

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 27.10.2015

DELIVERED ON: 25.01.2016

CORAM

THE HON'BLE MR.JUSTICE P.R.SHIVAKUMAR

A.S.No.193 of 2013

G.B.Chakravarthi (since deceased)
Rep by his LRs Appellants 1 to 4

1.C.Vijayalakshmi
2.Kalpana Lakshmi Narayanan
3.Praveena Ravi Kumar
4.Nalina Senthil Kumar
5.M/s.V.G.N.Homes (P) Ltd.,
Rep. by its Director Mr.B.R.Nandakumar
No.333, Poonamallee High Road
Aminjikarai, Chennai - 600 029 ..Appellants/Defendants
(5th Appellant impleaded
vide order of court dated 27.11.2013
made in M.P.No.2 of 2013)

vs.

C.Kishanlal ..Respondent/Plaintiff

Appeal Suit filed under Section 96 r/w Order XLI Rule 1
of the Civil Procedure Code, 1908 against the decree and
judgment passed in O.S.No.2500 of 2011 on 18.09.2012 by the
learned XVIII Additional Judge, City Civil Court, Chennai
and to set aside the same.

For appellants : Mr.M.S.Krishnan, Senior Counsel
for Mr.K.V.Babu

For respondent : Mr.R.Thiagarajan

JUDGMENT

This appeal has been preferred against the decree of the
trial court dated 18.09.2012 passed in O.S.No.2500/2011 on
the file of the XVIII Additional Judge, City Civil Court,
Chennai. The above said suit was filed by the respondent
herein for the relief of specific performance based on an
agreement for sale dated 17.11.1988 in respect of the suit
properties and also an alleged endorsement dated
20.03.1999. After contest, the learned trial judge upheld the

prayer made by the respondent herein/plaintiff and granted a decree directing execution of a sale deed in respect of the suit properties on deposit of Rs.11,79,349/- being the balance sale consideration as per the agreement on or before 18.10.2012. As against the said decree, the appellants 1 to 4 preferred an appeal. Subsequently, by an order dated 27.11.2013 made in M.P.No.2/2013 in A.S.No.193/2013, the 5th appellant got impleaded.

2. The sole plaintiff in the original suit is the sole respondent in the appeal suit. The Original Suit was initially filed on the Original Side of the High Court as C.S.No.945/2002 against the deceased first defendant G.B.Chakravarthi. Subsequently, due to the change of law regarding pecuniary jurisdiction, the same came to be transferred to the City Civil Court, Chennai, renumbered as O.S.No.2500/2011 and made over to the Additional District Judge cum Sessions Judge, City Civil Court at Chennai (FTC No.4).

3. The plaint averments, based on which the sole respondent/plaintiff filed the suit for specific performance are, in brief, as follows:

i) C.Kishanlal, the respondent herein/plaintiff was carrying on the business of purchasing and selling lands converted into plots. During the first week of August 1988, the deceased first defendant G.B.Chakravarthi along with one K.Loganathan approached the respondent herein/plaintiff and requested him to purchase the suit properties, namely lands having a total extent of 5 Acres and 34-1/2 cents owned by the deceased G.B.Chakravarthi, situated in two adjoining villages viz. Perumalagaram and Ayanambakkam. The said Loganathan, Mrs.Suseela, K.Perumal, K.Venkatesah, Mrs.Suguna, K.Kumar and Mrs.Rukmini jointly offered to sell their own lands having an extent of 6 Acres and 48-1/2 cents in the said villages (3.83-1/2 Acres at Perumalagaram village and 2.65 Acres at Ayanambakkam village). The respondent herein/plaintiff, after discussion, agreed to purchase the properties and the conditions for the same were finalised. A draft sale agreement was prepared and handed over to G.B.Chakravarthi, the deceased first defendant and K.Loganathan for their approval and return. After their approval, G.B.Chakravarthi and K.Loganathan, brought the sale agreement to the office of the respondent herein/plaintiff at No.23, Kutchery Road, Mylapore, Chennai - 600 004 on 17.11.1988. Thereafter, a formal agreement was prepared in Non-Judicial Stamp paper incorporating the terms and conditions already agreed upon between the respondent herein/plaintiff on the one hand and G.B.Chakravarthi (deceased first defendant) and Loganathan on the other hand. The agreement was signed by G.B.Chakravarthi (the deceased first defendant) and by K.Loganathan for himself and on behalf of his other co-sharers. Pursuant to the above said

sale Agreement, on the date of agreement itself, G.B.Chakravarthi, the first defendant, received a sum of Rs.10,001/- as advance, whereas Mr.K.Loganathan received a sum of Rs.10,001/- as advance for himself and on behalf his other co-sharers.

ii) After some time, except G.B.Chakravarthi (deceased first defendant), the other persons returned the advance and settled their accounts with the respondent/plaintiff. G.B.Chakravarthi, the deceased first defendant stood by the Agreement and wanted to sell the land in accordance with the terms of the Agreement. Hence he received a further sum of Rs.40,000/- on 01.12.1988 and he promised that he would execute a General Power of Attorney in favour of the respondent herein/plaintiff to plot out the lands into house sites and sell them. G.B.Chakravarthi, the deceased first defendant also agreed to sell the lands at the rate of Rs.2,300/- per cent. It was agreed further that the respondent herein/plaintiff would pay at the rate of Rs.20,000/- per acre towards that sale consideration at the time of execution and registration of the Power of Attorney. It was further agreed between the parties that the balance sale consideration would be paid and the sale transaction should be completed on production of all relevant documents required by the plaintiff and after a period of 11 months from the date of receipt of the layout plan approved by MMDA.

iii) At the time of execution of the sale agreement, the deceased first defendant G.B.Chakravarthi handed over Chitta, Adangal, Land Tax Receipts for the Faslis 1983 to 1998, Encumbrance Certificate, UDR Patta and FMB along with a certified copy of the Document No.809/1942 for the purpose of verification of the title. G.B.Chakravarthi (the deceased first defendant) also agreed to furnish further documents together with encumbrance certificate for verification. During January 1989, at the request of the respondent herein/plaintiff, G.B.Chakravarthi (the deceased first defendant) took the respondent herein/plaintiff to the suit lands situated at Perumalnagaram and Ayanambakkam, whereupon the plaintiff measured the land in the presence of Loganathan and others.

iv) Though G.B.Chakravarthi, the deceased first defendant promised to hand over the necessary documents, he failed to do so despite the fact that the respondent herein/plaintiff made repeated requests and also sent a registered letter dated 22.03.1989 calling upon him to hand over further documents and to execute the General Power of Attorney so as to enable the respondent herein/plaintiff to proceed further. G.B.Chakravarthi, the deceased first defendant, (originally, he was the sole defendant) deliberately evaded the service of the said letter, which made the plaintiff to send a telegram on 01.04.1989 calling upon the deceased first defendant to comply with the terms of

the sale agreement. In spite of the same, G.B.Chakravarthi (deceased first defendant) refused to complete the sale transaction and comply with the terms of the sale agreement dated 17.11.1988 by a reply dated 27.05.1989. The said reply reveal his refusal to perform his part of the obligation under the agreement. Hence the respondent herein/plaintiff was constrained to file a civil suit on the original side of the High Court, Madras along with an application bearing A.No.4413/1989 seeking leave to sue. A learned single Judge of the High Court dismissed the said application for leave to sue. The same was challenged in O.S.A.No.300/1989. A Division Bench of the High Court, by an order dated 19.06.1991, set aside the order of the learned single Judge and remanded the matter back to the single Judge for fresh hearing on the question of grant of leave to sue under Clause 12 of the Letters Patent.

v) Meanwhile, through mediators, the deceased first defendant G.B.Chakravarthi met the respondent herein/plaintiff with a proposal for settlement. Hence the respondent herein/plaintiff did not press the suit and allowed it to be dismissed for default. Finally the deceased first defendant G.B.Chakravarthy agreed to execute a General Power of Attorney on condition that the plaintiff should pay a sum of Rs.90,000/- per acre as part payment of consideration instead of Rs.20,000/- per acre as originally agreed. Accordingly, G.B.Chakravarthi made an endorsement on 20.03.1999 on the original agreement. Even thereafter he failed to perform his part of the obligations under the contract. Hence the respondent herein/plaintiff once again sent a legal notice dated 11.04.2001 calling upon the deceased first defendant to come and execute the sale deed, which evoked a reply dated 13.04.2001 wherein the deceased first defendant contended that the agreement had become time barred, suppressing the fact that an endorsement on the original sale agreement was made on 20.03.1999. Though the respondent herein/plaintiff had been always ready and willing to perform his part of the contract, namely to pay the balance amount of sale consideration, the deceased first defendant committed default and hence the respondent herein/plaintiff had no other go than to file a suit for specific performance of the contract. The respondent/plaintiff also issued a public notice to the public in Dinamalar on 30.03.2001 revealing the fact that he was holding a legally valid and subsisting agreement and warning that those who attempted to purchase the suit properties would be doing so at their own risk. No damages will be an adequate remedy for the breach committed by the deceased first defendant. Hence the respondent herein/plaintiff is entitled to seek the relief of decree for specific performance.

