



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 24TH DAY OF FEBRUARY, 2026
PRESENT
THE HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
REGULAR FIRST APPEAL NO.1368/2025 (SP)

BETWEEN:

SRI. R.M. PARAMJOEDHI
S/O LATE MUNIRATHNAM
AGED ABOUT 76 YEARS
R/AT NO.793, 15TH CROSS
2ND STAGE, 49TH MAIN ROAD
KUMARASWAMY EXTENSION
BANGALORE - 78.

...APPELLANT

(BY SRI. ASHOK KUMAR K.R. ADV.,)

AND:

1. SRI. MANJU
S/O LATE VENKATASWAMIAIAH
AGED ABOUT 59 YEARS.
2. SMT. SUDHA
W/O MANJU
AGED ABOUT 46 YEARS.
3. SRI. KIRAN KUMAR
S/O MANJU
AGED ABOUT 32 YEARS.
4. SMT. KAVYA
W/O KIRAN KUMAR





AGED ABOUT 28 YEARS.

5. SRI. ARUN KUMAR
S/O MANJU
AGED ABOUT 30 YEARS.

ALL ARE R/AT. AGARA VILLAGE
MALLIGEMETLU POST, MARALAWADI HOBLI
HAROHALLI TALUK
(EARLIER KANAKAPURA TALUK)
RAMANAGARA DISTRICT.

...RESPONDENTS

(BY SRI. VENKATESHA D.V. ADV., FOR R1
R2 TO R5 SERVICE OF NOTICE IS D/W V.C.O.DTD:23.07.2025)

THIS RFA IS FILED UNDER SEC.96 OF CPC., 1908,
PRAYING TO CALL FOR THE RECORDS OF THE CASE
O.S.NO.849/2024 ON THE FILE OF SENIOR CIVIL JUDGE AND
JMFC, KANAKAPURA AND SET ASIDE THE JUDGMENT DATED
25.04.2025 AND HOLDING THE REJECTION OF PLAINT IS
LIABLE TO BE SET ASIDE & ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON
17.02.2026, COMING ON FOR PRONOUNCEMENT OF
JUDGMENT, THIS DAY **VIJAYKUMAR A. PATIL J.**, DELIVERED
THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This regular first appeal is filed under Section 96 of the Code of Civil Procedure, 1908, (for short 'the CPC') by the plaintiff challenging the judgment and decree dated 25.04.2025 passed in O.S.No.849/2024 by the Senior Civil Judge and JMFC, Kanakapura (for short 'the Trial Court').

2. The parties are referred to as per their ranking before the Trial Court.

3. The brief facts leading to filing of the appeal are that the plaintiff filed a suit in O.S.No.849/2016 seeking the relief of specific performance of the agreement of sale dated 08.02.2018. In the said suit, defendant No.1 filed an application seeking rejection of plaint on the ground that the plaint was beyond the period of limitation. The Trial Court, on consideration of the material on record and provisions of law proceeded to allow the application and rejected the plaint on the ground that it was beyond



the period of limitation. Being aggrieved, this appeal is filed.

4. Sri.Ashok Kumar K.R., learned counsel appearing for the appellant/plaintiff submits that the Trial Court has committed a grave error in allowing the application of defendant No.1 without appreciating the material on record in its proper perspective. It is submitted that the Trial Court failed to take note of the fact that as per the agreement of sale, there was a mutual obligation between the parties, wherein the defendants were required to make available relevant documents for registration of sale deed. It is further submitted that only after the relevant documents were produced, the question of payment of balance sale consideration by the plaintiff would arise. It is also submitted that the period of limitation would only start from the date of production of the relevant documents for registration and the time mentioned in the agreement is not the essence of contract. It is contended that in the instant case time is



not of the essence and the limitation for filing a suit only begins from the date of refusal i.e September, 2024. In support of his contention, he relied on the decision of the Hon'ble Supreme Court in the case of ***R.Kandasamy(since Dead) and Ors v T.R.K.Sarawathy & Another***¹ Hence, he seeks to allow the appeal.

