APHC010624472011

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3397]
(Special Original Jurisdiction)

WEDNESDAY,THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

SECOND APPEAL NO: 1251/2011

Between:

Sri Raja Velugoti Madana Gopala Krishna Yachendra Died and Others **...APPELLANT(S)**

AND

Padidam Jayasree and Others **...RESPONDENT(S)**

Counsel for the Appellant(S):

1. M RAVINDRA

Counsel for the Respondent(S):

1. P SRI RAM

The Court made the following:

Reserved on 31.03.2026
Pronounced on 15.04.2026
Uploaded on 15.04.2026

HONOURABLE SRI JUSTICE V. GOPALA KRISHNA RAO

SECOND APPEAL No.1251 of 2011

JUDGMENT:

This second appeal under Section 100 of the Code of Civil Procedure (for short, 'C.P.C.') is filed aggrieved against the decree and judgment dated 07.06.2011 in A.S.No.05 of 2005 on the file of the Court of learned III Additional District Judge (FTC) Nellore, (for short, 'the first appellate Court'), in reversing the decree and judgment dated 17.11.2004 in O.S.No.49 of 1994 on the file of the Court of learned Senior Civil Judge, Gudur, (for short, 'the trial Court').

2. The appellant herein is the defendant and the respondents herein are the plaintiffs before the trial Court. The sole-appellant died during the pendency of the second appeal and the appellant No.2 is added as the Legal Representative of the deceased sole-appellant.

3. The plaintiff initiated action in O.S.No.49 of 1994, on the file of the trial Court with a prayer for specific performance of agreement of sale directing the defendant to execute a regular sale deed in favour of the plaintiffs basing on the agreement of sale dated 02.12.1991.

4. The trial Court dismissed the suit. Felt aggrieved of the same, the unsuccessful plaintiffs in the above said suit filed A.S.No.05 of 2005 on the file of the first appellate Court. The defendant filed cross appeal No.05 of 2005 in A.S.No.05 of 2005, to challenge certain findings. By decree and common

judgment dated 07.06.2011 in A.S.No.05 of 2005, the first appellate Court allowed the appeal suit by setting aside the decree and judgment passed by the trial Court and the cross appeal was dismissed by the First Appellate Court.

5. For the sake of convenience, both parties in the second appeal will be referred to as they were arrayed in the original suit.

6. Case of the plaintiffs, in brief, as set out in the plaint averments in O.S.No.49 of 1994, is as follows:

The plaintiffs pleaded that on 02.12.1991, the defendant agreed to sell the schedule mentioned property to the plaintiffs for a valuable consideration of Rs.1,72,000/- and received the entire consideration on the same date and delivered possession of the schedule mentioned property to the plaintiffs on the same date. The defendant inter alia agreed to execute the requisite sale deed in favour of the plaintiffs at their expense whenever demanded by them. The plaintiffs further pleaded that despite of repeated demands and after issuance of the registered notice dated 26.02.1994, the defendant failed to comply with the demand and on the other hand the defendant issued a reply notice dated 05.03.1994 by denying the execution of the said agreement and making other false allegations. Hence, the present suit.

7. The defendant filed written statement before the trial Court. The brief averments in the written statement filed by the defendant are as follows:

The defendant pleaded that the agreement of sale dated 02.12.1991 mentioned in the plaint is a rank forgery and the defendant did not receive any consideration from the plaintiffs and the defendant did not deliver the possession of the plaint schedule land to the plaintiffs. The defendant further pleaded that the market value of the plaint schedule property is about Rs.4,00,000/- per acre and as per the basic value register maintained at the Sub-Registrar's Office is Rs.3,00,000/- per acre. The defendant further pleaded that the Sy.No.158 of Periavaram Village is of an extent of Ac.23.25 cents and not Ac.8.25 cents as mentioned in the plaint schedule. The defendant further pleaded that it is vague as no boundaries were mentioned in the plaint schedule or in the alleged agreement of sale dated 02.12.1991, and as such, there cannot be any delivery of possession of the land as the land was not identified and as such the delivery of possession of land does not arise at all.

