



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

REGULAR SECOND APPEAL NO.1560 OF 2009 (SP)

BETWEEN:

C.S. NAGARAJ,
S/O C.N SIDDAPPA NAIDU,
HINDU, MAJOR,
R/O VAPASANDRA
CHICKABALLAPUR TALUK
PIN CODE:561 201.

...APPELLANT

(BY SRI. P.H.VIRUPAKASHAIAH, ADVOCATE)

AND:

M. KRISHNAPPA
S/O LATE MARAPPA, HINDU,
MAJOR, RESIDING AT
KANDAVAR, CHICKABALLAPUR TALUK,
PIN CODE NO.561 201.

SINCE DEAD REPRESENTED BY HIS LR'S

1(A) SMT. ASHWATHAMMA
W/O LATE M KRISHNPPA
AGED ABOUT 50 YEARS

1(B) SRI SATHYANARAYANA
S/O LATE M KRISHNAPPA
AGED ABOUT 45 YEARS

BOTH 1(A) AND 1(B) RESIDING AT
NO.89, MELUKOTE CROSS,

Digitally signed
by
ANNAPURNA G
Location: HIGH
COURT OF
KARNATAKA



TUBUGERE HOBLI,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT- 561 205.

2. SRI. J RAVI PRASAD
S/O LATE JAVAGI RAMAIAH
AGED ABOUT 66 YEARS
3. SRI. J.R. SHASHI KUMAR
S/O LATE JAVAJI RAMAIAH
AGED ABOUT 63 YEARS.
4. SRI. J SRINATH
S/O LATE JAVALI RAMAIAH
AGED ABOUT 60 YEARS

ALL ARE RESIDING AT
CSI HOSPITAL ROAD,
CHIKKABALLAPURA CITY,
CHIKKABALLAPURA DISTRICT
KARNATAKA- 561 201.

...RESPONDENTS

(BY SRI. R.A DEVANAND, ADVOCATE FOR
SRI.K. BHASKAR, ADVOCATE FOR R1(A AND B),
SRI. M.S. VARADARAJAN, ADVOCATE FOR
SRI.H.V. SUBRAMANYA, ADVOCATE FOR R2, R3 AND R4)

THIS RSA IS FILED UNDER SECTION U/O 100 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 25.08.2009
PASSED IN R.A.73/2003 ON THE FILE OF THE ADDITIONAL
DISTRICT AND SESSIONS JUDGE, FAST TRACK COURT,
CHICKBALLAPUR, ALLOWED THE APPEAL SETTING ASIDE
JUDGEMENT AND DECREE DATED 04.03.2003 PASSED IN
O.S.838/1993 ON THE FILE OF THE ADDL. CIVIL JUDGE, (JR.
DN.) AND JMFC, CHICKBALLAPUR.



THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 14.10.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

CAV JUDGMENT

This appeal is filed by the defendant against the judgment and decree passed in R.A.No.73/2003 on the file of Additional District and Sessions Judge, Fast Track Court at Chickballapur (for short 'First Appellate Court'), the said appeal arises out of the judgment and decree dated 04.03.2003 passed by the Addl.Civil Judge (Jr.Dvn) and JMFC, Chickballapur in O.S.No.838/1993(for short 'the trial Court')

2. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3. The brief facts of the case are that defendant is the owner of the suit property and he agreed to sell the said property for Rs.15,000/- to the plaintiff and he had executed agreement of sale dated 12.09.1991 agreeing to



sell 1 acre 20 guntas of land (southern portion) out of 4 acres 20 guntas in Sy.No.52/1 at Jadala Thimmena Halli, Nandi Hobli, Chikkaballapur Taluk. On the date of said agreement of sale he received Rs.100/- as earnest money and it was also agreed that the sale deed shall be executed within two years after receipt of balance of sale consideration. It is further averred in the plaint that the plaintiff was always ready and willing to perform his part of the contract by executing the sale deed and paying the balance sale consideration. However, the defendant, on one pretext or another, failed to execute the sale deed.

4. The plaintiff had issued a notice through his counsel dated 01.09.1993. The defendant did not reply to the said notice or comply to the terms of the notice. Therefore, he filed the suit for the relief of specific performance of agreement.

