



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR SECOND APPEAL NO.200035 OF 2015 (DEC)

BETWEEN:

T. YALLAPPA S/O THIMMAPPA
AGE: 53 YEARS, OCC: COOLIE,
R/O RAMNAGAR, RAICHUR-584101.

...APPELLANT

(BY SRI AJAYKUMAR A.K., ADVOCATE)

AND:

1. ARJUNAPPA S/O KALAPPA
AGED ABOUT 67 YEARS,
OCC: COOLIE, R/O RAMANAGAR,
NOW AT GUTTIPET,
SHAHAPUR, TQ. SHAHAPUR,
DIST. YADGIRI-585223.
2. SMT. HANUMANTHAMMA W/O YANKAPPA
AGED ABOUT 47 YEARS, OCC: HOUSEHOLD,
R/O H.NO.1-5-227/165, RAMANAGAR,
I.B.ROAD, RAICHUR-584101.

...RESPONDENTS

(BY SMT. CHANDRAKALA, ADVOCATE FOR R2;
NOTICE TO R2 IS HELD SUFFICIENT)

THIS REGULAR SECOND APPEAL IS FILED UNDER
SECTION 100 OF CPC, PRAYING TO ALLOW THE APPEAL BY



SETTING ASIDE THE JUDGMENT AND DECREE DATED 28.11.2014 PASSED IN R.A.NO.06/2011 BY THE PRL.SENIOR CIVIL JUDGE AND CJM, RAICHUR AND CONSEQUENTLY DECREE THE SUIT BEARING O.S.NO.146/2002 OF THE PLAINTIFF AS PRAYED FOR IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 15.12.2025 COMING ON FOR 'PRONOUNCEMENT OF JUDGMENT' THIS DAY, THE COURT DELIVERED THE FOLLOWING

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

CAV JUDGMENT

The captioned second appeal is by the unsuccessful plaintiff assailing the concurrent Judgments rendered by the Courts below wherein both the Courts have declined to grant discretionary relief of specific performance of contract.

2. For the sake of brevity, rank of the parties is referred to as per their rank before the Trial Court.



3. Facts leading to the case are as under:

The plaintiff instituted a suit seeking specific performance of an agreement of sale dated 15.06.2001 in respect of an open space bearing Mpl.No.1-3-228/140, which, according to the plaintiff, is an adjoining vacant site. It was contended that defendant No.1, on account of family and legal necessity, agreed to sell the said open space and received a sum of Rs.15,000/- from the plaintiff. The plaintiff further asserted that on 15.06.2001, defendant No.1 executed an agreement of sale acknowledging receipt of the entire sale consideration of Rs.15,000/-, which, according to the plaintiff, had been paid about eight years prior to the execution of the agreement. It was pleaded that the plaintiff, being a coolie, was not financially capable of obtaining an absolute sale deed immediately and was awaiting mobilisation of funds. It was also asserted that the transaction was well known in the locality.



4. The plaintiff further alleged that he subsequently came to know that defendant No.1 had executed a registered sale deed dated 16.09.2002 in favour of defendant No.2 in respect of the very same open space for a consideration of Rs.21,000/-. According to the plaintiff, this fact came to light only when defendant No.2 visited the suit property on 07.10.2002 and informed the plaintiff about the purchase. The suit was therefore instituted on the assertion that defendant No.1, having already entered into an agreement of sale with the plaintiff, had no right to alienate the property in favour of defendant No.2.

5. Upon service of summons, defendant No.1 remained absent and was placed ex parte. Defendant No.2, the subsequent purchaser, entered appearance and filed a detailed written statement denying all the averments made in the plaint. Defendant No.2 asserted that he had entered into an agreement of sale with defendant No.1 as early as on 18.04.2001, much prior to



the alleged agreement relied upon by the plaintiff. It was contended that the suit agreement dated 15.06.2001 is false, fabricated and concocted, and that the suit has been instituted without any cause of action, only to harass defendant No.2. On these grounds, dismissal of the suit was sought.

6. The parties were thereafter relegated to trial. The Trial Court, while answering Issue No.1 in the affirmative, held that the suit agreement was proved. However, the suit came to be dismissed on the ground that defendant No.2 was a bona fide purchaser for value and that grant of the discretionary relief of specific performance would cause greater hardship to defendant No.2. The Trial Court further observed that, notwithstanding the absence of rebuttal evidence from the defendants, the materials on record indicated that defendant No.2 had obtained a registered sale deed, and therefore the plaintiff was not entitled to the discretionary relief of specific performance.