The defendant pleaded that the agreement of sale filed in the Court is not one which was produced before the Sub-Collector, Gudur and the proceedings do not relate to this suit agreement and the subsequent incorporation of the proceedings of the previous Sub-Collector, Gudur by the present R.D.O., Gudur. The defendant further pleaded that the agreement itself mentions the pendency of the proceedings relating to the lands of this defendant and other members of the family under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. The defendant further pleaded that the plaintiffs are aware that the lands mentioned in the alleged agreement

of sale are affected by the Land Ceiling Act and the agreement of sale is null and void as per Section 17 of the said Act. The defendant pleaded that if the agreement of sale is null and void, it is unenforceable as per Section 23 of the Indian Contract Act, being unlawful and forbidden by law and as such the plaintiffs cannot seek specific performance of the alleged agreement of sale.

The defendant further pleaded that by the date of the alleged agreement of sale, the Government of Andhra Pradesh was in possession of the land covered in Sy.No.159 of Perivaram Village, in pursuance of the order of the Land Reforms Tribunal, Nellore dated 29.11.1982. The defendant further pleaded that the Government actually took possession of the land on 26.03.1983 and continued in possession till the proceedings of the Land Reforms Tribunal, Nellore was set aside by the Land Reforms Appellate Tribunal, Nellore on 11.01.1993 in L.R.No.2 of 1989 and therefore, no possession could have been delivered to the plaintiffs on the date of the alleged agreement of sale and the plaintiffs were never in possession of the land much less on the date of the suit and as such, he requested for the dismissal of the suit.

8. On the basis of above pleadings, the trial Court framed the following issues for trial:

1. Whether the agreement of sale dated 02.12.1991 is true, valid and binding on the defendant?
2. Whether the wife of the defendant is having any right in the suit property?

3. To what relief the plaintiffs are entitled to?

On 23.11.2000, the trial Court framed the following additional issues:

1. Whether the suit is maintainable on the agreement of sale dated 02.12.1991 which is subsequent to the passing of A.P. Land Reforms (Ceiling on agricultural holdings) Act of 1973 and by virtue of Section 17 of the said Act?

9. During the course of trial in the trial Court, on behalf of the plaintiffs, P.W.1 to P.W.4 were examined and Ex.A-1 to Ex.A-49 were marked. On behalf of the defendant, D.W.1 and D.W.2 were examined and Ex.B-1 to Ex.B-4 and Ex.X-1 to Ex.X-11 were marked.

10. The learned trial Judge after conclusion of trial, on hearing the arguments of both sides and on consideration of oral and documentary evidence on record, dismissed the suit. Felt aggrieved thereby, the unsuccessful plaintiffs filed the appeal suit in A.S.No.05 of 2005, wherein the following points came up for consideration:

1) Whether the agreement of sale dated 02.12.1991 is true, valid and binding on the defendant?
2) Whether the wife of the defendant has right in the suit schedule property?
3) Whether the agreement of sale Ex.A-1 is null and void in view of Section 17 of the Andhra Pradesh Land Reforms (ceiling on agricultural holding) Act?
4) Whether this appeal is liable to be allowed if so on what ground? and

5) To what relief?

11. The learned first appellate Judge after hearing the arguments, answered the points, as above, against the defendant and allowed the appeal by setting aside the judgment and decree passed by the learned trial Judge. Felt aggrieved of the same, the unsuccessful defendant in O.S.No.49 of 1994 filed the present second appeal before this Court.

