



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

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**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 18<sup>TH</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO. 7674 OF 2020 (GM-CPC)**

**BETWEEN:**

SMT. K. SAVITHRAMMA  
W/O. G. SRINIVAS  
AGED ABOUT 58 YEARS,  
R/AT RAMYA KRISHNA NILAYA,  
GOVINDAPPA CROSS ROAD  
RAMASWAMY PALYA  
KAMMANAHALLI MAIN ROAD, M.S.NAGAR POST  
BANGALORE - 560 033

...PETITIONER

(BY SRI. CHIDANANDA P.,ADVOCATE)

**AND:**

1. SMT. GOWRAMMA  
W/O LATE MUNIYAPPA,  
AGED ABOUT 67 YEARS.
2. SMT. RATHNAMMA  
D/O LATE MUNIYAPPA,  
AGED ABOUT 39 YEARS,
3. SMT. ASHWATHAMMA  
W/O LATE MUNIYAPPA,  
AGED ABOUT 35 YEARS,

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CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

4. SMT. SHANTHA  
D/O LATE MUNIYAPPA,  
AGED ABOUT 33 YEARS,
5. SMT. ROOPA  
D/O LATE MUNIYAPPA,  
AGED ABOUT 31 YEARS,
6. SMT. ARATHI  
D/O LATE MUNIYAPPA,  
AGED ABOUT 29 YEARS,

ALL ARE RESIDING AT HOSHUDYA VILLAGE  
NANDHI HOBLI,  
CHIKKABALLAPURA TALUK  
CHIKKABALLAPURA DISTRICT - 562 101.

...RESPONDENTS

(VIDE ORDER DATED 19.06.2025, SERVICE OF NOTICE TO  
RESPONDENT NO.1 HELD SUFFICIENT)

THIS W.P. IS FILED PRAYING TO QUASH THE IMPUGNED  
ORDER DTD 02.08.2019, PASSED BY THE PRL. SENIOR CIVIL  
JUDGE AND CJM, CHIKKBALLAPUR, IN FR NO.O.S./224/2019  
VIDE ANNEX-H AND DIRECT THE PRL. SENIOR CIVIL JUDGE TO  
REGISTER THE ORIGINAL SUIT AND ADJUDICATE THE SUIT IN  
ACCORDANCE WITH LAW.

THIS PETITION, COMING ON FOR PRELIMINARY  
HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

### **ORAL ORDER**

The petitioner, who is the plaintiff, is before this Court assailing the order dated 02.08.2019 passed by the learned Principal Senior Civil Judge and CJM, Chikkaballapur, in O.S.No.224/2019, whereby the learned Judge has declined to register the suit instituted by the petitioner for specific performance of contract, holding that the suit is barred by limitation under Article 54 of the Limitation Act, 1963.

2. Though notice has not been served upon the proposed defendants, since the suit itself has been terminated at the threshold without issuance of summons, notice to the respondents is dispensed with.

3. Before considering the controversy, it would be appropriate to notice the statutory scheme governing institution and registration of a civil suit.

4. Section 26 of the Code of Civil Procedure, 1908 (for short, "CPC") provides that every suit shall be instituted by presentation of a plaint or in such other manner as may be prescribed.

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**CNR: KAHC010465122019**

5. Order IV Rule 1 of CPC prescribes the manner of institution of a suit. It provides that every suit shall be instituted by presenting a plaint in duplicate to the Court or such officer as it appoints in that behalf. Sub-rule (2) requires the plaint to comply with the requirements of Orders VI and VII, so far as applicable, and sub-rule (3) provides that the plaint shall not be deemed to be duly instituted unless the requirements of sub-rules (1) and (2) are complied with.

6. Order IV Rule 2 of CPC thereafter contemplates registration of the suit. The Court is required to cause the particulars of every suit to be entered in the register of civil suits and such entries are numbered according to the order in which the plaints are admitted.

7. Thus, presentation of the plaint, scrutiny for compliance with the requirements of CPC, admission and registration of the suit are distinct procedural stages. The distinction assumes importance in the present case because the learned Trial Judge has proceeded to finally determine limitation at the stage when the suit itself had not been registered.



