 32 years,*

*All are residents of Honnenahalli
Kasaba Hobli, Tumakuru Taluk.*

**(Represented by Sri. Sri.V.G.
Advocate for defendant No.1)
(Defendants No.2 to 6- Ex-parte)**

Date of institution of the suit : *17/09/2022*

Nature of the suit : *Specific performance of
Contract.*

*Date of the commencement of
Recording of the evidence* : *11/04/2023*

*Date of which the judgment
was Pronounced* : *10/10/2025*



Total Duration : Year/s Month/s Day/s
03 00 23

(SACHIN P.M)
III Addl. Civil Judge & J.M.F.C.
Tumakuru.

J U D G E M E N T

The plaintiff has filed this suit for specific performance of contract against the defendants No.1 to 6 in respect of the registered agreement of sale dated 12/01/2007.

The suit schedule property is as under:

All that piece and parcel of 0-05 guntas out of 1 acre 12 guntas of agricultural Dry land in which out of 0-10 guntas in Sy.No.14/1 of Honnenahalli Village, Kasaba Hobli, Tumakuru Taluk bearing Khata No.14, having the following common Boundaries:

East by : Garden Land of Vishwanath



S/o Shankarappa;

West by : Share of Puttamma in the same land;

*North by : 0-05 guntas of land being
the share of Lingappa;*

South by : Honnena Halli-Hosa Halli Road.

***2. The brief facts of the case of the plaintiff are
as under:***

That the defendants are entered into an agreement of sale dated 12/01/2007 with the plaintiff, agreeing to sell the suit schedule property for a total sale consideration amount of Rs.84,500/- at the rate of 16,900/- per gunta and received an advance sale consideration amount of Rs.30,000/- vide D.D No.125791 dated 12/01/2007 drawn on State Bank of Mysore, Tumkur Branch and Rs.20,000/- vide D.D No.127244 dated 14/03/2007 drawn on State Bank of Mysore, Tumkur Branch i.e. a total of Rs.50,000/- as advance sale consideration amount. That the sale deed was agreed to be executed after getting the khatha changed to the name of the defendant No.1 from the name of his father and after



obtaining the 11E sketch. That time is not the essence of the contract as mentioned in the agreement of sale.

That there was a suit for partition of several properties including the suit schedule property herein, filed by the defendant No.1 and 15 others including his brother Lingappa against Gangamma, Jayamma and Siddaraju and that the said suit ended in a compromise but the defendants did not inform the plaintiff herein about the said case being decided. That the mutation of the suit schedule property was accepted in the joint names of the defendant No.1 in respect of 05 guntas, his brother Lingappa in respect of 05 guntas and one Gavisiddaiah, son of Dyavaiah in respect of 02 guntas through M.R No.H22/2019-20 dated 15/10/2019. That he defendant No.1 did not obtain the hadbasth and phodi durasthi in respect of the 05 guntas in Sy.No.14/1 in order to obtain the 11E sketch and that the plaintiff and his son approached the defendants in that regard one month prior to the issuance of the legal notice.

That the defendants stated that they would get the 11E sketch and other required documents within 15 days but failed to keep up to their promises due to which the plaintiff



issued a legal notice dated 12/07/2022 to the defendants calling upon them to execute the registered sale deed on 26/09/2022 was per the agreement of sale, within one month from the date of service of legal notice. That the plaintiff stated that he is ready and willing to pay the balance sale consideration amount to the defendants and obtain the registered sale deed executed in his name and after the service of notice on the defendants No.1 to 3, 5 and 6, the defendants issued a reply notice denying the claim of the plaintiff and refuting the execution of the agreement of sale. That the plaintiff is ready and willing to perform his part of the contract to obtain the regular sale deed executed in his name and hence, this suit.