12. On hearing both sides, at the time of admission of the second appeal on 23.07.2012, the Composite High Court of Andhra Pradesh, at Hyderabad, framed the following substantial questions of law:

1. *Whether the decree of the appellate Court granting specific performance is erroneous and ignoring the settled principles of granting of the discretionary relief when part of the claim of the plaintiffs with regard to the possession of the property is not believed?*
2. *Whether the decree of the specific performance is equitable in the interest of the parties and the circumstances?*

On hearing learned counsel appearing for both sides, this Court on 27.11.2025 framed the following additional substantial question of law:

1. *Whether the First Appellate Court has not considered the presumption under Section 114 of the Indian Evidence Act which contemplates that when the parties failed to appear into the witness box to submit for cross examination, a presumption can be drawn that the case set up by them is false?*

2. *Whether the Appellate Court has erred in reversing finding of the trial Court that Ex.A-21 is not valid as per Section 17 of the Andhra Pradesh Land Ceiling Act?*

13. Heard Sri M.Ravindra, learned counsel appearing for the appellant/defendant, and Sri Pathanjali Pamidigattam, learned counsel, representing Sri P.Sri Ram, learned counsel for the respondents/plaintiffs.

14. Law is well settled that under Section 100 of C.P.C., the High Court cannot interfere with the findings of fact arrived at by the first appellate Court which is the final Court of facts except in such cases where such findings were erroneous being contrary to the mandatory provisions of law, or its settled position on the basis of the pronouncement made by the Apex Court or based upon inadmissible evidence or without evidence.

15. Learned counsel for the appellant would contend that Ex.A-1 agreement is not proved in accordance with law. As seen from the evidence on record, the plaintiffs, to discharge their liability, relied on Ex.A-1 agreement of sale said to have been executed by the defendant in favour of the plaintiffs. The plaintiffs relied on the evidence of P.W.1 to P.W.4. P.W.1 is the handwriting expert who examined the suit document and gave opinion that Ex.A-1 is a genuine document. P.W.2 is the husband of plaintiff No.1 who deposed in evidence on behalf of all the plaintiffs. P.W.3 is one of the attestors to the suit agreement. P.W.4 is the scribe of the suit agreement.

16. The evidence of P.W.3 goes to show that he is one of the attestors to the suit agreement and the suit agreement was executed in the room of the defendant in a palace at Venkatagiri and at the time of execution of the agreement of sale, himself, Chennaiah, scribe, K. Pappaiah, P.W.2 and his brothers were present and P.W.2 paid entire consideration to the defendant. P.W.4 is the scribe of Ex.A-1 agreement of sale. As per his evidence, the defendant executed Ex.A-1 agreement in favour of the wives of the Padidam people i.e., P.W.2 and his brothers and the defendant received an amount of Rs.1,72,000/- and signed on the agreement of sale in his presence and Ex.A-1 is the agreement of sale dated 02.12.1991 said to have been executed by the defendant in favour of the plaintiffs. It is not the case of the defendant that due to enmity P.W.3 and P.W.4 deposed falsehood against the defendant.

17. The suit document was sent to the handwriting expert on the application filed by the plaintiffs and P.W.1 Ashok Kashyap, who is a handwriting expert, opined that after due verification of the documents under Ex.A-12 to Ex.A-15, the chits issued by the defendant and his signatures were taken in the open Court and admitted the signatures of Vakalat, written statement, and the disputed signatures are marked as Ex.A-21 to Ex.A-29 and the admitted signatures are marked as Ex.A-30 to Ex.A-38. He came to a conclusion that the disputed signatures are again marked as Ex.A-39 to Ex.A-45 and specified signatures of the defendant is Ex.A-42 to Ex.A-48. P.W.1 categorically deposed that the signatures on Ex.A-1 are that of the defendant. Ex.A-49 is

the opinion given by P.W.1. The evidence of P.W.3 and P.W.4 is well corroborated by the evidence of P.W.1. The learned counsel for the appellant contended that the opinion of the handwriting expert cannot be taken into consideration to arrive at the conclusion that Ex.A-1 is a genuine document. As noticed supra, the evidence of P.W.1 together with Ex.A-45 expert report is well corroborated by the evidence of P.W.3 and P.W.4, who are the attestor and scribe of Ex.A-1 agreement of sale. Moreover, P.W.2, who is the husband of plaintiff No.1, also narrated in his evidence that after execution of Ex.A-1 agreement of sale, the defendant received the entire sale consideration under Ex.A-1 on the date of Ex.A-1.