7. Aggrieved by the judgment and decree of the Trial Court, the plaintiff preferred an appeal in R.A. No.6/2011. The First Appellate Court, on an independent re-appreciation of the oral and documentary evidence, reversed the finding of the Trial Court on Issue No.1 and doubted the genuineness of the suit agreement. The Appellate Court inter alia held that Ex.P1 was typed in a cramped manner, that the plaintiff's version regarding payment of the entire sale consideration eight years prior to the agreement was inherently improbable, and that defendant No.2 had produced material indicating an earlier transaction culminating in a registered sale deed. Despite defendant No.2 not entering the witness box, the First Appellate Court relied upon the title documents and surrounding circumstances to hold that the suit agreement appeared suspicious. Consequently, the appeal was dismissed. These findings and conclusions are assailed in the present second appeal.



8. Heard the learned counsel appearing for the appellant/plaintiff and the learned counsel appearing for respondent No.2/defendant No.2.

9. This Court, by order dated 29.08.2017, admitted the appeal on the following substantial questions of law:

"1. Whether the First Appellate Court is right in reversing the findings of the Trial Court on Issue No.1 in favour of the defendant in the appeal of the plaintiff and in the absence of the appeal by the Defendant?"

2. Whether the Trial Court has committed any serious legal error in dismissing the suit though it has categorically held that the agreement of the plaintiff dated 15.06.2001 has been proved and that the Defendant No.2 failed to prove that he is a bona-fide purchaser for consideration on the basis of the earlier agreement dated 18.04.2001?"



Finding on substantial question of law No.1:

10. The crucial question that arises for consideration before this Court is whether the First Appellate Court, being the final fact-finding authority, was justified in reversing the finding recorded by the Trial Court on Issue No.1 relating to the due execution and proof of the suit agreement. The Trial Court had answered the said issue in the affirmative and held that the plaintiff had succeeded in proving the agreement of sale. The principal grievance of the plaintiff is that, in the absence of any independent challenge by either defendant No.1 or defendant No.2 to this finding, the First Appellate Court could not have interfered with or reversed the said conclusion.

11. This Court finds some merit in the submission advanced on behalf of the plaintiff. However, it cannot be lost sight of that the appeal before the First Appellate Court was preferred by the plaintiff himself, challenging



the judgment and decree of the Trial Court in its entirety on the ground that the larger relief of specific performance, which is discretionary in nature, had been denied. In that backdrop, in order to examine whether the plaintiff had made out a case for grant of discretionary relief of specific performance on the basis of the pleadings and documentary evidence, including the suit agreement, the First Appellate Court was necessarily required to examine the genuineness and validity of the very transaction set up by the plaintiff, namely, the agreement of sale marked at Ex.P1.

12. It is well settled that the First Appellate Court is the final Court on facts and is vested with full power to re-appreciate and re-evaluate the entire evidence on record. Consequently, while considering whether the plaintiff was entitled to the discretionary relief of specific performance, the First Appellate Court was justified in independently assessing the proof of the suit agreement and the



surrounding circumstances in which it was allegedly executed.

13. In the process of such re-appreciation, the First Appellate Court has recorded reasons for doubting the genuineness of the transaction. It noticed that the plaintiff's case was that the entire sale consideration had been paid nearly eight years prior to the execution of the agreement. The plaintiff neither produced any contemporaneous receipts evidencing such payment nor offered any plausible explanation as to why, after allegedly paying the entire consideration long ago, he waited for eight years merely to obtain an agreement of sale instead of insisting upon execution of a registered sale deed. The First Appellate Court found that this conduct, on the part of the plaintiff, seriously undermined the credibility of the transaction and shook the very foundation of the suit agreement.



14. The Appellate Court further observed that the plaintiff's assertion that the entire sale consideration had been paid eight years prior to the agreement was inconsistent with the pleadings contained in paragraph No.4 of the plaint. In this context, this Court considers it appropriate to extract paragraph No.4 of the plaint for closer scrutiny.

"4. That, the plaintiff is doing a coolie work. Hence, he was not in a position to get execute the absolute sale deed in his favour due to financial problems. Hence, he was waiting for amount to get the absolute sale deed. This fact has also informed to the locality people of the suit property and to defendant No.1."

(Emphasis supplied by me.)