**CNR: KAHC010465122019**

8. Order VII Rule 1 of CPC prescribes the particulars which the plaint shall contain. Amongst them, clause (e) specifically requires the plaint to state the facts constituting the cause of action and when it arose. The question of limitation is therefore ordinarily to be examined with reference to the cause of action pleaded in the plaint.

9. Order VII Rule 10 deals with return of plaint where the plaint is required to be presented to the proper Court. The provision prescribes the procedure to be followed when a plaint is returned on the ground of want of jurisdiction.

10. Order VII Rule 11, on the other hand, specifies the circumstances in which a plaint shall be rejected. Clause (d) thereof provides for rejection where "the suit appears from the statement in the plaint to be barred by any law". Rule 12 requires the Judge, when rejecting a plaint, to record an order to that effect with reasons.

11. The distinction between Rules 10 and 11 of Order VII is therefore material. Return of plaint is a consequence ordinarily associated with presentation before a Court lacking



**CNR: KAHC010465122019**

jurisdiction, whereas rejection under Rule 11(d) operates where the statutory bar is apparent from the plaint itself.

## **KARNATAKA CIVIL RULES OF PRACTICE**

12. The Karnataka Civil Rules of Practice, 1967 regulate the manner in which pleadings are presented, received, scrutinised and placed before the Court. The Rules operate in addition to, and consistently with, the provisions of CPC.

13. Rule 9 deals with presentation of pleadings. The officer receiving the papers is required to make the prescribed endorsement regarding the person presenting the paper and the date of presentation and the papers presented are entered in the prescribed register. The Rules also specifically recognise that questions of limitation may arise at the stage of presentation.

14. The Rules further contemplate scrutiny of the plaint and the raising of office objections. Such scrutiny is intended to ensure compliance with the procedural requirements before the plaint is placed before the Presiding Officer for appropriate orders.



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

15. The significance of the Rules is that an objection noticed at the stage of scrutiny does not, by itself, amount to a final judicial adjudication of the rights of the plaintiff. Where the matter requires judicial determination, it has to be placed before the Presiding Officer and dealt with in accordance with CPC.

### **LIMITATION**

16. Section 3 of the Limitation Act, 1963 provides that, subject to Sections 4 to 24, every suit instituted after the prescribed period shall be dismissed, although limitation has not been set up as a defence. Sub-section (2)(a)(i) specifically provides that, for purposes of the Act, a suit is instituted, in the ordinary case, when the plaint is presented to the proper officer.

17. The mandate of Section 3 is undoubtedly mandatory. If, upon proper adjudication, the Court finds that the suit has been instituted beyond the prescribed period and no provision of the Limitation Act, 1963 saves the claim, the Court is bound to dismiss the suit.

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**CNR: KAHC010465122019**

18. But the mandatory character of Section 3 does not dispense with the requirement of determining the question of limitation in accordance with the procedure prescribed by law.

19. In a suit for specific performance, Article 54 prescribes a period of three years. The limitation commences, in the first case, from the date fixed for performance and, where no such date is fixed, from the date when the plaintiff has notice that performance is refused.

20. Consequently, while considering limitation under Article 54, the Court has to ascertain the relevant date contemplated by the Article. It cannot necessarily proceed merely by taking the date of the original agreement as the starting point, particularly where the plaint itself relies upon subsequent agreements, extensions, acknowledgments or other documents having a bearing upon the date of performance or refusal.

21. Heard the learned counsel appearing for the petitioner. Perused the material on record.



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

## POINTS FOR CONSIDERATION

22. In the light of the above statutory scheme, the following points arise for consideration:

- (i) *Whether the learned Trial Judge was justified in declining to register the suit and returning the plaint on the ground that the suit is barred by limitation under Article 54 of the Limitation Act?*
- (ii) *Whether the learned Trial Judge was justified in determining limitation without considering the subsequent agreements and the registered General Power of Attorney relied upon by the plaintiff?*
- (iii) *Whether the impugned order is liable to be interfered with under Article 227 of the Constitution of India?*

### **Finding on point Nos.(i) to (iii):**

23. The petitioner seeks specific performance of the agreement of sale dated 02.04.2012. The learned Trial Judge, while declining to register the suit, has proceeded essentially on the premise that the period of three years prescribed under



**CNR: KAHC010465122019**

Article 54 of the Limitation Act, 1963 has to be reckoned from the date of the said agreement and, consequently, the suit presented in the year 2019 is barred by limitation.