4. The suit was resisted by the deceased G.B.Chakravarthi, who originally figured as the sole

defendant, by filing a written statement denying the plaint averments and making averments that are, in brief, as follows.

i) The respondent herein/plaintiff was carrying on the business of Real Estate developer. The plaint averments regarding the execution of the Sale Agreement dated 17.11.1988 by the deceased first defendant are incorrect and misleading in material particulars. The deceased first defendant did not approach the plaintiff either himself alone or with one Loganathan and he did not request the respondent herein/plaintiff to purchase his lands situated at Perumalnagaram village and Ayanambakkam village, Saidapet Taluk, Kancheepuram District, totally measuring an extent of 5 Acres and 34-1/2 cents. K.Loganathan is none other than the son of the brother of the deceased first defendant. He represented the branch of the first defendant's brother, which owned 6 Acres 48-1/2 cents in the above said villages. Only pursuant to the message sent by the respondent herein/plaintiff through Loganathan, the deceased first defendant went to the office of the respondent herein at No.23, Kutchery Road, Mylapore, Chennai on 17.11.1988 and at that moment, for the first time, the respondent herein/plaintiff informed his desire to purchase the suit lands. Though the deceased first defendant wanted time to consider the proposal made by the respondent herein/plaintiff, the respondent herein/plaintiff assured that it was only a tentative measure and that the deceased first defendant, would cancel the agreement at any point of time if he was not willing to sell the land. Only based on such specific understanding, the deceased first defendant signed the agreement along with Loganathan. The respondent herein/plaintiff did not sign the agreement in their presence.

ii) It is true that a sum of Rs.10,001/- was paid as advance by the respondent herein/plaintiff to the deceased first defendant. Thereafter the deceased first defendant was making enquiries regarding the potential value of the lands which could be converted into house sites. Meanwhile, the respondent herein/plaintiff paid a further sum of Rs.40,000/- to K.Loganathan and hence he wanted to pay an equal sum to the deceased first defendant as further advance. The deceased first defendant received the above said amount on the same understanding that he could cancel the agreement at any time, if he was not willing to sell the land on the terms and conditions set out in the agreement. On enquiry, the first defendant came to know that the land had great potential value as house sites and it were worth more than what he had been offered by the plaintiff. Hence the deceased first defendant was not willing to sell the lands to the plaintiff as per the agreement dated 17.11.1988. Similarly, the said Loganathan also refused to sell the lands belonging to the branch of the first defendant's brother.

iii) While so, the respondent herein/plaintiff sent a letter to the deceased first defendant on 08.04.1989 claiming that the agreement dated 17.11.1988 was binding upon the deceased first defendant and calling upon him to execute a General Power of Attorney and conclude the contract. This itself showed that the agreement dated 17.11.1988 was a concluded contract. The deceased first defendant sent a reply on 16.04.1989 denying the fact that there was any concluded contract between them and making it clear that he was not willing to execute any General Power of Attorney in favour of the respondent herein/plaintiff. Thereupon the respondent herein/plaintiff sent a lawyer's notice dated 20.04.1989 on receipt of which a suitable reply was sent by the deceased first defendant on 29.04.1989. The respondent herein/plaintiff sent another lawyer's notice on 22.05.1989 and the same was also replied by the deceased first defendant through his advocate on 27.05.1989.

iv) Under the said circumstances, the respondent herein/plaintiff filed a suit on the original side of the High Court for specific performance of the agreement dated 17.11.1988 against the deceased first defendant G.B.Chakravarthi and the persons belonging to his brother's branch namely Loganathan and his co-sharers. In the said suit, Application No.4413/1989 filed for leave to sue was dismissed on 27.11.1989, which was challenged in an appeal in O.S.A.No.300/1989. The said appeal was allowed on 19.06.1991 and the application was remanded back to the learned single Judge to consider the leave application afresh. After such remand, the leave application, namely A.No.4413/1989 was left without any representation on 03.08.1989 and again on 08.08.1989 resulting in the dismissal of the said application on 08.08.1989. No steps were taken by the respondent herein/plaintiff to get the application restored.

v) During the pendency of the said proceedings before the High Court, the respondent herein/plaintiff effected a compromise with Loganathan and obtained more than Rs.1,50,000/- from him in full and final settlement of his alleged rights under the Agreement dated 17.11.1988. Having received back the entire advance amount paid by him and also substantial amount as compensation from Loganathan, the respondent herein/plaintiff was estopped from filing the present suit for the relief of specific performance. Even if it is assumed that the agreement dated 17.11.1988 was a concluded contract, it stood cancelled on the refund of the entire advance amount paid by the respondent herein/plaintiff and hence he cannot claim any more right under the agreement. The deceased first defendant never agreed to execute a General Power of Attorney in favour of the respondent herein/plaintiff. He also did not hand over the documents mentioned in the agreement or any other document on 05.12.1988 or on any other date. The documents should have been obtained by the respondent herein/plaintiff by himself

or through Loganathan. Having got back the advance amount, the respondent herein/plaintiff should have returned the documents to Loganathan, but he illegally kept them with him to build a false case.

vi) The alleged measurement of the lands by the respondent herein/plaintiff in the presence of the first defendant is false. The plaintiff averment that the deceased first defendant approached the respondent herein/plaintiff through some mediators for settlement is emphatically denied. He also denies the plaintiff averment that the first defendant finally agreed to give a General Power of Attorney on condition that the plaintiff would pay a sum of Rs.90,000/- per acre instead of Rs.20,000/- per acre. He also denies the alleged endorsement dated 20.03.1999 made on the original agreement. No such endorsement was made by the first defendant either on 20.03.1999 or on any other date. The alleged endorsement dated 20.03.1999 is a rank forgery committed by the respondent herein/plaintiff. No prudent person would have made such an endorsement after 11 years from the date of the original agreement giving a new lease of life to a dead agreement which had become time barred long back. The present suit filed by the respondent herein/plaintiff had become time barred by limitation long back. For using the forged document in a judicial proceedings, the first defendant would seek an action on the part of the Court to sanction prosecution against the respondent herein/plaintiff under Section 340 of Cr.P.C. for an offence under Section 192 IPC.

vii) The respondent herein/plaintiff maliciously caused a public notice to be published in Dinamalar on 30.03.2001 as if he was holding a legally valid and subsisting agreement. A notice was sent by the deceased first defendant to the respondent herein/plaintiff in respect of such notification. Most of the lands situated at Perumalnagaram and the subject matter of the alleged agreement dated 17.11.1988 had been notified under Section 4(1) of the Land Acquisition Act for acquisition on behalf of the Tamil Nadu Housing Board for Ambattur Environment Project and the land acquisition proceedings were pending. Therefore the alleged agreement had become impossible of performance by virtue of the notification in respect of the land acquisition proceedings.

viii) The respondent herein/plaintiff did not approach the court with clean hands and the suit itself came to be filed based on a forged endorsement and hence the respondent herein/plaintiff is not entitled to the relief of specific performance. Since the respondent herein/plaintiff was not in possession of the suit property, he could have included a relief for possession also as a consequential relief. As such relief was not sought for, the suit is liable to be dismissed as not maintainable. In any event, since the respondent herein/plaintiff is not entitled to the relief sought for, as

the suit itself is time barred and the suit came to be filed based on a forged endorsement to over come the bar of limitation, the suit should be dismissed with exemplary cost.

5. Based on the above said pleadings, the following issues were framed:

1. Whether the plaintiff is entitled for the specific performance of the contract?

2. Whether the plea of the defendant that there is no enforceable contract in relation to the property is sustainable?

3. Whether the suit is barred by limitation?

4. Whether the suit is maintainable in this court under Clause 12 of the Letter Patent? and

5. To what reliefs, the parties are entitled?

6. PW1 was examined and Exs.P1 to P35 were marked on the side of the first respondent herein/plaintiff, whereas DWs 1 and 2 were examined and Exs.D1 to D5 were marked on the side of the appellants/first defendant. In addition to the above one document was marked as C1 as court document.

7. At the conclusion of trial, the learned trial Judge heard the arguments advanced on both sides and considered the evidence adduced on both sides in the light of the arguments. Upon such consideration, the learned trial Judge pronounced a judgment on 18.09.2012 sustaining the prayer made by the respondent herein/plaintiff and granted a decree for specific performance without costs, directing the defendants to execute a sale deed within one month from the date of payment of the balance amount of sale consideration and granting one month's time to the respondent herein/plaintiff to deposit Rs.11,79,349/- towards the balance amount of sale consideration. As against the said decree of the trial Court dated 18.09.2012 granting the relief of specific performance, the appellants 1 to 4, who are the legal heirs of the deceased first defendant G.B.Chakravarthy, preferred the above said appeal on various grounds set out in the memorandum of grounds of appeal. By order dated 27.11.2013 made in M.P.No.2 of 2013, M/s.V.G.N Home (P) Ltd., being the subsequent purchaser, got impleaded as the 5th appellant.

8. The points that arise for consideration in the appeal are as follows:

1) Whether Ex.P1 is not a concluded contract for the sale

of the suit property as contended by the defendants in the suit?

2) Whether Ex.P1 - agreement was cancelled in its entirety and the respondent/plaintiff is estopped from claiming specific enforcement of the contract under Ex.P1 - agreement?

3) Whether the endorsement dated 20.03.1999 is genuine or whether the signature of the first defendant G.B.Chakaravarthi found therein is forged?

4) Whether the suit for specific performance is barred by limitation?

5) Whether the respondent/plaintiff is entitled to the relief of specific performance? and

6) To what other relief/reliefs the parties are entitled?

9. The arguments advanced by Mr.M.S.Krishnan, learned senior counsel appearing for Mr.K.V.Babu, learned counsel on record for the appellants in the appeal and Mr.R.Thiagarajan, learned counsel for the respondent/plaintiff were heard. The pleadings, evidence, judgment and decree of the trial Court and the other materials available on record sent for from the trial Court were also perused and this Court took into consideration the above said materials.

Point No.1

10. The case of the respondent herein/plaintiff is that he entered into an agreement on 17.11.1988 with the deceased first defendant G.B.Chakravarthi and one K.Loganathan for the purchase of the suit property measuring a total extent of 5 acres 34 1/2 cents from the deceased first defendant G.B.Chakravarthi and another 6 acres 48 1/2 cents from K.Loganathan and his co-sharers. It is an admitted fact that one part of the suit property lies within the boundary of Perumalagaram village and the other part of the suit property comes within the boundary of the adjacent village, namely Ayanambakkam village. Similarly, 6 acres and 48 1/2 cents sought to be purchased from Loganathan and his co-sharers also situates in those two adjacent villages. According to the respondent/plaintiff, the agreement between himself, the deceased first defendant G.B.Chakravarthi and K.Loganathan came to be reduced to writing and it was signed by the first defendant G.B.Chakravarthi agreeing to sell the suit property, whereas K.Loganathan signed the suit agreement for himself and on behalf of his co-sharers in respect of 6 acres and 48 1/2 cents, which is not the subject matter of the suit. According to the case of the respondent/plaintiff, on 17.11.1988, namely the date of agreement itself, a sum of Rs.10,001/- was paid as advance to the deceased first

defendant G.B.Chakravarthy and another sum of Rs.10,001/- was paid to K.Loganathan as advance. The respondent/plaintiff claims that it was the deceased first defendant, who came forward with a proposal to sell the suit property along with K.Loganathan, who offered to sell 6 acres 48 1/2 cents of property owned by him and his co-sharers; that the offer made by the deceased first defendant G.B.Chakravarthy and K.Loganathan was accepted and that the same resulted in the execution of the suit sale agreement dated 17.11.1988 marked as Ex.P1. There is no dispute regarding the fact that the deceased first defendant G.B.Chakravarthy was the absolute owner of the suit properties lying within the limits of two adjacent villages, namely Perumalagaram village and Ayanambakkam village. The details are as follows:

I. Perumalagaram Village

a) S.No.22	Acre 1, cents 83
b) S.No.6/1A	Acre 0, Cents 42
c) S.No.6/1B	Acre 0, Cents 42
d) S.No.26/3	Acre 0 Cent 1/2
e) S.No.21/2	Acre 0, Cents 67
f) S.No.20	Acre 0, Cents 65

II. Ayanambakkam Village

a) S.No.161/2	Acre 1, Cents 34
Total	----- Acre 5, Cents 33-1/2 -----

(Wrongly noted as 5 Acres 34 1/2 cents in the plaint schedule)

11. The deceased first defendant in his written statement denied the plaint averment that he offered to sell the suit property and that the same was accepted by the respondent/plaintiff resulting in the execution of Ex.P1 suit agreement for sale. On the other hand, he did take a stand in the written statement to the effect that he did not voluntarily go to the office of the respondent/plaintiff at No.23, Kutchery Road, Mylapore, Chennai - 600 004 to make an offer to sell the suit property to the respondent / plaintiff and that it was the respondent/plaintiff, who contacted him through K.Loganathan and invited him to his office. It is the further contention raised in the written statement that when the deceased first defendant G.B.Chakravarthy visited the office of the respondent/plaintiff along with K.Loganathan, the respondent/plaintiff expressed his intention to purchase the lands; that the respondent/plaintiff had also prepared an agreement in which the signature of the deceased first defendant G.B.Chakravarthy was obtained on the assurance that it was only a tentative measure and the deceased first defendant could, at any point of time, cancel the agreement if he was not willing to sell the land and that only based on

such assurance, he signed the agreement. Under the said circumstances alone, the deceased first defendant G.B.Chakravarthy contended that there was no concluded agreement and that the suit filed for specific performance based on Ex.P1 agreement, which according to him, was not a concluded agreement, was bound to be dismissed.

12. In this regard, it is pertinent to note that the deceased first defendant G.B.Chakravarthy did not deny the execution of Ex.P1 agreement for sale. On the other hand, he claimed that while getting his signature in the agreement, an assurance was given by the respondent/plaintiff that creation of the agreement itself was only a tentative measure and that he was at liberty to cancel the agreement if he was not willing to sell the land in accordance with the terms of the agreement. The said contention itself will show that the deceased first defendant G.B.Chakravarthy did not deny the execution of Ex.P1 agreement dated 17.11.1988 and on the other hand, he claimed that, by an oral assurance, he was given freedom to cancel the agreement unilaterally, if he was not willing to sell the suit property to the respondent / defendant. Having signed the agreement knowing fully well that it was an agreement for the sale of the suit property to the respondent /plaintiff for a consideration recited therein and having received an advance of Rs.10,001/-, the deceased first defendant was, and the appellants, who claim through him, are estopped from contending that there was no concluded agreement for sale. That is the reason why the deceased first defendant did take a stand that an assurance was given to him at the time of execution of Ex.P1 agreement for sale to the effect that the deceased first defendant G.B.Chakravarthy could cancel the agreement, if he was not willing to sell the land. The said plea is nothing but a plea of oral agreement conferring a right on the vendor under Ex.P1 agreement to revoke the contract and cancel the agreement unilaterally at any point of time insofar as the suit property is concerned, if he was not willing to sell the land to the purchaser under the agreement for sale, namely the respondent/plaintiff.

13. Apart from the question regarding the availability of such a plea against a written agreement, the deceased first defendant and appellants 1 to 4, who got impleaded as defendants 2 to 5 on the death of the first defendant, have not proved such a collateral agreement by reliable and tangible evidence. A consideration of the evidence adduced on both sides, both oral and documentary, in this regard, makes it clear that the deceased first defendant Chakravarthy miserably failed to prove such a collateral agreement pleaded by him in the written statement. In fact, while deposing as DW1, the deceased first defendant G.B.Chakravarthy himself admitted the fact that he received a sum of Rs.10,000/- as advance under the agreement for sale dated 17.11.1988 marked as Ex.P1. He also admitted during the course of his evidence

that he met the respondent herein/plaintiff at 07.30 hours on 17.11.1988 in the office of the respondent/plaintiff; that his brother's son K.Loganathan had also accompanied him and that at that point of time, an agreement was entered into between himself and K.Loganathan on the one hand as vendors and the respondent herein/plaintiff on the other hand as purchaser. He also made a clear admission that the price of the land was fixed at Rs.2,300/- per cent (equivalent to Rs.2,30,000/- per acre) and that a sum of Rs.10,001/- was paid to him as advance on 17.11.1988 itself, namely the date of execution of Ex.P1 agreement.

14. A condition was incorporated in the agreement to effect that the vendors under the agreement should execute a Power of Attorney in favour of the purchaser under Ex.P1 agreement and that at the time of execution of such Power of Attorney, part payment of sale consideration should be made at the rate of Rs.20,000/- per acre. The further condition incorporated in Ex.P1 agreement is that after making such part payment at the time of execution of the Power of Attorney in favour of the Purchaser under Ex.P1 - agreement, the balance amount of sale consideration should be paid within 11 months from the date of approval of the layout plan by MMDA. In fact it is stipulated in the agreement that the balance sale consideration would be made and the sale transaction would be completed after 11 months from the date of getting approval from MMDA. Though the preposition "after" has been employed, both the parties, in their pleading as well as evidence, have admitted that it should be read and understood as "within". On 01.12.1988 (within two weeks from the date of Ex.P1 agreement), the respondent herein/plaintiff paid a sum of Rs.40,000/- to the deceased first defendant G.B.Chakravarthy and paid another sum of Rs.40,000/- to K.Loganathan towards further advance and part payment of the sale consideration. An endorsement came to be made by the deceased first defendant G.B.Chakravarthy and K.Loganathan on 01.04.1988 and the said endorsement has been marked as Ex.P29. Besides producing Ex.P1 agreement and marking Ex.P29 endorsement dated 01.04.1988, the respondent/plaintiff adduced oral evidence as PW1 confirming his plea that Ex.P1 agreement was entered into on 17.11.1988 and a sum of Rs.10,001/- was paid to the deceased first defendant Chakravarthy as advance and that a further sum of Rs.40,000/- was paid on the date of Ex.P29 endorsement, namely 01.12.1988, as further advance and part payment of the sale consideration. The deceased first defendant, who deposed as DW1, made a clear admission of his executing Ex.P1 agreement for sale, the receipt of Rs.10,000/- (actual amount paid was Rs.10,001/-) as advance on the date of agreement itself and receipt of Rs.40,000/- as further advance and part payment of the sale consideration on 01.12.1988. He has also admitted in clear terms that he signed the endorsement dated 01.12.1988 marked as Ex.P29.

15. However, when the respondent/plaintiff sent a telegraphic notice on 01.04.1989, the deceased first defendant G.B.Chakravarthy issued a reply holding out that he did not agree for the terms and conditions of the agreement. A copy of the telegraphic notice has been marked as Ex.P14. The reply dated 06.04.1989, sent by the deceased first defendant G.B.Chakravarthy, has been marked as Ex.P15. The telegraphic notice was preceded by a letter dated 22.03.1989, a copy of which has been marked as Ex.P13. But the said letter did not reach the hands of the deceased first defendant G.B.Chakravarthy. The same made the respondent/plaintiff suspect that the deceased first defendant G.B.Chakravarthy was evading service of notice, which prompted him to issue a telegraphic notice. Since in Ex.P15, the reply to the telegraphic notice, the deceased first defendant G.B.Chakravarthy claimed that he did not receive the letter dated 22.03.1989, nor a postal intimation regarding such registered letter, the respondent/plaintiff chose to issue Ex.P16 letter dated 08.04.1989 annexing a copy of Ex.P13 letter dated 22.03.1989. After the receipt of Ex.P16 letter, the deceased first defendant sent another reply under Ex.P17 dated 16.04.1989 repeating and reiterating the stand taken by him in his earlier letter/notice. Further letter correspondence and exchange of notices as evidenced by Exs.P18 to P23 will show that the deceased first defendant was claiming that there was no concluded agreement and that he had been given a right to cancel Ex.P1 agreement for sale unilaterally, if he was not willing to sell the property in accordance with the terms of the agreement.

16. Even though the deceased first defendant G.B.Chakravarthy took a stand that there was no concluded agreement and that there was a collateral agreement giving him freedom to unilaterally cancel the agreement in case he was not willing to proceed with the sale transaction as per the agreement, there is no reliable evidence, excepting the interested testimony of DW1, the deceased first defendant G.B.Chakravarthy himself. In fact, DW1, in his evidence, made a clear admission that himself, Loganathan and the respondent/plaintiff signed Ex.P1 agreement and that it was executed at Chennai. He made a clear admission that he agreed to sell the properties at Perumalagaram village and Ayanambakkam village found mentioned in the Ex.P1 agreement; that it was also agreed between the parties that the sale consideration would be Rs.2300/-; that the total sale consideration of the suit property was agreed to be Rs.27,20,900/- and that he handed over three documents mentioned in Page 3 of Ex.P1 agreement to the respondent/plaintiff through Loganathan. There is also clear admission made by him to the effect that he along with Loganathan agreed to execute a Deed of General Power of Attorney in favour of the respondent herein/plaintiff as found in Clause (4) of Ex.P1 - agreement and that it was also agreed that the plaintiff should pay an amount calculated at

the rate of Rs.20,000/- per acre as further advance and part payment of consideration at the time of execution of the Deed of General Power of Attorney. All other conditions found in Ex.P1 were also accepted by the deceased first defendant, while deposing as DW1. The relevant part of his testimony is reproduced:

"I have received a sum of Rs.50,000/- from the plaintiff. It was paid in two parts. First time Mr.Kishanalal paid Rs.10,000/-. On 17.11.1988 Kishanalal directly paid Rs.10,000/- to me. The plaintiff also paid Rs.10,000/- to Loganathan. I have agreed to sell the properties at Perumalagaram village and Ayanambakkam village. I agreed to sell the schedule properties found in Ex.P1. The price was agreed at Rs.2300/- per cent. The sale consideration agreed in Ex.P1 is Rs.27,20,900/-. I handed over three documents as mentioned in Page 3 of Ex.P1 to the plaintiff through Loganathan. Myself and Loganathan also agreed to execute a deed of General Power of Attorney in favour of the plaintiff as stipulated in Clause 4 of Ex.P1. "

17. As per Clause - 4 of Ex.P1, it was agreed that the plaintiff would pay Rs.20,000/- per acre on the date of execution of Deed of General Power of Attorney. Under Ex.P1, it was agreed that the transaction would be concluded within 11 months from the date of approval by MMDA. DW1 has also admitted the receipt of Rs.40,000/- each by himself and Loganathan and the signing of the endorsement on the reverse page of the first sheet of Ex.P1 agreement, marked as Ex.P29.