5. *Per contra*, Sri.Venkatesha D.V, learned counsel appearing for respondent No.1 supports the impugned order of the Trial Court and submits that the Trial Court has rightly appreciated the law on point and proceeded to reject the plaint on the ground of limitation. It is submitted that the Trial Court has rightly considered the point that the suit was not filed within the period of limitation of 3 years as contemplated in the part of Article 54 of the Limitation Act, 1963 (hereinafter referred to as the '*Limitation Act*'). Since a period of one year was stipulated in the agreement from 08.02.2018 for

¹ Civil Appeal No.3015/2013 dtd 21.11.2024



completion of the transaction, limitation begins to run from 07.02.2019, according to which the suit was required to be filed on or before 07.02.2022. The said finding is after rightly appreciating the law on limitation and it does not call for interference. Hence, he seeks to dismiss the appeal.

6. We have heard the arguments of the learned counsel for the appellant/plaintiff, the learned counsel for respondent No.1 and meticulously perused the material available on record. We have given our anxious consideration to the submissions advanced on both the sides.

7. The point that arises for our consideration is:

"Whether the impugned judgment and decree calls for any interference?"

8. The material on record indicates that defendants are the owners of land bearing Sy.No.50/1 measuring 2 acres 0.18 guntas. The defendants entered



into an agreement of sale with the plaintiff dated 08.02.2018 for a consideration of Rs.31,23,750/-. The defendants also received an advance sale consideration of Rs.10,00,000/- on the day of the agreement and further a sum of Rs.2,00,000/- on 19.12.2018. The defendants had agreed to receive the balance sale consideration and execute the sale deed within one year by furnishing the documents necessary for registration. However, the defendants failed to furnish the necessary documents and the sale deed was not executed. The plaintiff sent a legal notice dated 06.08.2024 seeking execution of the sale deed, but the defendants replied vide legal notice in September 2024 stating that they had forfeited the advance sale consideration. The plaintiff filed a suit for specific performance in O.S.No.849/2024 seeking for a direction of specific performance to execute the sale deed. In the said suit, the defendants filed an application under Order VII Rule 11(a) & (d) r/w Section 151 of the CPC seeking to reject the plaint on the ground of limitation.



The Trial Court on consideration of the material on record, held that the limitation period of 3 years as stated in Article 54 of the Limitation Act would be considered from the last date for getting the sale deed executed i.e one year from the agreement of sale and as the suit was filed beyond such period of limitation, the same could not be maintained and proceeded to reject the plaint.

9. The contention of the learned counsel for the plaintiff is that there was a mutual obligation between the parties wherein the plaintiff was to pay the balance sale consideration and the defendants were to produce the relevant documents for registration, and as the defendants have not produced the relevant documents, the limitation period will not begin after one year from the date of agreement of sale.

10. To appreciate the aforesaid contention, it would be useful to refer to the decision of the Hon'ble Supreme Court in the case of ***R.Kandasamy (Since***



Dead) & Ors referred *supra*, wherein it was held as under:

"30. The first point that we need to examine is the effect of the two clauses of the Agreement and to apply the law laid down by this Court in Radha Sundar Dutta (supra) and Bharat Sher Singh Kalsia (supra). The said clauses read as follows:

"The Second party will have to pay the balance sale price within four months from today and obtain a sale deed either in his name or in the name of persons nominated by him at his own expense." "There are tenants in the property described below at present. The First Parties agree to vacate the tenants and hand over vacant possession to the Second Party at the time of obtaining the sale."

