



HC-KAR

NC: 2026:KHC-D:4459-DB
RFA No. 100425 of 2024

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

REGULAR FIRST APPEAL NO. 100425 OF 2024 (SP)

BETWEEN:

1. SMT. SHARADA W/O RAJENDRA NADAGOUD
AGE. 59 YEARS, OCC. HOUSEHOLD
R/O. RAMANAGAR, IST MAIN ROAD,
OPPOSITE NTT, DHARWAD-580001.
2. SHRI RAJENDRA S/O LINGO NADAGOUD
AGE. 62 YEARS, OCC. BUSINESS
R/O. OPPOSITE, NTT, IST CROSS
RAMANAGAR, DHARWAD-580001.

...APPELLANTS

(BY SRI. SHRIKANT T. PATIL, ADVOCATE FOR SRI SHRIKANT T. PATIL,
SRI SHRIKANT K. DESHPANDE AND SRI M.S. KAMALAKAR, ADVOCATE)

AND:

1. SMT. VEENA W/O SRIDHAR NADAGOUD
AGE. 54 YEARS, OCC. HOUSEHOLD WORK AND BUSINESS
R/O. SANJAY BUILDING, H.NO.197,
IST MAIN, 2ND CROSS, SAPTAGIRI LAYOUT,
NEAR YALAKKI SHETTAR COLONY, DHARWAD-580006.
2. SHRI. GIRISH S/O CHIDAMBAR KULKARNI
AGE. 37 YEARS, OCC. BUSINESS,
R/O.OPPOSITE NTT, RAMANAGAR
DHARWAD-580001.
3. SHRI SATISH S/O CHIDAMBAR KULKARNI
AGE. 35 YEARS, OCC. BUSINESS,



**NC: 2026:KHC-D:4459-DB
RFA No. 100425 of 2024**

R/O.OPPOSITE NTTF, RAMANAGAR,
DHARWAD-580001.

...RESPONDENTS

(BY SRI PRAVEEN P. TARIKAR, ADVOCATE FOR R1;
NOTICE TO R2 AND R3 IS HELD SUFFICIENT, V/O DATED 12.03.2026)

THIS RFA IS FILED UNDER SECTION 96 READ WITH ORDER 41
RULE 1 OF CPC., PRAYING THAT, JUDGMENT AND DECREE DATED
23.04.2024 PASSED IN O.S.NO.219/2021 ON THE FILE OF THE
PRINCIPAL SENIOR CIVIL JUDGE AND CHIEF JUDICIAL MAGISTRATE,
DHARWAD, DECREETING THE SUIT FILED FOR SPECIFIC PERFORMANCE
OF CONTRACT.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT
WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE H.P.SANDESH
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE H.P.SANDESH)

Heard the counsel appearing for the appellants and
also the counsel appearing for the respondents.

2. This matter is listed for consideration of
I.A.No.1/2024 and there was a delay of 52 days in filing the
appeal.

3. Having perused the material also, suit is filed for
the relief of specific performance based on the registered
sale agreement and in the written statement, defence was



taken that it was only a money transaction and as a security, the sale agreement was registered. But except filing of written statement on 20.02.2023, the plaintiff was not cross-examined and also even not laid any evidence to prove the defence of the appellant/defendant. Having taken note that the suit was not decided on merits, but relief of specific performance was granted by the trial Court, it is appropriate to give an opportunity to the defendant to cross-examine the witness and lead the evidence to substantiate the defence taken in the written statement by imposing terms. Hence, it is appropriate to condone the delay of 52 days in filing the appeal and having considered the factual aspects, the matter was not decided on merits, it is appropriate remand the matter to the trial Court to decide the suit afresh by imposing costs.

4. In view of the above discussion, we proceed to pass the following:



ORDER

- i. The appeal is ***allowed.***
- ii. The judgment and decree dated 23.04.2024 passed in O.S.No.219/2021 by the trial Court is set-aside on payment of costs of Rs.2,00,000/- payable before the trial Court.
- iii. The matter is remitted back to the trial Court for fresh consideration after giving an opportunity to both the parties to lead their evidence.
- iv. The parties are directed to appear before the trial Court on 17.04.2026.
- v. The trial Judge is directed to dispose of the matter within nine months from 17.04.2026.
- vi. Both the respective parties and respective counsels are directed to assist the trial Court in



disposal of the matter within the time bound period as prescribed.

- vii. The costs of Rs.2,00,000/- shall be paid before the trial Court on the next date of hearing i.e., on 17.04.2026. Out of the cost of Rs.2,00,000/, Rs.1,75,000/- is payable in favour of the plaintiff on proper identification and Rs.25,000/- shall rest with the State.

**Sd/-
(H.P.SANDESH)
JUDGE**

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

RKM
CT-CMU
LIST NO.: 1 SL NO.: 8