18. A consideration of the evidence of PW1 and that of DW1 will make it clear that the case of the respondent/plaintiff, that there was a concluded agreement reduced to writing and signed by the parties under Ex.P1 dated 17.11.1988; that G.B.Chakravarthy and Loganathan were paid a sum of Rs.10,001/- each as advance on the date of agreement and that a further advance of Rs.40000/- each was paid to G.B.Chakravarthy and K.Loganathan on 01.12.1988 as evidenced by Ex.P29 endorsement, stands substantiated by Ex.P1 and Ex.P29 and by the evidence of PW1 as well as the admission made by DW1. It is quite obvious from the said evidence that the earlier contention made by G.B.Chakravarthy (deceased first defendant) that there was no concluded agreement was given a go by and on the other hand, he chose to take a stand that, by a collateral oral agreement, he was given a right to cancel Ex.P1 - agreement, in case he was not willing to proceed with the sale transaction in terms of the agreement. Having admitted the execution of Ex.P1 agreement and Ex.P29 endorsement and also the receipt of advance under Ex.P1 agreement and further advance under Ex.P29 endorsement, and having admitted in his evidence while deposing as DW1, that he agreed for the terms of the agreement, the deceased

first defendant should have adduced sufficient reliable evidence to prove his contention that there was a collateral oral agreement giving him liberty to cancel the Ex.P1 agreement unilaterally, if he was not willing to go ahead with the sale transaction in terms of the agreement.

19. In this regard, not even a suggestion was made during the cross-examination of PW1 to the effect that there was such oral collateral agreement giving right to the deceased first defendant G.B.Chakravarthy to unilaterally cancel Ex.P1 agreement, in case he was not willing to proceed with the sale transaction in accordance with the terms of Ex.P1 agreement. The deceased first defendant G.B.Chakravarthy, who figured as DW1, also did not make specific reference to such collateral oral agreement. On the other hand, the entire testimony of the deceased first defendant as DW1 proceeded on the footing that he was relying on the inaction on the part of the respondent/plaintiff towards the completion of the sale transaction under Ex.P1 - agreement; that the endorsement relied on by the respondent/plaintiff dated 20.03.1999 was forged and that the suit was hopelessly barred by limitation. In view of the same, this Court comes to the conclusion that the contention of the deceased first defendant and appellants 1 to 4, who became defendants 2 to 5 on the death of the deceased first defendant, that there was no concluded agreement under Ex.P1, does not stand substantiated. The other stand taken by the defendants to the effect that there was a collateral oral agreement, by which the deceased first defendant was given liberty to unilaterally cancel Ex.P1 - agreement, has also not been substantiated. Hence, this Court holds that Ex.P1 agreement, is a concluded and valid agreement and that there was no collateral oral agreement giving right to the deceased first defendant to unilaterally cancel Ex.P1 agreement in case he was not willing to proceed with the sale transaction in terms of the said agreement. Point No.1 is answered accordingly.

Point No.2

20. Admittedly the suit sale agreement Ex.P1 was entered into on 17.11.1988. The agreement contains two parts. 1.83 acres comprised in S.No.22, an extent of 42 cents comprised in S.No.6/1A, another 42 cents comprised in S.No.6/1B, an extent of 1/2 cent comprised in S.No.26/3, an extent of 67 cents comprised in S.No.21/2 and an extent of 65 cents comprised in S.No.20 in Perumalagaram Village, together with an extent of 1.34 acres comprised in S.No.161 of Ayanambakkam village forming a single plot was the property owned by the deceased first defendant G.B.Chakravarthy. The deceased first defendant agreed to sell and the respondent/plaintiff agreed to purchase the above said property totally measuring 5 acres 33 1/2 cents (wrongly totaled in Ex.P1 as 5 acres 34 1/2 cents) for a sale consideration at the rate of Rs.2300/- per cent, which is equivalent to 2,30,000/- per acre.

K.Loganathan signed the agreement for himself and on behalf of his other co-sharers (all legal heirs of G.B.Krishnasamy Naidu). An extent of 42 cents comprised in S.No.24, an extent of 1 acre 30 cents comprised in S.No.25/1, an extent of 64 cents comprised in S.No.35/2, an extent of 1 acre 31 cents comprised in S.Nos.10 and 9, an extent of 1 ½ cents comprised in S.No.26/3 and an extent of 15 cents comprised in S.No.8, all in Perumalagaram village, along with an extent of 1.29 acres comprised in S.No.162/1 and an extent of 1 acre 36 cents comprised in S.No.162/2 of Ayanambakkam village (totally measuring 6 acres and 48 ½ cents) forming a single plot was the property agreed to be sold by K.Loganathan to the respondent/plaintiff under the other part of the agreement Ex.P1. It was owned by K.Loganathan and his co-sharers, who are the legal heirs of Late G.B.Krishnasamy Naidu. The said Krishnasamy Naidu was the brother of G.B.Chakravarthy, the deceased first defendant. Though the respondent/plaintiff chose to file the previous proceeding in unnumbered C.S.No..... of 1989 and Application No.4413 of 1989 in the unnumbered C.S against the deceased first defendant G.B.Chakravarthy, K.Loganathan and his other co-sharers, who were 6 in number. The said application for leave was dismissed for the first time and the order of the Single Judge was set aside in the appeal in O.S.A.No.300 of 1989 and the application was remanded back to the Single Judge. After such remand, the respondent herein/plaintiff allowed the application to be dismissed for non-prosecution on 08.08.1995.

21. However, the respondent herein/plaintiff claims that the agreement in respect of the properties owned by Loganathan and his co-sharers, came to be cancelled by mutual consent pursuant to the expression of inability by Loganathan to convince his co-sharers. It is sought to be proved by the production of Ex.P24 letter allegedly written by Loganathan to the Plaintiff and Ex.P25 Deed of Cancellation of Agreement dated 06.06.1992. Of course, Ex.P24 letter is undated. However in Ex.P25 - Deed of Cancellation dated 06.06.1992, the date of such letter has been mentioned as 04.06.1992. Loganathan and 5 others, besides the respondent / plaintiff have signed the said Deed of Cancellation of Agreement. Rukmani, who was arrayed as 8th respondent in Application No.4413 of 1989 was not made a party to Ex.P25 and her signature was not obtained in Ex.P25.

22. Relying on the admission made by the plaintiff that the suit agreement was cancelled by mutual consent by the execution of Ex.P25 - Cancellation Deed in respect of the property owned by K.Loganathan and his co-sharers, the appellants contended that the agreement was not partially cancelled in respect of the property owned by Loganathan and his co-sharers alone and on the other hand, Ex.P1 agreement was cancelled in its entirety after receiving back the advance amount paid by the purchaser under Ex.P1- agreement

together with a substantial amount towards compensation and that the amount thus received by the respondent/plaintiff was more than Rs.1,50,000/-. It was the contention of the deceased first defendant G.B.Chakravarthy that the respondent herein/plaintiff effected a compromise with K.Loganathan and obtained more than Rs.1,50,000/- from the said Loganathan in full quit of his rights under Ex.P1 agreement dated 17.11.1988 and that having thus received the entire advance amount and a substantial amount as compensation from Loganathan in full settlement of his rights under Ex.P1 agreement, the respondent/plaintiff was estopped from filing the present suit for the relief of specific performance of Ex.P1 agreement for sale. Though such a plea was taken as a plea of defence in the written statement of the deceased first defendant, the same was also given up by the deceased first defendant, as it could be inferred from the fact that PW1 was not cross-examined regarding the settlement between the respondent/plaintiff and Loganathan evidenced by Ex.P25 Deed of Cancellation of Agreement. Not even a suggestion was made to the plaintiff, while he was deposing as PW1, to the effect that he received more than Rs.1,50,000/- from K.Loganathan and gave up his right under Ex.P1 agreement in entirety. The deceased first defendant, who figured as DW1, also did not refer to Ex.P25-Deed of Cancellation of Agreement as the one cancelling Ex.P1 agreement in its entirety. There is no assertion made by DW1 that the cancellation of agreement with K.Loganathan was a cancellation of Ex.P1 agreement in entirety. On the other hand, the entire evidence of DW1 is to the effect that Ex.P1 agreement for sale was barred by limitation and that hence the respondent/plaintiff was not entitled to any relief in the suit filed by him against the first respondent G.B.Chakravarthy for specific performance.

23.Though a plea was taken in the written statement to the effect that the cancellation of the agreement with Loganathan amounted to cancellation of Ex.P1 agreement in entirety, no evidence was let in to substantiate the said contention. On the other hand, Ex.P24 letter, Ex.P25 Deed of Cancellation of Agreement and the evidence of PW1 makes it clear that Ex.P1 consists of two parts - first part being the agreement for sale of the suit property by the deceased first defendant G.B.Chakravarthy to the respondent/plaintiff and the second part being the agreement for sale of 6 acres 48 1/2 cents (not the subject matter of the suit property) owned by K.Loganathan and his co-sharers to the respondent/plaintiff.

24. K.Loganathan signed Ex.P1 agreement on his own behalf and on behalf of his other co-sharers agreeing to sell 6 acres and 48 1/2 cents of property owned by them to the respondent/plaintiff. But, subsequently, he was not able to get the concurrence of his other co-sharers, which prompted him to issue a letter dated 'nil' under Ex.P24 expressing his

inability to fulfill his obligations under Ex.P1 agreement for sale since his other co-sharers were not willing to part with the property. The same resulted in the execution of Ex.P25 Deed of Cancellation of Sale Agreement on 06.06.1992. Though Ex.P24 is undated, the date of said letter has been referred to as 04.06.1992 in Ex.P25. A perusal of the recitals found therein will show that the cancellation was made only in respect of 6 acres 48 cents belonging to K.Loganathan and his co-sharers. The relevant recital in Ex.P25 in vernacular, which makes it clear that the cancellation of the agreement was only in respect of the land owned by K.Loganathan and his co-sharers is reproduced hereunder:-

" தற்போது தங்கள் குடும்பத்தில் ஏற்பட்ட பிரச்சனைகளை தீர்க்க தங்களின் 4.6.92 அன்றய கடிதத்தில் கோரியபடியும் சில மத்யஸ்தர்கள் நாம் சமரசமாக போக வேண்டி மத்யஸ்தம் செய்துவைக்க முன்வந்த காரணத்தால் நானும் நீங்களும் அதற்கு மனப்பூர்வமாய் சம்மதித்த காரணத்தால் நாம் 17.11.1988 அன்று ஏற்படுத்தி கொண்ட நில விக்கிரைய ஒப்பந்தத்தில் தங்களின் கீழ்க்கண்ட நிலங்களை பொருத்தவறை இதன் மூலம் கேன்சல் செய்து நான் தங்களுக்கு வில்லங்க சுத்தியாய் விடுதலை செய்து கொடுக்கிறேன் .