3. *After filing this suit, summons were issued to the defendants No.1 to 6 and in spite of service of summons, the defendants No.2 to 6 remained absent and were hence placed ex-parte. The defendant No.1 appeared before the Court through his counsel but neither filed his written statement nor contested this suit in any manner.*



4. After considering the plaint and the documents produced by the plaintiff, the following points are for the consideration of this Court:

POINTS

- 1. Whether the plaintiff proves that the defendants No.1 to 6 executed an agreement of sale registered on 12/01/2007 in his favor in respect of the suit schedule property for a total sale consideration amount of Rs.84,500/-, received an advance sale consideration of Rs.50,000/- in total and agreed to receive the balance sale consideration of Rs.34,500/- at the time of registration of the sale deed?*
- 2. Whether the plaintiff proves that he has been ever ready and willing to perform his part of the contract?*
- 3. Whether the plaintiff is entitled for the relief of specific performance of contract as prayed for?*
- 4. What order or decree?*



5. *In order to prove her case, the S.P.A Holder of the plaintiff got himself examined as P.W-1 and also examined three other witnesses as P.W-2 to P.W-4. The plaintiff has produced thirty four documents which have been marked as Ex.P-1 to Ex.P-34. On the other hand, the defendant No.1 neither filed his written statement nor contested this suit in any manner and the defendants No.2 to 6 remained ex-parte throughout the proceedings.*

6. *Heard the arguments advanced by the learned counsel for the plaintiff.*

7. *On considering the materials placed before me on record, my findings on the above issues are as under:-*

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

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

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

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



: R E A S O N S :

8. Points No. 1 to 3: *As these points are interrelated, they have been taken up together for common discussion in order to avoid the repetition of facts.*

The present suit is one for the relief of specific performance of contracts as per the agreement of sale dated 12/01/2007 in respect of the suit schedule property. In order to substantiate the case of plaintiff, the S.P.A Holder of the plaintiff has got himself examined as P.W-1. In his examination-in-chief by way of affidavit, P.W.1 has re-iterated the plaint averments. In addition to his oral evidence, the plaintiff produced thirty four documents marked as Ex.P-1 to Ex.P-34. Ex.P-1 is the Special Power of Attorney dated 21/02/2023. Ex.P-2 is the unregistered agreement of sale dated 12/01/2007. Ex.P-3 is the certified copy of the entire order sheet in O.S No.38 of 2016 on the file of the Hon'ble II Additional Senior Civil Judge and J.M.F.C at Tumkur. Ex.P-4 is the certified copy of the amended plaint in O.S No.38 of 2016. Ex.P-5 is the certified copy of the compromise petition filed in O.S No.38 of 2016. Ex.P-6 to Ex.P-11 are the certified copies of old manual R.T.Cs. Ex.P-12 to Ex.P-14 are bank pay-in-slips.



Ex.P-15 and Ex.P-16 are computerized R.T.Cs pertaining to the suit schedule properties. Ex.P-17 is the legal notice dated 12/07/2022. Ex.P-18 to Ex.P-23 are postal receipts. Ex.P-24 and Ex.P-25 are postal acknowledgment cards. Ex.P-26 is the reply notice dated 20/07/2022. Ex.P-27 to Ex.P-30 are postal envelope covers whereas Ex.P-27(a) to Ex.P-30(a) are the corresponding copies of the legal notice. Ex.P-31 is a health record and medical certificates. Ex.P-32 and Ex.P-33 are computerized mutation extracts and Ex.P-34 is a computerized R.T.C pertaining to the suit schedule property.

9. *In order to succeed in a suit for specific performance of contract, the burden of proof is upon the plaintiff to prove the following:*

- (a) That the plaintiff and the defendants entered into a valid contract/agreement of sale;*
- (b) That the defendants committed a breach of the said contract; and*
- (c) That the plaintiff was always ready and willing to perform his part of the contract;*



10. *In the case at hand, the registered agreement of sale marked as Ex.P-2 appears to be a valid contract as it is for valuable consideration. The averments of Ex.P-2 states that the plaintiff paid Rs.50,000/- to the defendants No.1 and 2 as advance sale consideration through two demand drafts and the remaining Rs.34,500/- would be paid at the time of execution of the registered sale deed. It is observed that no time limit was fixed under the agreement of sale marked as Ex.P-2 for the execution of the registered sale deed in favour of the plaintiff and hence, time is not the essence of the contract.*

11. *The main contention of the plaintiff is that the defendants executed an agreement of sale dated 12/01/2007 in respect of the suit schedule property for a valuable consideration of Rs.84,500/- and that the plaintiff has paid Rs.50,000/- as advance sale consideration. The plaintiff in his examination-in-chief has reiterated the averments of the plaint. As the defendant No.1 did not contest the suit and as the defendants No.2 to 6 remained ex-parte, the oral evidence adduced by the plaintiff remains unchallenged.*