24. However, the plaint is not founded merely on the original agreement dated 02.04.2012. The petitioner has specifically pleaded that, subsequent to the original agreement, the parties entered into further agreements dated 02.07.2012 and 21.09.2012, described as extensions of the agreement of sale. These documents have been produced along with the plaint as Annexures-'C' and 'D'.

25. The subsequent agreement assumes considerable significance in the context of limitation. It would therefore be appropriate to extract the relevant covenant contained in the agreement produced at Annexure-'D', which reads thus:

*"1. The vendors undertake that they shall dispose the matter in O.S.No.226/2012 within two months from the date of this extension of agreement of sale and execute the sale deed along with the plaintiff and defendants in O.S.No.226/2012 in favour of the purchaser.*



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

*2. The vendors further undertake to furnish the survey sketch (boundary survey sketch) in respect of the schedule property within two months from the date of this agreement."*

26. The aforesaid covenant prima facie discloses that, under the subsequent agreement, the vendors undertook to secure disposal of O.S.No.226/2012 and thereafter execute the sale deed. They also undertook to furnish the survey sketch within the stipulated period. Thus, the subsequent agreement cannot be treated as a document having no bearing whatsoever on the question of limitation.

27. The plaintiff has further relied upon the registered General Power of Attorney dated 08.08.2013, produced as Annexure-'E'. The recitals contained in paragraphs 11 and 12 thereof are also relevant and read as follows:

*"11) To appear and represent us before the Hon'ble Civil Judge and JMFC., at Chikkaballapura in O.S.No.226/2012 filed by one Smt. Pillamma for partition in respect of the schedule property.*

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CNR: KAHC010465122019

**NC: 2026:KHC:51091  
WP No. 7674 of 2020**

*12) That today we have received a sum of Rs.12,30,000/- (Rupees Twelve Lakhs Thirty Thousand only) from our attorney as detailed below."*

28. The registered General Power of Attorney, therefore, records not only the authority conferred upon the plaintiff to represent the vendors in O.S.No.226/2012, but also acknowledges receipt of a further sum of Rs.12,30,000/-. This document is of the year 2013 and, therefore, is a subsequent document which the learned Trial Judge was required to consider while examining whether the plaintiff's claim for specific performance was ex facie barred by limitation.

29. It is in the backdrop of these documents that the question under Article 54 of the Limitation Act, 1963 was required to be considered. Article 54 prescribes a period of three years for a suit for specific performance, commencing from the date fixed for performance and, where no such date is fixed, from the date when the plaintiff has notice that performance is refused.

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**CNR: KAHC010465122019**

30. Therefore, the date of the original agreement cannot, in every case, be mechanically treated as the commencement of limitation. Where the plaintiff relies upon subsequent agreements containing further stipulations regarding performance, the Court is required to examine whether such subsequent arrangements have any legal bearing upon the date fixed for performance or the accrual of the cause of action.

31. In the present case, the subsequent agreement specifically refers to the pending litigation in O.S.No.226/2012 and records an undertaking by the vendors to get the said proceedings disposed of and thereafter execute the sale deed. The registered General Power of Attorney dated 08.08.2013 further records the authority given to the plaintiff in respect of the said litigation and acknowledgment of further payment.

32. Whether these subsequent documents ultimately have the effect of extending the time for performance, postponing the accrual of the cause of action, constituting an acknowledgment of a subsisting contractual obligation, or otherwise affecting the computation of limitation is a matter



**CNR: KAHC010465122019**

which the learned Trial Court is required to examine in accordance with law. This Court expresses no opinion on the ultimate legal effect of these documents.