பெருமான்கரம் கிராமம்	சர்சே எண்	விஸ்தீரணம்
	24	0.42
	25/1	1.30
	35/2	0.64
	10, 9	1.31
	8	0.15
	26/3	0.01 1/2
அயனம்பாக்கம் கிராமம்	162/1	1.29
	162/2	1.36

ஆக மொத்தம் 6.48 1/2

உடிக நிலங்களில் இன்று முதல் எனக்கோ என வாரிகதாரர்களுக்கோ எவ்வித உரிமையம் கிடையாது என்று இதன் மூலம் உறுதி கூறுகிறேன். உடிக நிலங்களை தங்கள் சர்வ சுதந்திரத்துடன் வின்மய விக் கிரையங்களுக்குரியதாய் ஆண்டு அனுபவித்துக் கொள்ள எனக்கு எவ்வித ஆட்சேபணையம் கிடையாது என்றும் இதன் மூலம் தெரிவித்துக் கொள்கிறேன். "

It is also found from Ex.P25 that only a sum of Rs.50,000/- which had been paid as advance to Loganathan under Ex.P1 agreement was refunded for the cancellation of the agreement

in respect of the property owned by K.Loganathan and his co-sharers. The last paragraph of the cancellation agreement makes it clear that the respondent/defendant reserved and retained his right to proceed against the deceased first defendant in respect of the suit property. The last paragraph in vernacular reads as follows:

"மேலும், ஹைட்ரோபிசுக் கரவர்த் தி நாயுடு அவர்களுடன் நான் 17.11.1988 அன்று ஏற்படுத்தி் கொண்ட நில விக்சிறைய ஒப்பந்தம் பத்திரத்தின் ஹைரத்துக்களின் படி நான் அவரின் பேரில் தாவா போடவோ கிரையம் பெற்றுக் கொள்ளவோ அதற்குத் தேவையான நடவடிக்கைகளை எடுக்கவோ எனக்கு பூரண ஹரிமையுண்டு என்ற இதன் மூலம் தெரிவித்துக் கொள்கிறேன்."

25. The same seems to be the reason why the deceased first defendant did not stick on to his stand taken in the written statement that the agreement in entirety was cancelled and hence the respondent herein/plaintiff was estopped from filing the suit for specific performance against him in respect of the suit property and on the other hand, he simply relied on the absence of readiness and willingness on the part of the respondent herein/plaintiff and the plea that the suit is barred by limitation.

26. For the reasons stated above, this Court comes to the conclusion that the contention of the deceased first defendant that the agreement was cancelled in its entirety and hence, the respondent herein/plaintiff was estopped from filing the suit for specific performance cannot be sustained and the same came to be rightly rejected by the learned trial Judge. The point is answered accordingly.

Point No.3

27. Mr.M.S.Krishnan, the learned senior counsel for the appellants, drawing the attention of the Court to the earlier proceedings and also the evidence adduced on both sides (both oral and documentary), argued with vehemence that though the respondent /plaintiff made payment of an additional advance of Rs.40,000/- on 01.12.1988 i.e., within 15 days from the date of execution of Ex.P1 agreement, the respondent/plaintiff did not take steps towards the completion of the transaction within a reasonable time; that on the other hand, the respondent herein/plaintiff remained idle for two years and then chose to file a previous suit on the original side of the High Court of Madras (unnumbered C.S.No..... of 1989) along with an application seeking leave to sue; that the said application was dismissed by a learned single Judge of this Court, against which he preferred an appeal before the Division bench in O.S.A.No.300 of 1989; that the Division Bench allowed the OSA, set aside the order of the learned Single Judge dismissing the leave application and remitted the matter back to the learned single Judge to consider the leave application afresh under Clause 12 of the

Letters Patent and that after such remand, the respondent herein/plaintiff failed to prosecute the said application and allowed the said application to be dismissed for non-prosecution. It is the further contention of the learned senior counsel that the deceased first defendant refused performance of his obligations under Ex.P1 agreement by issuing a reply to the telegraphic notice dated 01.04.1989 sent by the respondent herein/plaintiff; that the respondent/plaintiff had notice of such refusal before 08.04.1989 and that hence the limitation for filing the suit for specific performance started at least from 08.04.1989.

28. The learned senior counsel for the appellants contended further that though there were subsequent letter correspondence and exchange of notices, in none of the letters, notices or reply notices, the deceased first defendant G.B.Chakravarthy acknowledged his obligations under Ex.P1 - agreement for sale and he persistently refused to perform his obligations under the agreement for sale and that hence, the suit should have been filed within three years from the date on which the respondent herein/plaintiff had notice of such refusal. Learned senior counsel for the appellants contended further that even it is assumed for argument sake, without admitting, that the last of the reply notices sent by the deceased first defendant could be taken as the date on which limitation started running, the suit should have been filed within three years from 27.05.1989 and that since the present suit came to be filed several years after the expiry of the period of limitation, the suit is hopelessly barred by limitation.

29. Per contra, the learned counsel for the respondent herein/plaintiff put forth an argument that a previous suit in unnumbered C.S.No...of 1989 was filed on the original side of the Madras High Court along with an application seeking leave to sue; that during the pendency of the application on the original side after it was remanded by the Division bench to the single Judge for rehearing, the deceased first defendant G.B.Chakravarthy approached the respondent herein/plaintiff through mediators for settlement; that hence the respondent herein/plaintiff did not prosecute the earlier proceedings; that thereafter the deceased first defendant G.B.Chakravarthy acknowledged his liability by making an endorsement in the said agreement on 20.03.1999 and that since the present suit came to be filed within a period of three years from the date of fresh refusal to perform after 20.03.1999, the suit was well within the period of limitation and the bar of limitation would not get attracted.

30. In this regard, extracting the relevant part of the pleading in the plaint will be helpful to understand the nature of plea. In paragraph 10 of the plaint the following averment came to be made:-

"The Division Bench of the Hon'ble High Court by order dated 19.06.1991 set aside the order passed in A.No.4413/89 and remitted back the matter for fresh hearing on the question of grant of leave to sue under Clause 12 of the Letters Patent. In the mean time the defendant through some mediators met the plaintiff for settlement and therefore the plaintiff did not press the suit and allowed it to be dismissed for default.

31. The respondent herein/plaintiff did to refer to the date of dismissal of Application No.4413 of 1989 on the file of the High Court of Madras, Original Side. He also did not produce copies of the judgment in the O.S.A and the order made in the said application. On the other hand, the deceased first defendant produced certified copy of the judgment of the Division Bench dated 19.06.1991 pronounced in O.S.A.No.300 of 1989 and a certified copy of the order of the Single Judge dated 08.08.1995 dismissing Application No.4413 of 1989 after its remand. They have been marked as Exs.D1 and D2 respectively. From the said documents, it is obvious that Application No.4413 of 1989, seeking leave to sue, was dismissed for non-prosecution only on 08.08.1995. The matter was remanded by the Division Bench to the single Judge on 19.06.1991. For more than 4 years, the respondent herein/plaintiff dragged on the matter and ultimately left the said application to be dismissed for default on 08.08.1995. There is no piece of evidence to show that the deceased first defendant G.B.Chakravarthy made any acknowledgment of his liability under Ex.P1 agreement prior to 08.08.1995, the date on which the leave application was dismissed for non-prosecution.

32. Since the refusal to perform by G.B.Chakravarthy was communicated by Ex.P15 - letter as early as on 06.04.1989 which evoked a further letter by the respondent/plaintiff on 08.04.1989 under the original of Ex.P16, the limitation for filing the suit for specific performance commenced in between 06.04.1989 and 08.04.1989, the date on which the respondent herein/plaintiff received Ex.P15 letter and thereby he got knowledge of the refusal by the deceased first defendant to perform his obligations under Ex.P1 agreement for sale. Of course the respondent herein/plaintiff chose to file a civil suit on the original side of the High Court within three years. Since the subject matter of the suit, namely the suit property, situated outside the ordinary original territorial jurisdiction of the High Court and only one out of 8 defendants in the proposed suit was residing within the ordinary original territorial jurisdiction of the High Court, he filed Application No.4413 of 1989 seeking leave to sue. The said application was dismissed by a learned Single Judge of the High Court on 27.09.1989. On appeal in O.S.A.No.300 of 1989, a Division Bench of the High Court allowed the appeal and remanded the matter back to the single Judge to

rehear the application seeking grant to leave under Clause 12 of the Letters Patent. The said remand order came to be passed on 19.06.1991 as evidenced by Ex.D1. After the remand of the petition, the respondent/plaintiff kept quite and did not pursue the application which resulted in its dismissal for default on 08.08.1995. A certified copy of the said order has been produced on the side of the defendant and marked as Ex.D2.

33. At the best, the period spent on the earlier litigation, namely in prosecuting the unnumbered C.S and Application No.4413 of 1989 can be sought to be excluded from the period of limitation in accordance with Section 14 of the Limitation Act, 1963. But Section 14 of the Limitation Act prescribes a condition that such proceeding should have been initiated and prosecuted in a Court without jurisdiction and such prosecution of the proceedings should have been with due diligence. Let us forget the said condition for the time being and relegate the consideration of the same at a subsequent part of this judgment. Assuming that the period spent on prosecuting the proceeding initiated in the High Court on its original side in Application No.4413 of 1989 in unnumbered C.S.No. of 1989 could be excluded while counting the period of limitation for filing the suit for specific performance of the agreement for sale, even then it can be found that the present suit has not been filed within the period of limitation. The present suit came to be filed on 14.03.2002. The limitation which started running from 08.04.1989 can be counted as follows:

Date from which limitation started running
(date on which the plaintiff had notice of
refusal to perform) -08.04.1989

Date of filing of the earlier suit

Unnumbered C.S. and I.A.No.4413 /1989 -Some where in 1989
As the particulars are not found and it is admitted that the said unnumbered C.S came to be filed after the ultimate refusal made by the first defendant under Ex.P23 dated 27.05.1989, we may assume the date of filing of the previous suit to be 27.05.1989. The period in between 08.04.1989 and 27.05.1989 will account for 1 month and 19 days (49 days). The leave application, namely Application No.4413 of 1989 ultimately came to be dismissed on 08.08.1995. Hence, the period from 27.05.1989 to 08.08.1995 can be excluded. If such exclusion is allowed, then the present suit should have been filed within a period of three years minus 49 days from 08.08.1995. If the time spent on the previous proceeding is excluded, the period of limitation would have expired on the completion of two years , 10 months and 11 days from 08.08.1995. Hence, the suit should have been filed on or before June 19, 1998. But, the present suit came to be filed only on 14.03.2002. Therefore, the present suit shall stand barred by limitation in the absence of any acknowledgment of

liability, giving a fresh start of limitation. The same is the reason why the respondent/plaintiff has propounded an acknowledgment in writing dated 20.03.1999.