5. The defendant contended that he has not executed the said agreement of sale and it does not bear his signature and he had not received any amount of sale



consideration as earnest money. The alleged agreement of sale produced before the Court was created, concocted and forged by the plaintiff to gulp the property of defendant. He also contended that he purchased some property from the plaintiff under the sale deed dated 10.09.1991 and the same was registered on 11.09.1991 and after the sale deed he got mutated the revenue records in his name. With these reasons, he prayed to dismiss the suit.

6. The trial Court framed the following issues:

"1. Whether plaintiffs proves that defendant has agreed to sell suit property for Rs.15,000/- and executed agreement on 12/9/91 in favour of plaintiff and received Rs.100/- as part consideration of said agreement?

2. Whether plaintiff proves that he is ready and willing to perform his part of contract?

3. Whether plaintiff proves that defendant has failed to perform his part of contract?

4. Whether defendant proves that he has purchased the suit property from the plaintiff and is in possession of the same and he had no occasion to sell the suit property to plaintiff?

5. What is plaintiff is entitle for decree for specific performance against the defendant?

6. What order or relief?"



7. The plaintiff to prove his case examined PW1-3 and got marked Exs.P1 to P3. The defendant examined DWs1 to 4 and marked Exs.D1 to D10. At the request of plaintiff, agreement of sale was referred to hand writing expert and the hand writing expert submitted a report and gave evidence before the Court. He was examined as CW-1 and through him Ex.C1 to C8 were marked.

8. Learned trial Court after appreciating the materials available on record, answered issued Nos.1, 2, 3 and 5 in the Negative and issue No.4 in the affirmative and by its judgment and decree dated 14.03.2003 dismissed the suit.

9. The **plaintiff* being aggrieved by the said judgment and decree preferred an appeal before the Additional District and Sessions Judge, Fast Track Court, Chickballapur in R.A.No.73/2003. The First Appellate Court after hearing the arguments re-appreciated the materials available before it and while disposing of the appeal framed the following points for its determination.

**Corrected vide Court order dated 07.01.2026.*



"1. Whether the plaintiff proves that the defendant has agreed to sell the suit property for consideration of Rs. 15,000/- and thus executed an agreement on 12.9.1991 by receiving Rs. 100/- as part of consideration?

2. Whether the Plaintiff proves that he was and is ready and willing to perform his part of contract ?

3. Whether the Defendant proves that the agreement (Ex.P.1) is forged and concocted?

4. Whether the judgment and decree of the trial court require interference?

5. What order?"

10. The First Appellate Court answered point Nos.1, 2 and 4 in the affirmative, issue No.3 in the negative and by the impugned judgment and decree dated 25.08.2009 decreed the suit by reversing the judgment and decree passed by the trial Court. The First Appellate Court directed the defendant to execute the sale deed after receiving the balance amount of sale consideration. Same is challenged by the defendant in the present appeal on the grounds mentioned in the appeal memo.

11. During the pendency of the appeal, the respondent-plaintiff died. Thereafter, two applications



were filed to come on record as legal representatives of appellant. Out of them one is alleged legally wedded wife and another is the son of his brother. The said applications were referred to trial Court by the Fast Track Court, Chikkaballapura District to record the evidence and to give finding on the said application. Thereafter, trial Court held enquiry and submitted a report. This Court vide order dated 18.04.2023 allowed I.A.No.2/2014 filed by one Aswathamma and Sathyanarayana, who were said to be the wife and adopted son of deceased Krishnappa and application filed by one K.Srinivasa, son of the brother of the deceased Krishnappa was rejected.

12. Respondent Nos.2 to 4 filed an application I.A.No.1/2022 under Order 1 Rule 10(2) of CPC to implead them as parties. They contended that the defendant herein had executed an agreement of sale in their favour dated 04.02.2003. He thereupon denied to execute the sale deed. Therefore, the applicant in I.A. No.1/2022 filed a suit in O.S.No.240/2006. The said suit was decreed, and



the same was challenged in R.A. No.36/2019 before the III Additional District Court, Chikkaballapur, and it was dismissed. Whatever orders are passed in the appeal it would affect her rights. This Court vide order dated 04.07.2023 allowed the said application I.A.No.1/2022 and permitted them to come on record.

13. During the pendency of the appeal, respondent Nos.2 to 4 filed an application under Order 41, Rule 27 of CPC, seeking permission to produce additional evidence. The said application was also taken along with main appeal.