31. On a bare reading of the aforesaid clauses, we do not find that the latter clause destroys the effect of the former clause altogether so much so that it has to be discarded. On the contrary, in this case, both the clauses were such that the same had to be read together and given effect upon ascertaining the intention of the parties as disclosed by the Agreement as a whole. The latter clause could not have been read divorced from the former, having regard to the intent of the parties that is discernible. The latter qualified the former in the sense that although it was obligatory for the buyer to pay the balance price within 19th May, 2005 and "obtain the sale deed", this was on the assumption that the property would be made free of tenants by the sellers by that time. However, the situation therefore did not arise on 19th May, 2005 since the tenant, who vacated the property last, did so sometime on 2nd February, 2006. Going by the latter clause,



the buyer had time till 1 st June, 2006 to complete the deal (four months of vacating of the property by all the tenants to enable the sellers to hand over vacant possession to the buyer). In our understanding, the Trial Court and the High Court were right in concluding that time was not the essence though the Agreement provided that "time mentioned in this agreement shall be of the essence."

11. The aforesaid enunciation of law laid down by the Hon'ble Supreme Court makes it clear that clauses of an agreement have to be read together and given effect upon ascertaining the intention of the parties as disclosed by the Agreement as a whole. It was further held that since there was an obligation on the seller to perform a certain act i.e eviction of tenants in the aforesaid case, the period of limitation would only begin from the date of performance of such obligation by the seller. It was also held that in such circumstances, wherein the seller had not performed his obligation, the time would not be of the essence of contract despite there being a clause that stated that "time mentioned in this agreement shall be of essence"



12. In the instant case, the clauses requiring the payment of balance sale consideration by the plaintiff to the defendants is dependant on the defendants producing the required documents for registration. In the said context, the time of one year is mentioned in the agreement, the same cannot be construed or understood as time being the essence of the contract. When the said clauses of the agreement are read as a whole, it lays down a clear obligation on the part of the defendants to produce the relevant documents for registration of the said sale deed. However, the defendants have not produced those documents and the non-production of such documents is not denied by the defendants. As things stood thus, applying the principle of law laid down by the Hon'ble Supreme Court in the aforesaid case, the limitation period would only start from the date of production of such documents or refusal to perform the agreement. In the instant case, the documents were admittedly never produced; however, the reply notice sent by the defendant



was in the month of September, 2024 to the notice sent by the plaintiff on 06.08.2024, refusing to comply with the agreement in question. Hence, in the instant case, the limitation period as per Article 54 of the Limitation Act would only be applicable from the date of refusal to perform the agreement in the reply notice and not from 07.02.2019 i.e one year from the date of the agreement of sale.

13. The finding of the Trial Court that the production of the document, 11E sketch arises only at the time of the execution of the sale deed and if the suit is decreed in favour of the plaintiff, the Court Commissioner would secure the documents and thereafter, the sale deed is to be executed, is a perverse finding as the agreement in question clearly puts an obligation on the defendants to make available the documents for registration of sale and also an obligation on the plaintiff to pay the balance sale consideration.



14. It is also interesting to note that the Trial Court after considering the material on record and being satisfied that the essentials for rejection of plaint were met, proceeded to allow the I.A.No.III filed under Order VII Rule 11 (a) to (d) r/w Section 151 of CPC. However, in the very same order, the Trial Court allowed I.A.No.II filed by the plaintiff seeking for amendment of plaint for alternative relief of refund of the earnest money with interest. Furthermore, in the very same order, the Trial Court also ordered for refund of the earnest money of Rs.12,00,000/- to the plaintiff at the rate of 8% till realization. The said finding was made without any trial or adjudication and dismissed the suit. Therefore, we are of the considered view that the impugned order of the Trial Court suffers from procedural shortcomings, as once the plaint is rejected, it cannot be allowed to be amended in the same order and part decree for refund. Hence, we are of the view that the judgment and decree also suffers from



procedural shortcomings and the matter is required to be considered on merits.

15. Therefore, we are of the considered view that the judgment and decree passed by the Trial Court is required to be interfered with. For the aforementioned reasons, we proceed to pass the following:

ORDER

- i. The appeal is allowed
- ii. The impugned judgment and decree dated 25.04.2025 passed by the Senior Civil Judge & JMFC, Kanakapura in O.S.No.849/2024 is hereby set aside. Consequently, IA.No.II is rejected.
- iii. The trial Court is directed to consider and dispose of the suit on merits and in accordance with law.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**