18. To prove the readiness and willingness, the plaintiffs relied on Ex.A-2, copy of legal notice said to have been given by the plaintiffs through their Advocate dated 26.02.1994 and Ex.A-3 is the reply notice dated 05.03.1994 said to have been issued by the defendant.

19. Learned counsel for the appellant would contend that the First Appellate Court has not considered the presumption under Section 114 of the Indian Evidence Act, that "*when a party fails to appear in the witness box and submit to cross-examination, a presumption can be drawn that a case set up by them is false".*

20. Learned counsel for the appellant placed a case law in ***Vidhyadhar Vs. Manikrao & Anr.***[1]***,*** wherein the Hon'ble Apex Court held as follows:

[1] **(1999) 3 SCC 573**

> *"16. Where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case set up by him is not correct as has been held in a series of decisions passed by various High Courts and the Privy Council beginning from the decision in* ***Sardar Gurbakhsh Singh v. Gurdial Singh and Anr.*** *. This was followed by the Lahore High Court in* ***Kirpa Singh v. Ajaipal Singh and Ors. AIR (1930) Lahore 1*** *and the Bombay High Court in* ***Martand Pandharinath Chaudhari v. Radhabai Krishnarao Deshmukh AIR (1931) Bombay 97****. The Madhya Pradesh High Court in* ***Gulla Kharagjit Carpenter v. Narsingh Nandkishore Rawat*** *also followed the Privy Council decision in* ***Sardar Gurbakhsh Singh's case*** *(supra). The Allahabad High Court in* ***Arjun Singh v. Virender Nath and Anr****. held that if a party abstains from entering the witness box, it would give rise to an inference adverse against him. Similarly, a Division Bench of the Punjab & Haryana High Court in Bhagwan* ***Dass v. Bhishan Chand and Ors.*** *, drew a presumption under Section 114 of the Evidence Act against a party who did not enter into the witness box."*

21. The ratio laid down in the aforesaid case law has no dispute. In the present case, plaintiff No.1 is the wife of P.W.2. Plaintiff No.2 is none other than the wife of the brother of P.W.2. Plaintiff No.3 is the wife of another brother of P.W.2. As per the evidence of P.W.2, he knows about the suit schedule properties and in his presence, Ex.A-1 agreement of sale was executed by the defendant in favour of all the three plaintiffs and the defendant agreed to sell the suit schedule property for Rs.1,72,000/- and he arranged the said transaction between the parties. He further asserted that the said agreement of sale was written in the personal room of the defendant in his palace and at the time the scribe and the attestors were present and both the attestors attested the agreement of sale and the scribe prepared Ex.A-1 agreement of sale. Section 120 of the Indian Evidence Act enables P.W.2 to give evidence on behalf of his wife. As per Section 120 of the Indian Evidence Act, especially in civil suits, either the wife or husband shall be a competent witness. In cross-examination, nothing was elicited from P.W.2 by the

defendant as to how he was deprived of non-examination of any of the plaintiffs as witnesses. For the aforesaid reasons, I am of the considered view that P.W.2 is a competent witness to give evidence on behalf of the plaintiffs in the present suit. Both the Courts below have arrived at a concurrent finding that P.W.2 is a competent person to depose the facts of the suit on behalf of the plaintiffs. Therefore, I do not find any illegality in the said finding arrived at by both the Courts below. Moreover, to prove the recitals of Ex.A-1 agreement of sale, the plaintiffs also relied on the evidence of the expert P.W.1 together with the evidence of attestor P.W.3 and scribe P.W.4. The evidence of P.W.3 and P.W.4 is consistent and cogent with regard to the execution of Ex.A-1 agreement of sale by the defendant in favour of the plaintiffs and also receipt of total sale consideration from the plaintiffs on the date of Ex.A-1 agreement of sale. The oral evidence of P.W.3 and P.W.4 is well supported by P.W.1 to show that the signatures on Ex.A-1 are that of the defendant.