33. The error committed by the learned Trial Judge is that these material documents, which form part of the foundation of the plaintiff's claim, have not been considered while arriving at the conclusion that the suit is barred by limitation. The learned Judge has proceeded essentially by taking the date of the original agreement as the starting point and has applied Article 54 without examining the subsequent contractual arrangements relied upon by the plaintiff.

34. Section 3 of the Limitation Act, 1963 undoubtedly imposes a mandatory obligation upon the Court to dismiss a suit instituted beyond the prescribed period. However, before exercising such power, the Court must first determine the applicable starting point of limitation in accordance with the relevant Article of the Limitation Act, 1963. The mandatory nature of Section 3 does not authorise the Court to disregard material pleadings and documents which bear directly upon that determination.



**CNR: KAHC010465122019**

35. Equally, if the learned Trial Judge intended to terminate the proceedings at the threshold on the ground that the suit was barred by law, the exercise was required to be undertaken within the parameters of Order VII Rule 11(d) of CPC. The question at that stage is whether the suit, from the statements contained in the plaint itself, is barred by law. Where the plaint relies upon subsequent agreements and documents which have a bearing upon the starting point of limitation, those documents cannot be ignored while undertaking such exercise.

36. The second infirmity is procedural. The learned Trial Judge has declined to register the suit, returned the plaint and documents and thereby brought the plaintiff's claim to an end. The course adopted is neither an adjudication in the manner contemplated under Order VII Rule 11(d) of CPC nor a dismissal of an instituted suit in the manner contemplated under Section 3 of the Limitation Act.

37. The distinction is material. If, upon proper judicial consideration, the Court concludes that the suit is barred by limitation, the Court is required to pass an appropriate order in



CNR: KAHC010465122019

accordance with CPC and the Limitation Act, 1963. The plaintiff cannot be left merely with a returned plaint and documents on the basis of a conclusion that the suit is time-barred, particularly when the very question of limitation requires consideration of documents which were produced along with the plaint.

38. Therefore, this Court is of the considered view that the learned Trial Judge was not justified in declining to register the suit in the manner adopted. The matter requires reconsideration after taking into account the plaint averments and the documents relied upon by the plaintiff, including the subsequent agreements and the registered General Power of Attorney.

39. It is made clear that this Court is **not recording a finding that the suit is within limitation**. Nor is this Court holding that the subsequent agreements necessarily extend the period of limitation or that the registered General Power of Attorney constitutes an acknowledgment in law. These questions are expressly left open for consideration by the learned Trial Court.



40. The limited conclusion reached by this Court is that the aforesaid documents are material documents relied upon by the plaintiff and having a direct bearing upon the contractual arrangement and the computation of limitation. They could not have been ignored while determining whether the suit is ex facie barred under Article 54 of the Limitation Act. Accordingly, point Nos.(i) and (ii) are answered in the '**negative**' and Point No.(iii) is answered in the '**affirmative**'.

#### **GUIDELINES / DIRECTIONS**

41. In view of the statutory scheme governing institution, scrutiny and registration of suits under the Code of Civil Procedure, 1908 and the Karnataka Civil Rules of Practice, the following guidelines are issued for guidance of the learned Trial Courts:

(i) Every plaint presented before the Court shall be dealt with in accordance with Section 26 and Order IV of CPC, read with the applicable provisions of the Karnataka Civil Rules of Practice. The presentation of the plaint, its scrutiny, admission and registration are distinct stages and shall not be conflated.



(ii) The Registry/Chief Ministerial Officer shall undertake the scrutiny contemplated under the Karnataka Civil Rules of Practice and shall identify office objections or matters requiring orders of the Presiding Officer. Such scrutiny is essentially preliminary in nature and shall not be treated as a substitute for judicial adjudication.

(iii) Where, during scrutiny, a prima facie objection regarding limitation is noticed, such objection shall be brought to the notice of the Presiding Officer in the manner contemplated under the Karnataka Civil Rules of Practice. The Registry shall not itself adjudicate upon the question of limitation.