34. According to the plaintiff, the deceased first defendant acknowledged his liability under the Ex.P1 agreement for sale by signing an endorsement made on 20.03.1999 on the backside of the first sheet of the Ex.P1 - agreement for sale. Mr.R.Thiagarajan, learned counsel for the respondent/plaintiff, drawing the attention of the Court to the said endorsement, which is the second endorsement found on the reverse page of the first sheet of Ex.P1 agreement, argued that by making such an endorsement, the deceased first defendant G.B.Chakravarthy acknowledged his liability under Ex.P1 - agreement for sale, pursuant to the offer made by the respondent/plaintiff to make part payment of the sale consideration at the time of execution of the general power of attorney at the rate of Rs.90,000/- per acre, instead of Rs.20,000/- per acre as found in Ex.P1 - agreement. It is his further submission that, by the said endorsement, the deceased first defendant G.B.Chakravarthy agreed to hand over all documents pertaining to the suit property to enable the respondent/plaintiff to get MMDA approval and agreed for the completion of the sale transaction on or before 10.06.2001.

35. It is true that there are two endorsements on the reverse side of the first sheet of Ex.P1 - sale agreement. The first endorsement was made on 01.12.1988 and the same has been marked as Ex.P29. The second endorsement is stated to have been made on 20.03.1999. Though the respondent herein/plaintiff relies on the said endorsement as an acknowledgment of liability to show that it caused a fresh start of limitation, he has not chosen to mark the said endorsement as an exhibit on his side. In this regard, it was the clear and categorical contention of the deceased first defendant G.B.Chakravarthy, who was the sole defendant at that point of time, that the said endorsement was a forged one and he did not sign the said endorsement dated 20.03.1999. Since the endorsement was denied by the deceased first defendant and other defendants who were defending the case on the basis of the written statement filed by the deceased first defendant, the burden of proving the same shall stand cast on the respondent herein/plaintiff. The respondent herein/plaintiff has not examined any other witness to prove the said endorsement relied on by him. The only available evidence is the interested testimony of PW1, the plaintiff himself. Curiously, the respondent herein/plaintiff who deposed as PW1, in his evidence in chief examination, has not furnished the details as to the place at which and the witnesses in whose presence the endorsement came to be made. On the other hand, a nebulous and evasive statement came to be made which reads as follows:-

"Since the defendant did not perform his part of the contract under Ex.P1, I have filed this present suit. At the time of Ex.P1 agreement, the fair market value of the property per cent was Rs.2300/-. I am ready and willing to pay the balance sale consideration as per Ex.P1 till today. On the back of first page of Ex.P1 there was an endorsement dated 20.03.1998 and that endorsement was found signed by the defendant."

By the said statement made by him (PW1) in his chief examination, the respondent/plaintiff did not assert that the endorsement was made on 20.03.1999 in the presence of witnesses who signed it. He simply states that an endorsement dated 20.03.1999 was found and that the endorsement was found signed by the defendant. The same will show that the endorsement was not made in his presence and the signature of the deceased first defendant was not made in his presence. Even though he denied the suggestion made in the cross examination that the endorsement was forged by him, he did not assert that the endorsement was made and signed by the deceased first defendant.

36. On the contrary, the deceased first defendant G.B.Chakravarthy, while deposing as DW1, categorically denied having signed the agreement dated 20.03.1999. It is his clear assertion, the other 5 signatures (4 signatures found in the agreement and one signature found in the endorsement marked as Ex.P29) are his signatures and the 6th signature, namely the one found under the endorsement dated 20.03.1999 is forged. Since a concrete denial was made by the deceased first defendant and the respondent/plaintiff, who deposed as PW1 also did not specifically refer to the making of the endorsement dated 20.03.1999 in his presence, he ought to have examined the witnesses, who attested the endorsement. But he has not chosen to examine any one of the attestors. Hence, the burden of proof regarding the endorsement dated 20.03.1999 cast on the respondent herein/plaintiff was not discharged at least to the extent of casting the shifting of the burden on the appellants to disprove the endorsement. Even then the deceased first defendant chose to take steps for having the admitted and disputed signatures compared with the disputed signatures by a handwriting expert in the Government Forensic Laboratory, which resulted in the submission of a report opining that the signature found in the endorsement dated 20.03.1999 was not made by the deceased first defendant, who made four other signatures found in the Ex.P1 - agreement and the 5th signature found in the endorsement dated 01.12.1988 marked as Ex.P29. For the purpose of comparison, not only the 5 admitted signatures found in Ex.P1 agreement for sale and Ex.P29 endorsement, but also the signatures of the deceased first defendant found in 2 other documents, namely Kist receipts dated 27.07.1999 bearing receipt Nos.604210 and 604211 containing the admitted

signatures of the deceased first defendant, were used for comparison. The expert found the 4 signatures found in Ex.P1 agreement and the 5th signature found in Ex.P29 endorsement and the signatures found in those two kist receipts referred above were made by one and the same person and that on the other hand, the disputed signature found in the endorsement dated 20.03.1999 was not made by the same person, who made the other admitted signatures. Besides marking the opinion of the expert (to which copies of the kist receipts were also annexed) as Ex.C1, the defendants also examined Mr.M.T.Yuvanesan, who was the Scientific Assistant Grade-I and Document Expert of the Government Forensic Department, Chennai as DW2. At the time of his examination as DW2 he was holding the position of Assistant Director, Document Section, Government Forensic Department, Chennai. The evidence of DW2 is quite clear that on scientific examination of the admitted and disputed signatures, he found out that the disputed signature was not made by the very same person, who made the admitted signatures. Though valid reasons have been assigned, the learned trial Judge, chose to disbelieve and disregard the evidence of DW2 by making an observation showing perversity that the opinion of the Assistant Director of the Forensic Lab, who is a Handwriting expert, cannot be relied on.

37. As pointed out supra, the burden of proving the endorsement dated 20.03.1999 relied on by the respondent/plaintiff stands cast on the respondent herein/plaintiff. The respondent herein/plaintiff himself has not asserted that the endorsement was made in his presence and he saw the deceased first defendant signing the said endorsement. On the other hand, as PW1, he gave an evasive statement in the chief examination itself that an endorsement dated 20.03.1999 was found on the backside of the first sheet of the Ex.P1 agreement and that the signature of the defendant was also found in the endorsement. The said evidence shall not be enough to discharge the burden cast on him. The said evidence is also not enough to cause the shifting of burden and casting the burden on the defendants to disprove the endorsement. Therefore, even if the expert's opinion marked as Ex.C1 and the evidence of DW2 (expert) are omitted from the purview of consideration, the respondent/plaintiff is bound to fail because of his failure to prove the endorsement dated 20.03.1999.

38. The learned senior counsel for the appellants also drew the attention of the Court to the contents of the endorsement dated 20.03.1999 and the circumstances under which the same was stated to have been made by the deceased first defendant and contended that it was highly improbable for a prudent person to agree for the revival of the agreement, which had already become time barred for the sale of the immovable property for the very same price fixed in the year 1988, after a lapse of nearly 11 years, without

taking the increase in the market value of the landed property into consideration. Hence, as rightly contended by the learned senior counsel for the appellants, besides the approach made by the learned trial Judge regarding burden of proof being erroneous, the learned trial Judge committed an error in arriving at a conclusion that endorsement dated 20.03.1999 was true and genuine, without properly appreciating the evidence adduced on both sides and without correctly applying the principles of law regarding burden of proof. The endorsement relied on by the respondent/plaintiff in vernacular reads as follows:

"நிகழும் 1999 ஆம் ஆண்டு மார்ச் மாதம் 20 ஆம் நாள் பாக்தவச்சலம் நாயிடுவின் குமாரர் G.B.சக்கரவார்த்தியாகிய நான் சென்னை 4 கச்சேரி ரோடு மைலாபூர் சென்னை-3ல் வசிக்கும் சம்பலால் குமாரர் கிசன்லால் அவர்களுக்கு எழுதிக்கொடுக்கும் உறுதி மொழி என்னவெனில் நான் ஏற்கனவே தங்களிடம் வாங்கிய அட்வான்ஸ் தொகை ரூபாய் 50000/-. (ஐம்பதாயிரம்) மட்டும் அட்வான்ஸாக கருதப்பட்டு, ஆனால் 17.11.1988 இல் ஒப்பக் கொண்ட ஏக்கருக்கு 20000க்கு பதில் ஏக்கருக்கு 90,000 (தொன்னுறாயிரம் மட்டும்) கொடுக்க தாங்கள் சம்மதித்ததின் பெயரில் நான் முராத் சம்மந்தமான அனைத்து தாசவேஜுகளையும் பத்திரம் பதிவு செய்து தாங்களிடம் ஒப்படைக்கிறேன் என்று உறுதியளிக்கிறேன். தாங்கள் MMDA வில் உத்தரவு பெற்று எல்லா உத்தரவினையும் பெற்று 10.06.2001 க்குள் கிரயம் முடிக்க வேண்டுமாய் ஒப்புகொண்டதால் நானும் ஒப்புகொள்கிறேன்.