22. The learned counsel for the appellant would contend that Ex.A-1 cannot be treated as an agreement of sale; it is a usufructuary mortgage. The recitals in Ex.A-1 clearly goes to show that the defendant agreed to sell the plaint schedule property to the plaintiffs on 02.12.1991 and he intended to alienate the suit schedule property for his family benefits and the suit schedule property is his exclusive property and he received the entire sale consideration of Rs.1,72,000/- on the date of Ex.A-1 agreement of sale. In the said document, it was further recited that he is ready to execute a sale deed as and when demanded by the plaintiffs. The recitals in Ex.A-1 indicate that it

is an agreement of sale and not a usufructuary mortgage. For the aforesaid reasons, Ex.A-1 agreement of sale is proved by the plaintiffs. Both the Courts, after carefully analyzing the entire evidence on record, came to a concurrent finding that Ex.A-1 is proved in accordance with law.

23. Learned counsel for the appellant would contend that the First Appellate Court came to a wrong conclusion and held that Ex.A-1 is a valid document and is not a void document as per Section 17 of the A.P. Land Ceiling Act.

24. As seen from the judgment of the trial Court, it held that "*during the pendency of the appeal before the Land Reforms Appellate Tribunal, the defendant agreed to alienate the plaint schedule property to the plaintiff under Ex.A-1 without declaring his unit by the competent authority and that such alienation is hit under Section 17 of the Act and as such under Section 23 of the Indian Contract Act, Ex.A-1 is not enforceable under law"*. As per the evidence of D.W.2, the Divisional Administrative Officer, Sub-Collector Office, Gudur, on 14.12.1982, Ac.36.57 cents of land in Sy.Nos.158 and 159 of Periavaram Village was held by the family of the defendant and accordingly proceedings under Ex.X-3 dated 04.12.1982 were issued and possession of Ac.30.72 cents was taken by the Government on 26.03.1983. He further deposed that on 04.12.1983, the remaining extent of Ac.5.87 cents was taken and on 24.01.1984 an additional extent of Ac.5.84 cents was also taken by the Government. He further deposed that the declarant filed a writ petition against taking possession of the lands and the same was disposed of with liberty to file appeal. The defendant filed L.R.No.2 of 1989 before the Land Reforms

Appellate Tribunal, Nellore, which was disposed of on 11.01.1993 under Ex.X-7. He further deposed that the orders under Ex.X-3 and Ex.X-5 were set aside and the Revenue Department was directed to take surrender afresh. Thereafter, the wife of the defendant surrendered lands at Racherla Village under Ex.X-8. He further deposed that under Section 10, "*when land of a female member is taken, that property alone has to be surrendered and for excess land the male member has to give alternative land*". In cross-examination, D.W.2 admits that under Ex.X-8, the wife of the defendant was willing to surrender Ac.52.92 cents at Racherla Village, but she actually surrendered only Ac.19.91 cents. He further admits that rectification deeds were not produced. He further admits that taking of possession of lands at Periavaram Village was cancelled by the Land Reforms Appellate Tribunal. He further admits that Ac.06.01 cents of land was in possession of the Government and remaining Ac.08.00 cents in Sy.No.158 stood in the name of the defendant. In Ex.A-1 itself it was mentioned about the filing of L.R.No.2 of 1989 and further mentioned that if the said appeal is dismissed, the plaintiffs would be entitled to receive compensation from the Government.

25. The evidence of D.W.2 clearly shows that the land in Periavaram Village was taken over by the Government under Ex.X-3 and Ex.X-5 proceedings, subsequently, those proceedings were set aside by the Land Reforms Appellate Tribunal in L.R.No.2 of 1989 and the Revenue Authorities were directed to take surrender afresh. Thereafter, the wife of the defendant surrendered Ac.19.91 cents at Racherla Village, and the lands at Periavaram

Village were free from land ceiling limits. L.R.No.2 of 1989 was allowed on 11.01.1993, i.e., prior to the filing of the suit. Therefore, by the date of filing of the suit, the plaint schedule property was free from land ceiling limits. The suit schedule land situated in Sy.No.159 of Periavaram Village was deleted from ceiling computation in view of the order dated 11.01.1993. Thus, the defendant had right, title, and possession over the suit schedule property. The lands of the defendant were not reconveyed by any registered document to the wife of the defendant after surrender of land at Racherla Village, and no evidence was produced by the defendant to prove the same. Therefore, it is evident that the lands at Periavaram Village remained in the possession of the defendant.

