



CNR: KAHC010166992021

NC: 2026:KHC:36937
RFA No. 344 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

REGULAR FIRST APPEAL NO. 344 OF 2021 (SP)

BETWEEN:

1. SRI. B. POONARAM
S/O. LATE BHAGGAJI
AGED ABOUT 69 YEARS
RESIDING AT NO. 579
III MAIN, 1ST CROSS
NEAR POLICE STATION
HEBBAL, BENGALURU – 560 024.

...APPELLANT

(BY SRI. BHADRINATH R., ADVOCATE)

AND:

1. SMT. R RADHA
D/O. RAJANNA
AGED ABOUT 44 YEARS
RESIDING AT NO.1920
MUNESHWARA TEMPLE ROAD
GOVINDAPURA, A.C.POST
BENGALURU – 560 045.

...RESPONDENT

(BY SRI. BALLARI BASANAGOUDA BASALINGAPPA, ADVOCATE)

THIS RFA IS FILED UNDER SECTION 96 OF THE CPC,
AGAINST THE JUDGMENT AND DECREE DATED 06.03.2021
PASSED IN OS.NO.4241/2011 ON THE FILE OF THE XLIII
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU,
AND ETC.,

Digitally
signed by
THEJAS
KUMAR N
Location:
HIGH COURT
OF
KARNATAKA



CNR: KAHC010166992021

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

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL JUDGMENT

The present Regular First Appeal is filed by the plaintiff calling in question the judgment and decree passed in O.S.No.4241/2011 dated 06.03.2021 by the Court of the XLIII Addl. City Civil and Sessions Judge, Bengaluru (hereinafter referred to as 'Trial Court' for short), whereby the suit filed for specific performance is dismissed.

2. For the sake of convenience and easy reference, the parties are referred to as per their rankings before the Trial Court.

3. It is the case of the plaintiff that the defendant is owner of the suit property and having purchased the same through registered sale deed on 30.03.2007 and



CNR: KAHC010166992021

NC: 2026:KHC:36937
RFA No. 344 of 2021

thus he is the owner of the property. The defendant has offered the property for sale in favour of plaintiff for total sale consideration of Rs.7,50,000/- and accordingly, an agreement of sale was executed on 24.02.2010 and an advance amount of Rs.6,00,000/- was paid to the defendant and also it was agreed that the balance to be paid to the defendant at the time of registration of sale deed. Also pleaded that the plaintiff was ready and willing to perform his part of contract for getting execution of sale deed, but the defendant has not come forward. Therefore, when the defendant has not come forward to execute the registered sale deed, legal notice got issued to the defendant. Hence, the plaintiff has filed suit for specific performance of contract.

4. The defendant has filed written statement and contended that she has never intended to sell the property in favour of the plaintiff and has not received any amount



from the plaintiff. Therefore, denied all the averments made in the pliant. Hence, prays to dismiss the suit.

5. Upon pleadings of the parties, the Trial Court has framed the following issues:

1. *Whether the plaintiff proves that on 24.04.2010, the defendant agreed to sell the suit schedule property for Rs.7,50,000/- and he paid Rs.6,00,000/-, as an advance?*
2. *Whether the plaintiff proves that he has been ready and willing to perform his part of contract?*
3. *Struck off*
4. *Whether the plaintiff is entitled for reliefs as sought for?*
5. *What order or decree?*

6. The plaintiff is examined as PW.1 and got marked the documents as per Exs.P1 to P11. The defendant is examined as DW.1 and no documents are marked on her behalf.



CNR: KAHC010166992021

7. Being aggrieved by the judgment and decree passed by the Trial Court, the appellant/plaintiff has preferred the present appeal and in consonance with the grounds urged in the appeal, submitted that there was an agreement of sale dated 24.04.2010 and the plaintiff has paid an advance amount of Rs.6,00,000/-, out of Rs.7,50,000/-. Therefore, the plaintiff has paid substantial part of amount to the defendant and the plaintiff was ready and willing to perform the contract, but the defendant has not executed the sale deed. Therefore, when registration of sale is proved and also plaintiff was ready and willing to perform the contract, the suit ought to have been decreed in favour of the plaintiff for decree of specific performance, but dismissing the suit is on erroneous finding and hence it is perverse in nature. Therefore, prays to allow the appeal and decree the suit as prayed for.



CNR: KAHC010166992021

8. On the other hand, learned counsel appearing for the respondent/defendant submitted that the defendant has never intended to sell out the property in favour of the plaintiff and had never executed any agreement of sale and also has not received any advance amount of Rs.6,00,000/-. Further, it is submitted that when the defendant has purchased the property on 30.03.2007, for tune of Rs.7,92,000/-, but the claim of plaintiff is that for Rs.7,50,000/- the defendant has agreed to sell the property in the year 2010 itself, be lies the case of the plaintiff. Therefore, justified the judgment and decree passed by the Trial Court.