Sd/-

Kishanlal

Sd/-

G.B.Chakravarthy

சாட்சிகள்

Sd/-

S.Uttamchand Jain

Not legible"

39. The contents of the above said endorsement are to the effect that the parties agreed to treat the payment of Rs.40,000/- under Ex.P1 in 1988 as advance and on the other hand, the stipulation regarding part payment of sale consideration at the time of execution of General Power of Attorney under Ex.P1 alone was varied by substituting Rs.90,000/- per acre for Rs.20,000/- per acre. There is nothing in the endorsement that the parties agreed for upholding revision of the sale consideration taking into account the passage of about 13 years. As rightly contended by the learned senior counsel for the appellants, no prudent person would have come forward to agree for consenting the sale of the property in 2001 for the sale price fixed in 1988. Hence, as rightly contended by the learned senior counsel for the appellants, the deceased first defendant could not have agreed for making such an acknowledgment of

liability by signing an endorsement without demanding higher payment equivalent to the then market value of the property as consideration. More over, as pointed out supra, the respondent/plaintiff miserably failed to discharge his burden of proving the endorsement dated 20.03.1999, at least to the extent of causing the shifting of burden and thereby casting the burden of disproving the said endorsement on the defendants. Taking into consideration of the above said facts and circumstances and on an appraisal of evidence available in this regard, this Court comes to the conclusion that the learned trial Judge committed an error in arriving at a conclusion that the endorsement dated 20.03.1999 (second endorsement) found on the reverse page of the first page of Ex.P1 was genuine. The said finding is defective, incorrect, infirm, liable to be interfered with and reversed. Accordingly, this Court holds that endorsement dated 20.03.1999 has not been proved to be genuine and on the other hand the defendants have proved it to be forged. Point No.3 is answered accordingly.

Point Nos.4 & 5 :-

40. No doubt it is true that the defendants have not substantiated their contentions that there was no concluded agreement and that the suit agreement for sale was cancelled in its entirety and thereby the respondent/plaintiff was estopped from filing the suit against the deceased first defendant for specific performance. However, there is substance in the contention raised on behalf of the appellants that the respondent herein/plaintiff is not entitled to the relief sought for, since he failed to prove his readiness and willingness to perform his part of the obligations under the Agreement for sale right from the date of agreement till the date of filing of the suit and even thereafter, and that the suit itself is hopelessly barred by limitation.

41. We have seen supra that the refusal to perform was made by the deceased first defendant as early as on 06.04.1989 by issuing Ex.P15 letter and that the respondent/plaintiff should have had knowledge of such refusal before 08.04.1989 since Ex.P15 letter was responded by the respondent/plaintiff by issuing Ex.P16 letter dated 08.04.1989. It has also been pointed out supra that the limitation started running from 08.04.1989 and that even if the time spent on prosecuting the previous proceedings in Application No.4413 of 1989 in unnumbered C.S.No... of 1989 on the original side of Madras High Court is excluded, then the suit should have been filed on or before 19.06.1990. It is pertinent to note that though the deceased first defendant clearly refused to perform his part of the obligation under Ex.P1 by issuing Ex.P15 letter dated 06.04.1989, the respondent/plaintiff continued to issue letter after letter and make publication of a notice in the news paper warning

the public not to deal with the deceased first defendant in respect of the suit property as he was holding a legally valid agreement for sale and that all such letters, notices and the publication of the public notice came to be countered by the deceased first defendant G.B.Chakravathy, by issuing reply letters, notices and reply notices. The documents pertaining to the letter correspondence, exchange of notices, publication of notice to the public have been marked as Ex.P14 to P17 and Exs.P19, P20 and P23. Out of the said documents, Exs.P14, P16, P19, P20 and P22 are the letters, notices, reply notices and publication of notices warning the public sent by the plaintiff. Exs.P15, P17, P21 and P23 are the letters, notices and reply notices sent by the deceased first defendant. A consideration of the above said documents will make it clear that the initial refusal was made in Ex.P15, letter dated 06.04.1988 and the deceased first defendant consistently refused to perform his obligation under the agreement and the last document containing such refusal is Ex.P23, dated 27.05.1989. Even if it is assumed for argument sake that the date of Ex.P23 viz., 27.05.1989 shall be the starting point of limitation, and the former unnumbered C.S. came to be filed on the very same day or on the very next day after receipt of Ex.P23, and the time spent on prosecuting the previous proceedings is excluded, the suit should have been filed within three years from 08.08.1995, the date of dismissal of Application No.4413/1989 on the original side of the High Court. If 27.05.1989 is taken as starting point of limitation and the parties went on prosecuting the previous proceedings is excluded under Section 14 of the Limitation Act, then the suit should have been filed within three years from 08.08.1995 viz., on or before 08.08.1998. Obviously, the suit has not been filed on or before 08.08.1998. Hence, in the absence of any acknowledgment of liability under Ex.P1 agreement, the suit filed after 08.08.1998 shall attract the bar of limitation.

42. Article 54 of the Limitation Act, 1963 prescribes a period of three years as limitation for filing a suit for specific performance of a contract. Such limitation is to be counted from the date, if any, fixed in the agreement for performance and if no such date is fixed, it should be counted from the date on which the plaintiff had notice that the performance is refused. Of course, within 3 years from the date of such refusal, the respondent herein/plaintiff chose to file an intended suit in unnumbered C.S.No._____/1989 along with an application under Clause 12 of the Letters Patent seeking leave to file a suit on the Original Side of the Madras High Court. The said application was taken on file as A.No.4413/1989. It shall be noticed that the said application came to be filed within three years even from the date of first refusal, namely 06.04.1989 on which date Ex.P15-letter was issued by the deceased first defendant to the respondent herein/plaintiff. However, things took an interesting turn, as the above said leave application

No.4413/1989 was dismissed by a learned single Judge of this Court by an order dated 27.09.1989 on the ground that the properties situated outside the ordinary Original Jurisdiction of Madras High Court and all the defendants, except one, were residing outside the Ordinary Original Jurisdiction of the High Court of Madras. In fact, the said application came to be filed against the deceased first defendant G.B.Chakravarthi, Loganathan and six others, who were the co-sharers of Loganathan. On the dismissal of the said application, the respondent herein/plaintiff preferred an appeal in O.S.A.No.300/1989 before a Division Bench of this Court. By a judgment dated 19.06.1991, the Division Bench allowed the appeal, set aside the order of the single Judge dated 27.09.1989 and remitted A.No.4413/1989 back to the learned single Judge to consider the application afresh under Clause 12 of the Letters Patent and pass orders. After such remand, the respondent herein/plaintiff failed to prosecute the said application and allowed it to be dismissed for non-prosecution on 08.08.1995. Even thereafter, the respondent herein/plaintiff did not file the suit in the court having jurisdiction. He also failed to take steps to get A.No.4413/1989 restored. Having allowed a period of more than 6-1/2 years to lapse from 08.08.1995, the date of dismissal of the application for leave to sue, the respondent herein/plaintiff chose to file the present suit only against the deceased first defendant on 14.03.2002 again on the original side of this court as C.S.No.945 of 2002. This time, the respondent herein/plaintiff chose to file the suit against the deceased first defendant G.B.Chakravarthi alone leaving Loganathan and his co-sharers.

43. Even though the agreement in respect of the suit property owned by the deceased first defendant G.B.Chakravarthi was not proved to be cancelled, unless the respondent herein/plaintiff has approached the court within the period of limitation and he is able to prove his readiness and willingness to perform his part of the obligations under the agreement, he shall not be entitled to the relief of specific performance. The further plea of the defendants is that the plaintiff shall not be entitled to the relief of specific performance, since he has not complied with the conditions found in Section 16(c) of the Specific Relief Act, 1963 as to the pleading and proof of his readiness and willingness throughout. The said contention has got substance in it. The plaintiff, who filed the suit for specific performance, shall aver and prove either that he has already performed his part of the obligations under the agreement or that he has been and continues to be ready and willing to perform his part of the obligations under the Agreement except the other terms, performance of which has been prevented or waived by the defendants. Section 16(c) of the Specific Relief Act, 1963 states that specific performance of a contract cannot be enforced in favour of a person who fails to aver and prove either that he has

performed or that he has always been ready and willing to perform his part of the obligation under the Agreement.

44. In the instant case, of course the plaintiff has made an averment in the plaint in compliance with the requirement of Section 16(c) of the Specific Relief Act, 1963. Mere averment without proof, shall not be enough to prove the plaintiff's entitlement to get the relief of specific performance. In an attempt to prove compliance with Section 16(c) of the Specific Relief Act, 1963, the plaintiff himself figured as PW1 and in his evidence asserted the plaint pleadings in this regard. But no other witness except PW1, the plaintiff himself, was examined on his side to prove his readiness and willingness throughout. Willingness and readiness throughout means readiness and willingness to perform his part of the obligations under the Agreement from the date of Agreement till the date of the suit and even during the pendency of the suit, without having done anything to put an end to the life of the agreement. Ex.P1 agreement was entered into on 17.11.1988. On the date of agreement, a sum of Rs.10,001/- was paid to the first defendant as advance. Within two weeks thereafter, the respondent herein/plaintiff paid a sum of Rs.40,000/- to the deceased first defendant G.B.Chakravarthi as further advance, as evidenced by Ex.P29-endorsement dated 01.12.1988. The said payment of additional advance and making of Ex.P29 endorsement have been admitted by DW1, the deceased first defendant himself. Hence, there shall be no room for any doubt regarding the readiness and willingness on the part of the respondent herein/plaintiff to perform his part of the obligations under Ex.P1-Agreement till 01.12.1988, the date of Ex.P29-endorsement.

45. As per the terms of Ex.P1-Agreement, the respondent herein/plaintiff should make part payment of sale consideration at the rate of Rs.20,000/- per acre at the time of getting general Power of Attorney executed in his favour. Execution of the general Power of Attorney was intended to enable the purchaser to apply for and get sanction for the lay out from the MMDA (now CMDA). Within 11 months from the date of obtaining such sanction from MMDA, the respondent herein/plaintiff should make payment of the balance amount of sale consideration calculated at the rate of Rs.2,300/- per cent (Rs.2,30,000/- per acre) and get the transaction completed.