Ex.A-6 to Ex.A-10 goes to show that the defendant alone exercised rights over the plaint schedule property. In view of the orders passed by the Land Reforms Appellate Tribunal, Ex.X-3 and Ex.X-5 proceedings were set aside. The trial Court wrongly held Ex.A-1 is void, without considering the subsequent events. Thus, by the date of filing of the suit in 1994, the plaint schedule property was free from land ceiling limits, but the trial Court ignored the same.

26. The learned counsel for the appellant placed a case law of a Single Bench of the Composite High Court of Andhra Pradesh in ***P.Parameshwar Yadav Vs. A.P. Rep. by Sp. Tahsildar (Land Reforms) R.R. Dist. Collector, R.R. District, Khairathabad, Hyderabad***[2] and the appellant contended that

[2] **1988 LawSuit (AP) 446**

an agreement of sale entered into by the parties during land ceiling proceedings is void as per Section 17(2) of the Land Ceiling Act, 1973. But, the evidence on records shows that the acquisition of the plaint schedule property and other lands of the defendant were challenged by the defendant/appellant before the Land Reforms Appellate Tribunal and the said L.R.No.2 of 1989 was allowed and directed the Revenue Department to take a surrender afresh and accordingly, the wife of the defendant surrendered the lands at Racherla Village and the plaint schedule property and the other land at Periavaram Village are free from land ceiling limits. Moreover, no registered sale deed was executed by the defendant in favour of the plaintiffs.

27. The Composite High Court of Andhra Pradesh in ***Rapeti Veerinaidu Vs. Thota Gangadhara Rao and Ors.,***[3]**,** held as follows:

> "**16**. The lower appellate Court relied upon a decision of the Division Bench of this Court in C.Ramaiah v. Mohammadunnisa Begum (supra), where the Division Bench while considering the prohibition of alienation contained in A.P. Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 held that a suit for specific performance of an agreement of sale was not maintainable in view of the Doctrine of frustration of contract which became impossible of performance. But this judgment came to be considered by a Full Bench of this Court in K.Venkateswarlu v. K. Pedda Venkaiah (supra) and the judgment of the Division Bench was specifically overruled. It was specifically held by the Full Bench that the prohibition contained under the said Act does not apply to an agreement of sale. The Full Bench expressed the view following the judgment of the Supreme Court in Babulal v. Hazari Lal Kishori Lal MANU/SC/0049/1982 : [1982]3SCR94 that neither a contract of sale nor a decree passed on that basis for specific performance of the contract gives any right or title to the decree holder and the right and title

[3] **MANU/AP/0198/2006**

> passes to him only on an execution of a deed of sale either by the judgment-debtor himself or by the Court itself in case he fails to execute the sale deed, therefore, the said transactions referred to above would not come within the prohibition of transfer."

The Composite High Court of Andhra Pradesh in the aforesaid case law further held as follows"

> "**18**. If we consider the facts of the case in the light of the above decisions, the lower appellate Court erroneously reversed the judgment and decree of the trial Court on the premise that the agreement entered into by the plaintiff with the defendant is attracted by the prohibition contained under Section 17 of the Act, relying upon a decision of the Division Bench judgment of this Court C. Ramaiah v. Mohammadunnisa Begum, (supra) which was later overruled by a decision of the Full Bench in K. Venkateswarlu v. K. Pedda Venkaiah, (supra). Therefore, on the face of it, the judgment under appeal is not sustainable. Apart from that, the other decisions relied upon by the learned Counsel for the appellants clearly supports their case that any such agreements or decrees that are passed between the parties, though are not binding on the State, but are valid inter se between the parties. Further, the defendant having entered into an agreement and received substantial portion of the consideration, cannot be permitted to take the protection of law, which is intended for a different purpose, to defeat the rights of the purchaser under the agreement for his own benefit."