12. *As far as the documentary evidence is concerned, the plaintiff has produced the registered agreement of sale*



dated 12/01/2007 marked as Ex.P-2 which clearly discloses that the defendants No.1 to 6 had executed the said agreement of sale in favour of the plaintiff with respect to the suit schedule property for valuable consideration. The plaintiff has identified his signature as well as the signatures of the defendants No.1 to 6 in Ex.P-2. The plaintiff also examined Sri.L.P Prakash, son of L.P Papannachar as P.W-2 who signed the agreement of sale as a witness and his signature in Ex.P-2 has been marked through him as Ex.P-2(h). The plaintiff examined Sri.Eerathimmaiah, son of late Thimmanaik as P.W-3 who signed the agreement of sale as a witness and his signature in Ex.P-2 has been marked through him as Ex.P-2(i). The plaintiff further examined the scribe of Ex.P-2 Sri.J.M Muthurayappa, son of late K.Mutharayappa as P.W-4 and his signature therein has been marked as Ex.P-2(j). P.W-2 to P.W-4 deposed about the execution of the agreement of sale by the defendants No.1 to 6 in favor of the plaintiff.

13. *The learned counsel for the plaintiff has vehemently argued that plaintiff has proved execution of agreement of sale dated 12/01/2007 and that the plaintiff has proved the payment of advance sale consideration amount to the defendants No.1 to 6. That the plaintiff has*



performed his part of the contract by paying a portion of the sale consideration amount and that the plaintiff was and is always ready and willing to perform his part of the contract but that the defendants No.1 to 6 never came forward to receive balance sale consideration amount and to execute the sale deed in favor of the plaintiff.

14. *On perusal of the oral and documentary evidence on record, it is abundantly clear that the plaintiff has proved the execution of Ex.P-2 as per Section 68 of Indian Evidence Act. The recent R.T.C of the suit schedule property marked as Ex.P-34 appears to be standing in the name of the defendant No.1 as on the date of the suit and appears to have been mutated to his name through the mutation proceedings marked as Ex.P-33. It is further observed that the suit schedule property fell to the share of the defendant No.1 through the compromise arrived at in O.S No.38 of 2016 on the file of the Hon'ble II Additional Senior Civil Judge and J.M.F.C at Tumkur as per Ex.P-3 and Ex.P-5 and the khatha of the suit schedule property was mutated to the name of the defendant No.1 through the mutation proceedings marked as Ex.P-32. The plaintiff has sufficiently proved that he has paid advance amount of Rs.50,000/- out of the total sale*



consideration amount of Rs.84,500/-. Therefore, the due execution of the agreement of sale marked as Ex.P-2 by the defendants No.1 to 6 in his favour has been proved by the plaintiff and in order to prove the readiness and willingness of the plaintiff, the plaintiff has issued a legal notice as per Ex.P.2 and that the said legal notice was duly served on the defendant No.2 as per Ex.P-4.

15. *It is useful to refer the decision in the matter of **Mayawanti v/s. Kushalya Devi [1990 SCC (3) 1]**, wherein the **Hon'ble Apex Court** while interpreting Section 9 of the Specific Relief Act, has observed that there must be a valid and binding contract between the parties in respect of which the parties should be consensus-ad-idem and thus burden of proof lies on the plaintiff seeking specific performance of the contract. In the case at hand, the plaintiff has produced the agreement of sale dated 12/01/2007 executed between the plaintiff and the defendants No.1 to 6. In the said agreement of sale, it is recited that the suit schedule property was agreed to be sold to the plaintiff at the rate of Rs.84,500/-. It is also recited in Ex.P-2 that the plaintiff has paid Rs.50,000/- as advance sale consideration to the defendant. The legal notice marked as Ex.P-17 clearly establishes the fact that the*



plaintiff was and is ready and willing to perform his part of the contract. It is observed that time is not the essence of the agreement of sale marked as Ex.P-2 as the registered sale deed was agreed to be executed after the khatha was mutated to the name of the defendant No.1 from the name of his father and Ex.P-33 and Ex.P-34 discloses that the khatha of the suit schedule property was mutated to the name of the defendant only in the year 2019-20 and the survey number of the suit schedule property was changed from 14/1 to 14/5 in the year 2023-24.