14. Heard the arguments of learned counsel for the appellant and learned counsel for respondent Nos.1 to 4.

15. This appeal was admitted to consider the following substantial question of law:

"Whether the judgment and decree of the First Appellate Court is perverse in decreeing the suit in the absence of pleading and evidence?"



16. Ex.P1 is the agreement of sale. It is an unregistered document executed on 12.09.1991. It is signed by defendant and three witnesses. It is drafted on a stamp paper. The serial number of stamp paper is 8115 dated 11.09.1991. The said document shows that defendant agreed to sell the property for Rs.15,000/- and that two years time was given to execute the sale deed and an amount of Rs.100/- was paid as earnest money.

17. PW-2 in his evidence has stated that it was executed in his presence and it was signed by defendant at Ex.P1(A). The scribe of the said document, who signed it at Ex.P1(D) has corroborated the evidence of PW-1 and also identified that it was signed by defendant in his presence. PW-3 is also one of the witnesses to the said document, he also corroborated the evidence of PWs-1 and 2 and he identified his signature and also stated that defendant has signed the said document.

18. It appears another witness was summoned by the plaintiff, who has signed at Ex.P1 and he did not



appear. The very same witness was subsequently examined by the defendant as DW-4(Balappa). When Ex.P1 was confronted to him, he identified his signature on the said document.

19. The defendant has seriously disputed the said document. Therefore, to identify his signature, it was referred to a hand writing expert. The handwriting expert gave the report stating that disputed and undisputed signatures are of same person thereby he opined that Ex.P1(A) is the signature of the defendant. By comparing the signature of the defendant on Ex.P1(A) with his signature on the vakalath and other documents available in the Court, it tallies with Ex.P1(A).

20. The trial Court did not appreciate the evidence of witnesses who identified Ex.P1 properly. The trial Court has even not accepted the report of handwriting expert on the ground that his report is not reliable. As rightly observed by the First Appellant Court proof of the documents cannot be accepted only on the basis of the



expert report. But if the evidence of the handwriting expert is corroborated by other available evidence, it shall not be rejected merely on the ground that expert evidence is considered a weak piece of evidence.

21. It is the contention of the defendant that his signature was forged. In view of the evidence of handwriting expert corroborated by evidence of PW-1 to 3 and DW-4, the contention of the defendant that his signature was forged on Ex.P1 is not believable. The onus shifts on the defendant to explain under what circumstances he was forced to sign the said document or what was the reason for him to sign the document, if it was not executed by him. But there is no explanation. Contrary to the materials available on record, the defendant examined himself and his witness but that evidence was not sufficient to disbelieve the case made out by the plaintiff.

22. The first Appellate Court at length discussed the evidence of both the parties and held that Ex.P1 was



executed by the defendant. The contents of the said document show that defendant agreed to sell the property for Rs.15,000/- and received an amount of Rs.100/- as earnest money. Therefore, findings of the First Appellate Court in this regard is tenable. It does not call for any interference.

23. The materials available on record shows that the plaintiff was always ready and willing to perform his part of the contract. Ex.P1 was executed on 12.09.1991. Two years time was granted to pay balance amount of sale consideration and to get executed the Registered Sale Deed. O.S.No.838/1993 was filed on 10.09.1993. Prior to that plaintiff had issued a notice calling upon the defendant to execute the sale deed after receiving balance amount of sale consideration. These facts and circumstances prove that plaintiff was ready and willing to perform his part of contract.



24. It was the repeated contention of the learned counsel for the defendant that on 10.09.1991, plaintiff had sold the very same property to defendant under a Registered Sale Deed for Rs.15,000/- and it was purchased by the defendant for his use and enjoyment. Therefore, the probability of execution of agreement of sale in favour of the plaintiff within two days is highly improbable. Therefore, it is a created document. To substantiate the said contention, there was no material as observed by the first Appellate Court. Looking at the execution of sale deed and agreement of sale within two days in respect of same property and between same persons, the first Appellate Court was of the view that the plaintiff must have executed the sale deed in favour of the defendant as security for the loan obtained. It further observed that, two days thereafter, the defendant executed an agreement to reconvey the property. It is pertinent to note that this observation had no bearing on the grant of relief to the plaintiff. Therefore, the strenuous argument advanced by the plaintiff, that neither party had made out



such a case and hence said observation was unwarranted is not tenable. The plaintiff sold the same property to the defendant for the same consideration under a Registered Sale Deed. Two days later, the defendant executed an agreement of sale of the same property for same consideration in favour of the plaintiff. Looking at the same, the first Appellate judge is of the view that it might be a financial transaction. However, both parties remained silent on this fact. Therefore, there is no necessary to consider the said point. Had both parties disclosed the purpose behind the execution of the sale deed as well as Ex.P1 as stated above, this Court could have examined whether such reasons were probable.