28. For the aforesaid reasons, I am of the considered view that there is no subsistence in the contention of the learned counsel for the appellant that Ex.A-1 is void. Therefore, Section 17 of the Land Ceiling Act, 1973 is not applicable to the present case, in view of the subsequent events that were happened i.e. after allowing the appeal of the defendant by the Land Reforms Appellate Tribunal, the acquisition proceedings under Ex.X-3 to Ex.X-5 were cancelled, therefore, the plaint schedule property is now free from the land ceiling limits. Both the Courts below concurrently held that ***"Ex.A-1***

agreement is proved and it is a true document and identification of the property is not in dispute". Both the Courts also concurrently held that the entire sale consideration was received by the defendant under Ex.A-1 agreement of sale and Ex.A-1 agreement of sale was sent to the Collector for impounding the document and the acquisition of the suit schedule property by the Government was set aside by the Land Reforms Appellate Tribunal in the year 1993. Subsequently, the wife of the appellant surrendered her landed property at Racherla Village and the plaint schedule property and the other lands of the defendant are free from land ceiling limits. Both the Courts also arrived at the concurrent finding and held that no document was executed by the defendant showing that he had re-conveyed his properties to his wife after surrendering the lands by the wife of the defendant. Even as per the evidence of D.W.2, Government Official, no registered document was executed by the defendant in favour of his wife to re-convey his landed property after she surrendered her lands at Racherla Village. Therefore, the concurrent findings arrived at by both the Courts below, as noticed supra, need not be disturbed and there is no perversity in the said concurrent findings.

29. Learned counsel for the appellant would contend that the First Appellate Court committed a grave error in granting the relief of specific performance of the agreement of sale and ignored the settled principles governing the grant of the discretionary relief of specific performance of an agreement of sale.

30. The learned counsel for the appellant placed a case law in Learned counsel for the appellant placed a case law in ***Vidhyadhar Vs. Manikrao & Anr.***[4]

The ratio laid down in the aforesaid case law relates to mortgage by condition sale, but not in respect of the agreement of sale.

31. The learned counsel for the appellant also placed another case law in***,Pawan Kumar Dutt & Anr., Vs. Shakuntala Devi & Ors.***[5] wherein the Hon'ble Apex Court held as follows:

> "7. In the case of Kartar Singh Vs. Harjinder Singh & Ors., 1990 3 SCC 517, it is held that where a joint property is sold by one co-sharer, such an agreement could be enforced to the extent of the share of the person who executed the document.
>
> 8. …..The Courts are not expected to pass a decree which is not capable of enforcement in the Courts of law."

In the present case, both the Courts below concurrently held that it is not difficult to identify the suit schedule property on ground.

32. The learned counsel for the appellant also placed another case law in ***Jayakantham and Others Vs. ABaykumar.***[6]**,** wherein the Hon'ble Apex Court held as follows:

> **"9.5** A Bench of three Judges of this Court considered the position in Nirmala Anand Vs. Advent Corporation (P) Ltd. and Ors.[5], and held thus :
>
> > "…..6. It is true that grant of decree of specific performance lies in the discretion of the court and it is also well settled that it is not always necessary to grant specific performance simply for the reason that it is legal to do so. It is further well settled that

[4] **(1999) 3 SCC 573**
[5] **2003 LawSuit (SC) 1565**
[6] **(2017) 5 Supreme Court Cases 178**

> the court in its discretion can impose any reasonable condition including payment of an additional amount by one party to the other while granting or refusing decree of specific performance. Whether the purchaser shall be directed to pay an additional amount to the seller or converse would depend upon the facts and circumstances of a case. Ordinarily, the plaintiff is not to be denied the relief of specific performance only on account of the phenomenal increase of price during the pendency of litigation."

In the present case, in the year 1991 itself, the plaintiff received a substantial amount of Rs.1,72,000/- under Ex.A-1 agreement of sale and the entire sale consideration under Ex.A-1 was received by the defendant, except execution of registered sale deed. In those days i.e. about thirty five (35) years ago, an amount of Rs.1,72,000/- was a substantial amount and it is not a small amount.