9. Further, during the course of the cross-examination of the plaintiff, it was brought out that as on the date of alleged agreement of sale, the value of the property was Rs.25,00,000/- in the year 2010, the answer given by the plaintiff is that he does not know which means that the defendant has never executed an



CNR: KAHC010166992021

agreement of sale for Rs.7,50,000/-. Therefore, submitted that the appeal be dismissed by confirming the judgment and decree passed by the Trial Court.

10. Upon hearing the learned counsel appearing on behalf of both the parties, the following points arise for my consideration:

1. Whether, under the facts and circumstances of the case, plaintiff proves that there was execution of agreement of sale dated 24.02.2010 executed by defendant in favour of plaintiff for total sale consideration of Rs.7,50,000/- and paid advance amount of Rs.6,00,000/- to the defendant?
2. Whether, under the facts and circumstances of the case, plaintiff proves that he was ready and willing to perform the contract so as to obtain decree for specific performance?
3. Whether, under the facts and circumstances of the case, the discretionary power to be exercised under Section 20 of the Specific Relief Act in the present case?



CNR: KAHC010166992021

NC: 2026:KHC:36937
RFA No. 344 of 2021

4. Whether, the judgment and decree passed by the Trial Court requires interference by this Court?

11. The defendant is owner of the property is not in dispute. The defendant has become the owner of the property by virtue of the sale deed dated 30.03.2007 and is in possession of the suit property is also not in dispute. According to the defendant, he purchased the property on 13.03.2007 for total sale consideration of Rs.7,92,000/-, but in the year 2010, when the alleged agreement of sale was executed on 24.02.2010, the total sale consideration was Rs.7,50,000/-. Therefore, the question arises; when the defendant purchased the property for Rs.7,92,000/- in the year 2007, how could he execute an agreement of sale for the lesser value of Rs.7,50,000/- that too, in the year 2010, after purchasing the property by defendant. This shows unnecessary circumstances created doubt about whether the agreement of sale was executed or not. But considering these factors, it is highly doubtful that the execution of the agreement of sale for Rs.7,50,000/- in



CNR: KAHC010166992021

the year 2010, when the defendant had purchased the said property for Rs.7,92,000/- in the year 2007. Further, the plaintiff has deposed before the Court that he does not know the market value of the property in the year 2010 as Rs.25,00,000/-. It is not denial made by the plaintiff that the property fetched Rs.25,00,000/- in the year 2010. Therefore, this shows unfavorably to the plaintiff that no person could agree to selling the property for a lesser value than what he paid for the price he has purchased that too three years before the date of the alleged agreement of sale. This circumstance shows that execution of an agreement of sale is a doubtful circumstance.

12. Further, the plaintiff has not adduced any evidence that he was ready and willing to perform the contract. As discussed above, execution of the sale itself is doubtful, and also further, there is no evidence that the plaintiff was ready and willing to perform the contract. Though the plaintiff has produced the documentary



CNR: KAHC010166992021

evidence of producing income tax returns acknowledgments having declared Rs.6,00,000/- that alone is not sufficient to prove that the plaintiff was ready and willing to perform the contract. The readiness and willingness to perform the contract is different having the capacity to pay the sale consideration. The plaintiff might have in capacity financially, but that alone is not sufficient to say that the plaintiff is ready and willing to do his part of the contract. The readiness and willingness to perform the contract shall be proved by the evidence, but in the present case, the plaintiff has not proved that he was ready and willing to perform the contract. This is correctly appreciated by the trial court.

13. Further, Section 20 is the discretionary remedy. The alleged agreement of sale in the year 2010 for Rs.7,50,000/-. Now the present market value as per the suggestion made at the bar is Rs.60-70 lakhs and if today a decree is passed granting relief of specific



CNR: KAHC010166992021

performance for Rs.7,92,000/- then this would amount to an unfair advantage towards the defendant by the plaintiff and also it amounts to arbitrariness and hardship to the defendant. In this regard, I place reliance on decisions of the Hon'ble Apex Court in the case of ***Jayakantham and others v. Abaykumar¹***, in the case of ***Parakunnnan Veetill Joseph's Son Mathew Vs. Nedumbara Kuruvila's son²***, in the case of ***Sardar Singh Vs. Krishna Devi³***, in the case of ***K. Narendra Vs. Riviera Apartments (P) Ltd.,⁴*** and in the case of ***A.C. Arulappan Vs. Ahalya Naik⁵***

14. Therefore, the appeal is found to be devoid of merits. Accordingly, I answer point Nos.1, 2 and 4 in the ***negative*** and point No.3 ***in the affirmative***. Therefore,

¹ (2017) 5 SCC 178

² (1987) Supp SCC 340

³ (1994) 4 SCC 18

⁴ (1999) 5 SCC 77

⁵ (2001) 6 SCC 600



CNR: KAHC010166992021

NC: 2026:KHC:36937
RFA No. 344 of 2021

the appeal is liable to be dismissed. Hence, I proceed to pass the following:

ORDER

The appeal is ***dismissed***.

**Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE**

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List No.: 1 Sl No.: 43