



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 461 OF 2017 (SP)

BETWEEN:

M.K. RAMESHA
S/O M.K. SHESHAPPA
AGED ABOUT 56 YEARS
R/A SHASHI SADANA, IST CROSS
BASAVANAHALLI EXTENSION
CHIKKAMAGALURU - 577 101.

...APPELLANT

(BY SRI. SACHIN B.S, ADVOCATE)

AND:

1. T.B. HANUMANTHARAJ
S/O BHEEMARAJU
AGED ABOUT 66 YEARS
2. SMT. K.J. MEENAKSHI
W/O T.B HANUMANTHARAJ
AGED ABOUT 65 YEARS
(SINCE DEAD, R1 AND R3 ARE THE
LEGAL HEIRS FOR R2)
3. T.H. SHIVARAJ
S/O T.B. HANUMANTHARAJ
AGED ABOUT 46 YEARS

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Location:
HIGH
COURT OF
KARNATAKA



ALL ARE R/A THEGUR
RAMPURA POST
CHIKKAMAGALURU TALUK
AND DISTRICT - 577 101.

...RESPONDENTS

(BY SRI. A MADHUSUDHANA RAO, ADVOCATE FOR R1 AND R3;
VIDE ORDER DATED 05.11.2019, LRS OF R2 ALREADY ON
RECORD AS R1 AND R3)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 18.11.2015 PASSED IN
RA NO.5/2014 ON THE FILE OF THE PRL. SR. CIVIL JUDGE AND
CJM CHIKKAMAGALURU, DISMISSING THE APPEAL AND
CONFIRMING THE JUDGMENT AND DECREE DATED 4.12.2013
PASSED IN OS NO.114/2011 ON THE FILE OF THE 2ND ADDL.
CIVIL JUDGE AND JMFC, CHIKMAGALUR.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

1. Heard.

2. Plaintiff is the appellant who has preferred the
present second appeal challenging the concurrent finding
of return of earnest money in respect of agreement to sell
which was subject matter of O.S.No.114/2011 dated
04.12.2013 confirmed by the First Appellate Court in RA
No.5/2014 dated 18.11.2015.



3. Facts which are utmost necessary for disposal of the appeal are as under:

3.1. A suit for specific enforcement of agreement to sell came to be filed by the plaintiff by contending that plaintiff has agreed to purchase the suit property which is an immovable property measuring 5 guntas dry land in Sy.No.112/5P2 of Nellur village, Kasaba Hobli, Chikkamagaluru District (hereinafter referred to as suit property).

3.2. The sale agreement was entered into with a condition that plaintiff would purchase the suit property at the rate of Rs.83,000/- per gunta in all sale consideration was to the tune of Rs.4,15,000/-.

3.3. However, the suit on contest came to be decreed in part by allowing the refund of earnest money of Rs.15,000/- with interest at 18% p.a. from the date of suit within two months from the date of the order.



4. Being aggrieved by the allowing of the suit in part and refusing to enforce the agreement to sell, plaintiff filed an appeal in RA No.5/2014.

5. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and noted that plaintiff has utterly failed to establish before the Trial Court that he was always ready and willing to perform his portion of the contract and as such, return of earnest money is a proper remedy ordered by the learned Trial Judge and therefore, dismissed the appeal.

6. It is also taken into consideration that the time to conclude the sale transaction fixed in the contract was not adhered to by the plaintiff.

7. Further, as against the total consideration of Rs.4,15,000/-, only sum of Rs.15,000/- was paid by the plaintiff and thereafter, did not show any interest in advancing the sale transaction and therefore, dismissed the appeal.



8. Being further aggrieved by the same, plaintiff is before this Court, in this appeal.

9. Learned counsel for the appellant reiterating the grounds urged in the appeal memorandum would contend that both the Courts have not properly appreciated the material evidence on record and wrongly decreed the suit in part in allowing the return of earnest money resulting in miscarriage of justice and sought for admitting the appeal on following substantial questions of law:

"1. Whether the Courts below had committed an error in dismissing the suit filed by the plaintiff in considering the irrelevant material placed on record by the respondents and non considering relevant material placed on record by the appellants?

2. Whether the Courts below were right in dismissing the suit of the plaintiff when the respondents has failed to produce necessary evidence and materials to show that there is readiness and willingness on their part to perform their part of contract in terms of the agreement on contrary imposing the burden on the plaintiff to show the readiness and willingness?



3. Whether the Court below is right in dismissing the suit of plaintiff by overlooking the promise constrained under Specific Relief Act?"

10. Per contra, learned counsel for the respondents supports the impugned judgments by reiterating the fact that the plaintiff was never willing to perform his portion of the contract which has been rightly appreciated by both the Courts and sought for dismissal of the appeal.

11. He would further contend that after the decree passed by the Trial Court, defendant has deposited sum of Rs.22,560/- on 02.01.2014 in honest compliance of the directions issued by the learned Trial Judge which is the payment of earnest money from the date of suit till the deposit at the rate of Rs.18% p.a. and as such, nothing survives in the appeal and sought for dismissal of the appeal.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.



13. On such perusal of the material on record, it is noticed that there is no dispute as to the sale agreement marked at Ex.P.2.

14. But in the cross-examination of P.W.1, it was suggested that defendant approached the plaintiff and requested to get the registered sale deed. At that time, plaintiff demanded to sell the suit property for Rs.2,00,000/-, because there is no road facility.

15. This would clearly go to show that plaintiff was not willing to perform his portion of the contract as the sale consideration was in a sum of Rs.4,15,000/- and at the time of entering into sale agreement, he very well knew as to what is the approach to that is available to the suit land and only with an intention to postpone the execution of the sale deed, she had come with a revised offer of Rs.2,00,000/- which has been rightly denied by the defendant.

16. These aspects of the matter apart from the fact that after lapse of 7½ months of time fixed in the



agreement, plaintiff did not choose to proceed with the sale transaction.

17. Thus, the decree passed by the learned Trial Judge confirmed by the First Appellate Court needs no interference as they are the factual aspects and no substantial question of law is involved in this appeal for further consideration.

18. Hence, following:

ORDER

- i. Admission is ***declined***.
- ii. Appeal is ***dismissed***.
- iii. Appellant is entitled to withdraw sum of Rs.22,560/- deposited by the defendant before the Trial Court under due identification.

**Sd/-
(V SRISHANANDA)
JUDGE**

KAV
List No.: 2 Sl No.: 45