25. In the present case, it was sufficient for the first Appellate Court to consider whether Ex.P1 was executed by the defendant. In the absence of any explanation by the defendant and on the basis of the materials available on record, the first Appellate Court rightly held that the defendant had executed the said document.



26. The plaintiff in his pleadings and evidence has stated that he was/is always ready and willing to perform his part of contract. PW-1 in his evidence has stated that he repeatedly requested the defendant to execute the sale deed after receiving balance amount of sale consideration. Defendant went on postponing the same. Hence, he issued notice and thereafter filed the suit. As per Ex.P-1, two years time was given to execute the said sale deed. Within that period plaintiff initiated proceedings. It is not the defence of the defendant that he did not execute the sale deed due to default of plaintiff in paying balance amount of sale consideration. Hence, plaintiff was able to prove this aspect.

27. The next question pertains to hardship, namely, whether any hardship would be caused to the defendant if he is directed to execute the sale deed. The defendant has not even made out a case, without prejudice to his rights, that he would suffer irreparable loss if he is directed to execute the sale deed.



28. It is undisputed fact that the plaintiff had sold the very same property to the defendant two days prior to Ex.P1. And two days later, for the very same consideration, the defendant agreed to sell the property to the plaintiff and received earnest money of Rs.100/-, and delivered possession. Therefore, if the relief of specific performance is granted, as rightly observed by the First Appellate Court the defendant would not be put to any loss or hardship. These facts were duly considered by the first Appellate Court and it has rightly directed the defendant to execute the sale deed upon receipt of the balance sale consideration

29. The first Appellate Court while re-appreciating the evidence also observed that minor contradictions or inconsistencies shall not be given much weightage. The said finding is proper. Merely because one of the witnesses to Ex.P1 stated that the earnest money was paid either in two currency notes of Rs.50/- each or in one currency note of Rs.100/-, it does not make any material



difference. On the contrary, it indicates that the said witness is reliable and that the evidence was not tutored or memorised, but was deposed naturally before the Court. On this aspect also, the findings of the First Appellate Court do not call for any interference.

30. In a Regular Second Appeal, the Court is required to consider only substantial questions of law. The substantial question of law framed in the present case pertains to the findings recorded by the First Appellate Court while reversing the judgment of the Trial Court. In view of the same, the above facts requires consideration by this Court. The first Appellate Court has examined the issues and facts in detail and recorded its findings after properly appreciating the materials available on record. The said findings are proper and just and it does not call for any interference by this Court.

31. During the pendency of this appeal, Defendant Nos.2 to 4 got themselves impleaded as parties. They



have produced certified copies of the judgment and decree passed by the courts in a suit filed by Defendant Nos. 2 to 4 against Defendant No.1 herein, seeking relief of specific performance, which was decreed. The copies of the judgment produced by Respondent Nos. 2 to 4 are certified copies of the court records i.e, the judgment and decree dated 21.01.2019 passed in O.S.No.240/2006, the judgment and decree in R.A.No.36/2019 dated 26.11.2021, and the judgment and decree dated 04.12.2023 in RSA No.392/2022 on the file of this Court, along with the evidence recorded in O.S.No.240/2006. In that case, an agreement of sale was said to have been executed by the defendant herein, who was also a defendant in that suit, dated 04.12.2003. The said agreement appears to have been executed approximately 12 years after the agreement of sale executed in the present case. This agreement was executed by the defendant during the pendency of the present suit. Therefore, the rule of *lis pendens* is applicable to the said



agreement of sale. Moreover, there was no breach of contract between the plaintiff in the present case and Defendant Nos. 2 to 4. Therefore, the rights between them were already adjudicated by a competent court. Since the said agreement of sale executed by the defendant herein relates to the same property but is of a subsequent date, the principle of *lis pendens* is also applicable. Accordingly, on the basis of the decree passed in O.S. No.240/2006, the rights of the plaintiff in the present case remain unaffected. Defendant Nos. 2 to 4, having been made parties to the present case, shall be directed to execute the sale deed along with the legal representatives of the defendant.