33. The learned counsel for the appellant also placed another case law in ***Muddam Raju Yadav Vs. B.Raja Shanker (D) Through Lrs. & Ors.,*** wherein the Hon'ble Apex Court held as follows:

> *"12. In a suit for specific performance, the conduct of the parties is significant as it assists the Court in evaluating the evidence to find out the bona fides of the parties at the time of execution of the agreement. Even a slight doubt in the mind of the Court that the plaintiff was not acting bonafidely and that the material facts, having bearing on the agreement, have been withheld in the agreement itself and from the Court also, the equitable and discretionary relief has to be denied. A plaintiff approaching the Court with uncleaned hands, like in the present case-the plaintiff having withheld the document i.e., MoU (Exhibit B-2), as the same was nowhere mentioned in the plaint, the present was a fit case for denial of relief of specific performance."*

In the present case, the defendant having received the total sale consideration under Ex.A-1 agreement of sale and after receiving the total amount of Rs.1,72,000/-, in those days, i.e., in the year 1991, about thirty-five (35) years ago, the appellant has taken a false contention that Ex.A-1 is a void

document in view of the acquisition of the land by the Government under the A.P. Land Ceiling Act by the date of Ex.A-1. The defendant had taken false defence in the written statement and the plaintiffs approached the Court with clean hands.

34. The learned counsel for the appellant placed another case law in ***P.Parameshwar Yadav Vs. A.P. Rep. by Sp. Tahsildar (Land Reforms) R.R. Dist. Collector, R.R. District, Khairathabad, Hyderabad***[7]***.*** The learned counsel for the appellant also placed another case law in ***Badireddy Avatar Maher Baba Vs. Tallapu Nagaraju (Dead) By Lrs.***[8]***.***

In the present case, the appellant herein filed an appeal before the Land Reforms Appellate Tribunal to challenge the acquisition proceedings under Ex.X-3 and Ex.X-5. The said proceedings were set aside by the Land Reforms Appellate Tribunal. Even by the date of filing of the suit, the plaint schedule property was in the possession of the appellant herein.

35. *The parameters for the exercise of discretion vested by Section 20 of the Specific Relief Act, 1963 cannot be entrapped within the precise expression of language and the contours thereof will always depend on the facts and circumstances of each case. The ultimate guiding test would be the principles of fairness and reasonableness as may be dictated by the peculiar facts of any given case, which features the experienced judicial mind can perceive without any real difficulty. The principles which can be enunciated is*

[7] **1988 LawSuit (AP) 446**
[8] **(2010) 14 Supreme Court Cases 786**

that where the plaintiff brings a suit for specific performance of contract of sale, the law insists a condition precedent to the grant of decree for specific performance, that the plaintiff must show his continued readiness and willingness to perform his part of the contract in accordance with its terms from the date of contract to the date of hearing. In the present case, the suit is filed within the period of limitation and the plaintiffs issued a legal notice under Ex.A-2 to the defendant by demanding to execute a registered sale deed, thereafter the defendant issued a reply notice denying the contents of the legal notice. By giving cogent reasons, the trial Court also held in its judgment that Ex.A-1 is a valid document, even though possession was not delivered to the plaintiffs under Ex.A-1, on that ground Ex.A-1 cannot be doubted, and the learned trial Judge held in its judgment that Ex.A-1 agreement is true and Ex.A-1 is proved. By giving cogent reasons the First Appellate Court rightly granted the main relief of specific performance of agreement of sale.

36. For the aforesaid reasons, in the light of the material on record and upon earnest consideration, it is manifest that the substantial questions of law, including the additional substantial questions of law raised in the course of hearing in the second appeal on behalf of the appellant, did not arise or remain for consideration. This Court is satisfied that this second appeal did not involve any substantial question of law for determination.

37. In the result, the second appeal is dismissed, confirming the judgment and decree passed by the First Appellate Court.

Pending applications, if any, shall stand closed. Each party do bear their own costs in the second appeal.

V. GOPALA KRISHNA RAO, J.

Date: 15.04.2026

SRT

Note:
Issue C.C. by 22.04.2026.