(iv) Most importantly, a plaint shall not be returned or its registration declined merely on the ground that the proposed suit appears to be barred by limitation. The question of limitation, when it requires judicial determination, cannot be converted into a ministerial objection and cannot be used as a ground for refusing to register the suit.

(v) Once the plaint has been duly presented and the requirements of Order IV Rule 1 of CPC and the applicable



**CNR: KAHC010465122019**

procedural rules have been complied with, the Court shall follow the statutory procedure for admission and registration of the suit. The question whether the suit is barred by limitation shall thereafter be considered by the Court in accordance with the provisions of CPC and the Limitation Act, 1963.

(vi) The mere circumstance that the Court forms a prima facie opinion, at the stage of scrutiny, that the suit may be barred by limitation does not authorise the Court to terminate the proceedings by returning the plaint. A distinction shall be maintained between scrutiny of the plaint for registration and judicial adjudication of limitation.

(vii) If, after the plaint is taken on file and registered, the Court finds that the plaint, on a meaningful and complete reading of its averments and the documents forming the foundation of the claim, discloses an unequivocal statutory bar, the Court may consider the question as per Section 3 of the Limitation Act, 1963 after affording the plaintiff a reasonable opportunity of hearing.



**CNR: KAHC010465122019**

(viii) Where the Court proposes to exercise its jurisdiction under Section 3 of the Limitation Act, 1963 at the threshold, the Court shall first identify the Article of the Limitation Act, 1963 applicable to the relief claimed, determine the statutory starting point of limitation and examine whether, on the basis of the plaint and the material documents relied upon by the plaintiff, the suit is demonstrably beyond the prescribed period.

(ix) In particular, in a suit for specific performance governed by Article 54 of the Limitation Act, 1963 the Court shall determine whether the case falls under the first limb, namely, the date fixed for performance, or the second limb, namely, the date when the plaintiff has notice that performance is refused. The Court shall not mechanically reckon limitation from the date of the original agreement where the plaint relies upon subsequent agreements, extensions, acknowledgments, correspondence, payments, undertakings or other subsequent events having a bearing upon performance of the contract.

(x) Where the plaint is accompanied by subsequent agreements, contractual stipulations, registered instruments, acknowledgments, receipts, correspondence or other



**CNR: KAHC010465122019**

documents which form part of the foundation of the plaintiff's claim and which may have a bearing upon the commencement or computation of limitation, such documents shall be considered before recording a conclusion that the suit is *ex facie* barred by limitation.

(xi) Where consideration of limitation requires determination of disputed facts, the interpretation or legal effect of subsequent agreements, determination of the date of knowledge, accrual of cause of action, refusal of performance, acknowledgment, exclusion of time or any other matter which cannot be conclusively determined from the plaint itself, the Court shall not undertake a mini-trial at the stage of registration and shall proceed in the manner contemplated by law.

(xii) It shall be borne in mind that **Section 3 of the Limitation Act, 1963 is mandatory**, and nothing contained in these directions shall dilute the obligation of the Court to dismiss a suit which, upon proper adjudication, is found to have been instituted beyond the prescribed period and is not saved by any applicable provision of law. However, the mandatory consequence under Section 3 can follow only after the Court



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

has properly determined that the suit is in fact barred by limitation.

(xiii) Section 3 of the Limitation Act shall not be construed as conferring an independent procedural power to return a plaint or refuse its registration. The manner in which a plaint is to be dealt with at the threshold is governed by the CPC, including the provisions of **Section 26 and Order IV**, while the circumstances in which a plaint may be rejected are specifically enumerated in Order VII Rule 11 of CPC.

(xiv) The distinction between return of plaint under Order VII Rule 10 of CPC and rejection of plaint under Order VII Rule 11 of CPC shall be scrupulously maintained. A plaint shall not be returned merely because the Court considers the suit to be barred by limitation. If the statutory requirements of Order VII Rule 11(d) are satisfied at the instance of Defendant , the Court shall exercise the jurisdiction under that provision and pass an appropriate reasoned judicial order.