32. Since the documents produced with I.A. No.1/2025 are certified copies of court records, they do not require formal proof. They do not affect the rights of plaintiff. Therefore, the said I.A. is disposed of, and the documents produced are taken on record.



33. Learned counsel for appellant relied on the following judgments:

- i. *Dharmarajan and others vs. Valliammal and others*¹
- ii. *Kedar Nath Motani and others vs. Prahlad Rai and others*²
- iii. *Shivaji Balaram Haibatti vs. Avinash Maruthi Pawar*³
- iv. *Siddu Venkappa Devadiga vs. Smt. Rangu S. Devadiga and others*⁴
- v. *Smt. Bhagwan Kaur vs. Sri. Maharaj Krishan Sharam and others*⁵
- vi. *S. Gopal Reddy vs. State of A.P.*⁶
- vii. *U.N.Krishnamurthy (since deceased) Thr.Lrs vs. A.M.Krishnamurthy*⁷
- viii. *R. Shama Naik vs. G. Srinivasiah*⁸
- ix. *Sri. Punny Akat Philip Raju, Since dead by his LR's vs. Sri.Dinesh Reddy*⁹

¹ (2008) 2 SCC 741

² AIR 1960 SC 213

³ (2018) 11 SCC 652

⁴ (1977) 3 SCC 532

⁵ (1973) 4 SCC 46

⁶ (1996) 4 SCC 596

⁷ (2022) SCC Online SC 840

⁸ 2024 SCC Online SC 3586

⁹ ILR 2016 KAR 2252



Learned counsel for respondent Nos.2 to 4 relied on the following judgments:

- i. *U.N.Krishnamurthy (since deceased) Thr.Lrs vs. A.M.Krishnamurthy*¹⁰
- ii. *Salim Makkar v. Pansari and others*¹¹
- iii. *Hari Lal v. Pearely Lal and others*¹²
- iv. *Narayana Prabhu Venkateswara Prabhu vs. Narayana Prabhu Krishna Prabhu (dead) by Lrs.*¹³

34. The law laid down in the aforementioned judgments do not support the contention of the appellant herein. As rightly observed by the First Appellate Court, the defendant enabled the plaintiff to prove the execution of the agreement of sale in favour of plaintiff. The plaintiff has also proved that he is/was ready and willing to perform his part of the contract and if suit is not decreed the plaintiff would be put to untold hardship.

¹⁰ AIR 2022 SCC 3361

¹¹ AIR 2001 CALCUTTA 162

¹² AIR 1952 ALLAHABAD 272

¹³ AIR 1977 SCC 1268



35. For the above said discussion, the substantial question of law is answered against the appellant and I proceed to pass the following:

ORDER

- i. The appeal is ***dismissed*** with cost.
- ii. The impugned judgment and award dated 25.08.2009 passed by the Addl.District and Sessions Judge, Fast Track Court, Chikkaballapura, in RA.No.73/2003 is confirmed by setting aside the judgment and decree dated 04.03.2003 passed by the Addl.Civil City Judge(Jr.Dvn) & JMFC, Chikkballapura in O.S.No.838/1993.
- iii. Four weeks time is granted to the **plaintiff/respondent No.1* to deposit the balance amount of sale consideration and thereafter within two weeks the* defendant shall execute the Registered Sale Deed. If they fail to do so, then plaintiff is at liberty to get it executed through process of law.



iv. Respondent No.2 to 4 in the present appeal shall join hands **with appellant* to execute the Registered Sale Deed in favour of the plaintiff.*

I.A.No.1/2025 is disposed of.

All the other pending I.As stands disposed of in view of the dismissal of the appeal.

Registry is directed to send back the trial Court records along with the copy of the judgment to the trial Court.

Sd/-
(UMESH M ADIGA)
JUDGE

AG
List No.: 1 Sl No.: 29

**Corrected and omitted vide Court order dated 07.01.2026.*