15. Though the plaintiff has projected a case that the entire sale consideration was paid nearly eight years prior to the execution of the suit agreement, a careful reading of paragraph No.4 of the plaint, extracted hereinabove, clearly contradicts such a stand. The said pleading unequivocally discloses that the plaintiff himself



has admitted that he was not in a position to obtain an absolute sale deed in his favour due to financial constraints. The plaintiff further admits that he was awaiting mobilisation of funds in order to secure execution of the sale deed. These categorical admissions completely belie the plaintiff's assertion that the entire sale consideration had already been paid much prior to the execution of the agreement of sale at Ex.P1. The pleadings, therefore, strike at the very root of the plaintiff's case and demolish the foundation on which the claim for discretionary relief of specific performance is sought to be built.

16. Having regard to the pleadings in paragraph No.4 of the plaint, when the suit agreement is examined in the manner undertaken by the First Appellate Court, the suspicious circumstances surrounding its execution become more pronounced. The agreement is typed in a cramped and congested manner on a stamp paper already purchased, with no proper spacing or margins for clear



and coherent recitals. When such physical features of the document are examined in the light of the plaintiff's own admissions regarding non-payment of consideration and financial incapacity, coupled with an unexplained delay of nearly eight years, the First Appellate Court was justified in concluding that the transaction itself is doubtful. On an overall assessment of these circumstances, the First Appellate Court has rightly held that the plaintiff is not entitled to the equitable and discretionary relief of specific performance. Accordingly, substantial question of law No.1 is answered in the affirmative.

Finding on Substantial Question of Law No.2

17. The Trial Court, though it recorded a finding that the suit agreement stood proved, nevertheless declined to grant the discretionary relief of specific performance of contract. It is trite law that the relief of specific performance is not automatic and is always discretionary. Section 20 of the Specific Relief Act



expressly empowers the Court to refuse such relief even where the agreement is otherwise found to be valid and enforceable. The Hon'ble Supreme Court, in a catena of decisions, has consistently held that while exercising discretion under Section 20, the Court must take into consideration the conduct of the plaintiff, delay, readiness and willingness, and all surrounding equitable circumstances.

18. In the present case, though the plaintiff has asserted that the entire sale consideration was paid eight years prior to the execution of the suit agreement, the pleadings at paragraph No.4 of the plaint are in direct conflict with such a claim. The entire edifice of the plaintiff's case rests on the assertion of prior payment of full consideration. However, the plaintiff's own admission that he was financially incapable of obtaining the sale deed and was awaiting funds clearly negates his plea of complete payment and readiness. This admission



substantially weakens the plaintiff's case and casts a serious doubt on the genuineness of the transaction itself.

19. The facts further reveal that the suit came to be filed only after defendant No.2 had obtained a registered sale deed for valuable consideration. The plaintiff has failed to offer any satisfactory or convincing explanation as to why, after allegedly paying the entire sale consideration eight years earlier, he remained silent and did not insist upon execution of an absolute sale deed, but instead contented himself with a mere agreement of sale. The conduct attributed to the plaintiff is wholly inconsistent with reasonable human behaviour and commercial prudence. No reasonable or prudent person would pay the entire sale consideration and remain passive for nearly eight years, only to wake up after the property is conveyed to a third party under a registered sale deed.

20. Even if the plaintiff's case is accepted in its entirety, his conduct, as borne out from the pleadings and



evidence on record, is far from equitable. The transaction appears inherently doubtful and is shrouded with suspicious circumstances. Though the Trial Court did not frame a specific issue with regard to readiness and willingness, in view of the unequivocal admissions made by the plaintiff in paragraph No.4 of the plaint, the absence of such an issue does not advance the plaintiff's case. On the contrary, the admissions themselves clearly demonstrate that the plaintiff was neither ready nor willing to perform his part of the contract. In such circumstances, the Trial Court was fully justified in declining the relief of specific performance and in relegating the plaintiff to avail an appropriate remedy in accordance with law for recovery of the amount of Rs.15,000/-, if so advised.

21. While the Trial Court was justified in refusing to grant the larger relief of specific performance, the First Appellate Court, as the final fact-finding authority, has also rightly concluded that the suit agreement itself appears to be doubtful. In the light of these concurrent



and well-reasoned findings, this Court finds that the reasons assigned by the Trial Court while dismissing the suit are sound, legal and free from any perversity or material irregularity. Consequently, substantial question of law No.2 is answered in the ***Negative.***

ORDER

For the foregoing reasons, the Regular Second Appeal stands ***dismissed.***

**SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

SRT
List No.: 3 Sl No.: 9
CT:SI