16. *Ex.P-34 is the R.T.C of the suit schedule property and the name of the defendant No.1 is forthcoming in the column No.9 therein. In order to disprove the averments made in the plaint and materials placed on record, there is no contrary evidence as the defendant No.1 has not contested this suit in any manner and as the defendants No.2 to 6 have remained ex-parte throughout the proceedings and therefore, an adverse inference can be drawn against them. On a conjoint perusal of Ex.P-1 to Ex.P-34 in light of the pleadings contained in the plaint and the examination-in-chief by way of affidavit, it is abundantly clear that the defendants No.1 to 6 had agreed to sell the suit schedule property for a valuable*



sale consideration in favour of the plaintiff and received the advance sale consideration of Rs.50,000/- from the plaintiff. It is also abundantly clear that the defendants No.1 to 6 had agreed to execute a registered sale deed in favour of the plaintiff by receiving the balance consideration amount of Rs.34,500/-.

17. *In the absence of any evidence or material to the contrary, this Court finds no reason to disbelieve the case of the plaintiff. As the evidence of the plaintiff remains unchallenged, this Court is of the opinion that the plaintiff has sufficiently proved execution of the registered agreement of sale dated 12/01/2007 by the defendants No.1 to 6 and regarding the readiness and willingness of the plaintiff to perform his part of the contract as well as the failure of the defendants No.1 to 6 to perform their part of the contract. Hence, the Points No.1 to 3 are answered in the **Affirmative**.*

18. Point No.4:*Hence, for the reasons stated and discussed above, this Court proceeds to pass the following:*

ORDER

The suit of the plaintiff is hereby decreed with cost.



The defendants No.1 to 6 are hereby directed to execute a registered sale deed in terms of the agreement of sale dated 12/01/2007 in respect of suit schedule property bearing old Sy.No.14/1 and new Sy.No.14/5 by receiving the balance sale consideration of Rs.34,500/- from the plaintiff with interest @ 6% per annum from the date of the suit till the date of the decree as well as deliver the possession of the suit schedule property to the plaintiff, within three months from the date of this order, failing which the plaintiff is entitled to proceed against the defendants No.1 to 6 as per law.

Office is directed to draw decree accordingly.

*(Dictated to the stenographer, typed by her and then corrected by me and pronounced in the open court on this the **10th day of October 2025**).*

(SACHIN P.M)
III Addl. Civil Judge & J.M.F.C.
Tumakuru



ANNEXURE

1. List of witnesses examined for the plaintiff:

- P.W.1 : D.Bhaskar ;*
P.W.2 : L.P. Prakash ;
P.W.3 : Erathimmaiah ;
P.W.4 : J.M. Mutharayappa ;

2. List of documents exhibited for the plaintiff:

- Ex.P-1 : Special Power of Attorney dated 21/02/2023;*
Ex.P-2 : Unregistered agreement of sale dated 12/01/2007;
Ex.P-3 : Certified copy of the entire order sheet in O.S No.38 of 2016 on the file of the Hon'ble II Additional Senior Civil Judge and J.M.F.C at Tumkur;
Ex.P-4 : Certified copy of the amended plaint in O.S No.38 of 2016 ;
Ex.P-5 : Certified copy of the compromise petition filed in O.S No.38 of 2016 ;
Ex.P-6 to 11: Certified copies of old manual R.T.Cs.;
Ex.P-12 to 14: Bank pay-in-slips;



Ex.P-15 & 16 : Computerized R.T.Cs pertaining to the suit schedule properties;

Ex.P-17 : Legal notice dated 12/07/2022;

Ex.P-18 to 23: Postal receipts;

Ex.P-24 & 25: Postal acknowledgment cards;

Ex.P-26 : Reply notice dated 20/07/2022;

Ex.P-27 -30 : Postal envelope covers ;

Ex.P-27(a) -30(a): Corresponding copies of the legal notice;

Ex.P-31 : Health record and medical certificates.;

Ex.P-32 &33: Computerized mutation extracts;

Ex.P-34 : Computerized R.T.C pertaining to the suit schedule property;

3. List of witnesses examined for the defendant:

- NONE -

4. List of documents exhibited for the defendant:

- NIL -

(SACHIN P.M)
III Addl. Civil Judge & J.M.F.C.
Tumakuru