(xv) Similarly, the expression “dismissal under Section 3 of the Limitation Act, 1963” shall not be used as a substitute for the



**CNR: KAHC010465122019**

procedural requirements prescribed under the CPC. The Court shall first determine whether the proceedings are at the stage of scrutiny, registration, consideration under Order VII Rule 11, or adjudication after institution, and shall pass an order under the provision which actually governs that stage.

(xvi) Where the Court ultimately concludes that the suit is barred by limitation, the order shall record, with sufficient clarity, (a) the Article applicable, (b) the prescribed period, (c) the date from which limitation commenced, (d) the date of institution/presentation of the plaint, (e) the computation demonstrating expiry of limitation, and (f) the reasons for rejecting any plea founded upon the subsequent documents or upon any applicable provision of the Limitation Act, 1963.

(xvii) The Court shall also consider, wherever relevant, the applicability of Sections 4 to 24 of the Limitation Act, 1963 before recording a final conclusion that the suit is barred by limitation.

(xviii) An order declining to register a suit on the ground of limitation shall not be passed merely by recording that the suit



CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

is “time-barred”. Where the Court seeks to terminate the litigation at the threshold, the order shall disclose the precise statutory provision invoked, the material considered and the reasons for reaching the conclusion, so that the aggrieved party is not deprived of an effective statutory remedy.

(xix) The overarching principle to be borne in mind is that **registration of the suit and adjudication of limitation are two distinct procedural stages**. The former concerns the taking of the suit on the file in accordance with CPC and the Civil Rules of Practice; the latter concerns adjudication of a substantive statutory bar. The latter shall not ordinarily be employed to prevent the former.

(xx) Accordingly, where the question of limitation is not so apparent from the plaint and the material accompanying it as to admit of an unequivocal conclusion at the threshold, the plaint shall not be kept at the stage of scrutiny or returned without registration. The Court shall first follow the statutory procedure governing institution and registration and thereafter deal with limitation in accordance with law.

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CNR: KAHC010465122019

NC: 2026:KHC:51091  
WP No. 7674 of 2020

42. These directions are intended to ensure that the **mandatory nature of limitation law is preserved without permitting the statutory scheme governing institution and registration of civil suits to be bypassed**. They shall, however, not be understood as laying down that every suit must invariably proceed to trial merely because a plaint has been presented; where the requirements of section 3 of Limitation act or Order VII Rule 11(d) are clearly satisfied, the Court remains fully competent to terminate the proceedings at the threshold in accordance with law.

43. For the forgoing reasons, this Court proceeds to pass the following:

### **ORDER**

- (i) The writ petition is ***allowed***.
- (ii) The order dated 02.08.2019 passed by the Principal Senior Civil Judge and CJM, Chikkaballapur, in O.S.No.224/2019 is hereby quashed and set aside.
- (iii) The matter is remitted to the learned Trial Court.

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**CNR: KAHC010465122019**

- (iv) The learned Trial Court shall register the suit, subject to compliance with the requirements of law.
- (v) If the learned Trial Court proposes to examine the question of limitation, the plaintiff shall be afforded reasonable opportunity of hearing.
- (vi) While considering the question of limitation, the learned Trial Court shall consider the plaint averments and the documents relied upon by the plaintiff, particularly the subsequent agreements dated 02.07.2012 and 21.09.2012 and the registered General Power of Attorney dated 08.08.2013.
- (vii) The learned Trial Court shall thereafter proceed in accordance with Section 3 of the Limitation Act, 1963.
- (viii) All contentions of the parties on limitation and on the merits of the suit for specific performance are left open.
- (ix) It is clarified that this Court has expressed no opinion on the legal effect of the subsequent



CNR: KAHC010465122019

**NC: 2026:KHC:51091  
WP No. 7674 of 2020**

agreements, the registered General Power of Attorney, the payment referred to therein, or on the ultimate question of limitation.

Ordered accordingly.

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**(SACHIN SHANKAR MAGADUM)  
JUDGE**

PK  
List No.: 1 Sl No.: 1