46. Admittedly, the transaction evidenced by Ex.P1-Agreement and Ex.P29-Endorsement did not even cross the first stage, namely part payment of the sale consideration at the rate of Rs.20,000/- per acre by the respondent/plaintiff and execution of the general Power of Attorney by the deceased first defendant G.B.Chakravarthi in favour of the respondent herein/plaintiff. On 22.03.1989 (within three months from the date of Ex.P29 - endorsement) the respondent herein/plaintiff

issued a letter addressed to the deceased first defendant G.B.Chakravarthi and K.Loganathan expressing his readiness and willingness to comply with the term regarding payment of the amount at the rate of Rs.20,000/- per acre for getting a Power of Attorney executed and registered in his favour and calling upon the deceased first defendant and Loganathan to hand over further documents relating to the subject matter of the sale agreement and execute a general Power of Attorney in his favour to proceed further. A copy of the said letter has been marked as Ex.P13. It was followed by a telegram dated 01.04.1989, a true copy of which has been marked as Ex.P14. The deceased first defendant G.B.Chakravarthi did not receive the notice dated 22.03.1989 but received the said telegram pursuant to which, he sent a letter on 06.04.1989 in reply to Ex.P14-telegram, contending that the respondent herein/plaintiff failed to hand over a copy of the agreement to him as promised; that hence, there was no valid agreement and that the terms regarding sale consideration were not agreed upon. The said letter sent by the deceased first defendant to the respondent/plaintiff is Ex.P15. On receipt of the same, the respondent herein/plaintiff sent a registered letter dated 08.04.1989 to the deceased first defendant G.B.Chakravarthi alone, enclosing a copy of Ex.P13 - letter dated 22.03.1989. A copy of the said letter dated 08.04.1989 has been marked as Ex.P16. For Ex.P16, the deceased first defendant G.B.Chakravarthi sent a reply under Ex.P17 letter dated 16.04.1989 restating and reiterating his stand taken in Ex.P15 and refusing to comply with the demand made in Ex.P16-letter.

47. Meanwhile, K.Loganathan issued a legal notice under Ex.P18 through his lawyer to the respondent herein/plaintiff informing him that he could not control the other co-owners (other legal heirs of his father late G.B.Krishnasamy Naidu) and also expressing his inability to complete the transaction, since the other co-owners were not willing to part with the property. He had also enclosed a cheque drawn on Canara Bank, Kellys Branch, Chennai for a sum of Rs.53,750/- (representing the amount paid as advance and interest for the same calculated at the rate of 18% per annum from 17.11.1988, the date of agreement). The said cheque was stated to be sent in full and final settlement of the amount due to the respondent herein/plaintiff. Though such a legal notice came to be issued on 19.04.1989 itself, there is no evidence as to whether the cheque was accepted or returned. On the other hand, the respondent herein/plaintiff has come forward with the plea that Ex.A1 agreement, so far as property owned by Loganathan and his co-sharers were concerned, was cancelled only on 06.06.1992 under Ex.P25 on his receiving only a sum of Rs.50,000/-.

48. A comparison of Ex.P18 and Ex.P25 in the light of the fact that Ex.P24 letter is undated, the contention of the deceased first defendant that the respondent herein/plaintiff

received more amount in full and final settlement of his claim under the agreement, may, at the first instance, appear to be believable. But such a mere averment, without any evidence on the side of the defendants or an admission on the part of the plaintiff side witnesses, cannot amount to proof of such averment. It is pertinent to note that PW1 was not cross examined by specifically putting forth a suggestion that more than Rs.1,50,000/- was received from Loganathan in full quit of the claim of the respondent herein/plaintiff under Ex.P1-agreement in entirety. On the other hand, though Ex.P25 was produced and marked through PW1 as a deed of cancellation of sale as between the respondent herein/plaintiff and Loganathan and his co-sharers, he was not cross examined by the counsel for the defendants suggesting that the entire agreement was cancelled or any amount was received by the respondent herein/plaintiff in full satisfaction of his claim under Ex.P1-Agreement in entirety. Therefore, the appellants cannot take advantage of Ex.P25 - Cancellation deed in support of their contention that Ex.P1-agreement in entirety got cancelled and the respondent herein/plaintiff gave up his claim under Ex.P1 in entirety.

49. It is quite obvious that not only Loganathan's co-sharers but also Loganathan went back from the commitment; that Loganathan expressed his inability to perform his part of the agreement under Ex.P1 and that such expression of inability was made by him on 19.04.1989 itself by issuing a legal notice under Ex.P18. Not willing to accept the same, the respondent herein/plaintiff chose to file the intended suit on the original side of the High Court with a leave application under Clause 12 of the Letters Patent. The said application which was taken on file as A.No.4413/1989 was at last dismissed for non prosecution on 08.08.1995. During the pendency of the said application, the respondent/plaintiff chose to cancel Ex.P1-Agreement so far as it related to the property owned by Loganathan and his co-sharers. It was done on 06.06.1992 even according to the respondent/plaintiff. Thereafter for more than three years, the leave application was pending and it came to be dismissed for non prosecution only on 08.08.1995. Of course, the respondent herein/plaintiff can be excused for losing interest in pursuing the application as against K.Loganathan and his co-sharers. But since according to the respondent herein/plaintiff no settlement was arrived at between him and the deceased first defendant G.B.Chakravarthi, there cannot be any justification for his allowing the application as against G.B.Chakravarthi to be dismissed for non-prosecution.

50. As contended by Mr.R.Thiagarajan, learned counsel for the respondent herein/plaintiff even though the limitation started either from 06.04.1989 or from 27.05.1989, the period spent on the previous litigation, namely A.No.4413/1989 shall be excluded from the period of limitation under Section 14 of the Limitation Act, 1963

provided he had diligently prosecuted the said proceedings. On the other hand, it is the contention of Mr.M.S.Krishnan, learned Senior Counsel for the appellants that the fact that the respondent herein/plaintiff failed to prosecute A.No.4413/1989 after the date of Ex.P25, namely 06.06.1992 and kept quiet for more than three years and allowed it to be dismissed for default on 08.08.1995 will show lack of bona fide on his part in prosecuting the previous proceedings and that hence the said period spent on the previous litigation shall not be excluded in calculating the period of limitation. The above said contention of the learned Senior Counsel for the appellants has got to be countenanced, as there is no valid ground for rejecting the same. Even if it is assumed that the entire period spent in prosecuting A.No.4413/1989 can be excluded under Section 14 of the Limitation Act, as pointed out by the learned Senior Counsel for the appellants, the suit shall stand barred by limitation for the simple reason that even from the date of dismissal of A.No.4413/1989, namely 08.08.1995, more than three years period (period prescribed as limitation under Article 54) was allowed to lapse. Only in an attempt to escape from the bar of limitation, the respondent herein/plaintiff has chosen to plead acknowledgement of liability giving a fresh start of limitation.

51. In an attempt to show that the suit is not barred by limitation, the respondent herein / plaintiff propounded a story of acknowledgment of liability by making a plea that the deceased first defendant acknowledged the liability by making an endorsement on Ex.P1 on 20.03.1999. The respondent/plaintiff relied on the second endorsement found on the reverse page of the first sheet of Ex.P1 agreement, as the acknowledgment giving a fresh start of limitation. We have seen supra that the respondent herein/plaintiff miserably failed to prove the said endorsement; that on the other hand, the defendants were able to prove that the signature of the first defendant found in the said endorsement was forged and that therefore the contention of the counsel for the respondent/plaintiff that the limitation for filing the suit started afresh from 20.03.1999, the date of the endorsement relied on by the respondent/plaintiff cannot be sustained in law.

52. Without admitting and assuming for the sake of argument alone that the endorsement dated 20.03.1999 is genuine, the respondent's/plaintiff's contention that the endorsement was a valid acknowledgement of the deceased first defendant's obligations under Ex.P1 agreement, cannot be legally sustained - the learned senior counsel for the appellants argued. In support of his contention, the learned senior counsel referred to Section 18 of the Limitation Act dealing with the effect of acknowledgement in writing and contended that to constitute a legally valid and binding acknowledgement to give a new start of limitation, such

acknowledgement in writing should have been made before the relief gets barred by limitation, in other words, before the expiry of the period of limitation for filing a suit. A wrong notion seems to be initially entertained by the appellants that Section 18 of the Limitation Act shall apply only to acknowledgement of debt and not to other liabilities. The said notion is incorrect since the language of Section 18 itself makes it clear that such an acknowledgement of liability shall extend beyond the acknowledgement of debt and it covers the acknowledgement of liability in respect of property or right under the another agreement. For better appreciation, Section 18 of the Limitation Act is reproduced:

" 18. Effect of acknowledgment in writing.-

(1) Where, before the expiration of the prescribed period for a suit of application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received. Explanation.-For the purposes of this section,-

(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set-off, or is addressed to a person other than a person entitled to the property or right;

(b) the word "signed" means signed either personally or by an agent duly authorised in this behalf; and

(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right."

53. The opening words of Section 18(1) of the Limitation Act itself makes it clear that for the start of a fresh period of limitation, the acknowledgement should have been made before the expiration of the prescribed period for filing a suit in respect of any property or any right. The further condition stipulated therein is that such acknowledgement of liability in respect of the property or right should be made in writing and signed by the party against whom such property or right is claimed or by any person through whom he derives his title. Then only such acknowledgement shall be valid.

54. Of course, the respondent herein/plaintiff claims acknowledgement in writing signed by the deceased first defendant G.B.Chakaravarthy. But, whether such acknowledgement was made before the expiration of the period prescribed for filing a suit or application in respect of the suit property is the main factor that affects the validity or otherwise of the acknowledgement. Admittedly, Ex.P1 agreement was entered into on 17.11.1988. Under Ex.P29, a further advance was made on 01.12.1988. Hence that acknowledgement could have given a fresh start of limitation from 01.12.1988. Thereafter, on 01.04.1989, Ex.P14 telegraphic notice was sent and the deceased first defendant G.B.Chakaravarthy refused to perform his part of the obligations under the agreement by issuing a letter under Ex.P15 on 06.04.1989. It was received by the respondent herein/plaintiff before 08.04.1989 and he sent a further notice on 08.04.1989 under Ex.P16. On receipt of the original of Ex.P16, the deceased first defendant again reiterated his stand and refused performance by his letter dated 16.04.1989 marked as Ex.P17. Hence, strictly speaking, the limitation should have started running at least from 08.04.1989. Still the respondent/plaintiff continued the letter correspondence and exchange of notices with no result of acceptance of the liability of the deceased first defendant under Ex.P1 agreement for sale. In any event, by successive letters / reply notices under Ex.P21 dated 29.04.1989 and Ex.P23 dated 27.05.1989, the deceased first defendant denied his liability under the agreement for sale and refused to perform his obligations under Ex.P1 agreement. Of course, the earlier unnumbered C.S with leave application in Application No.4413 of 1989 came to be filed within a period of three years from the date on which the respondent/plaintiff had notice of refusal to perform, namely 08.04.1989. On the dismissal of the said application by a learned single Judge of this Court by an order dated 27.09.1989, the respondent/plaintiff preferred an appeal in O.S.A.No.300 of 1989 and the same was disposed of by a judgment dated 19.06.1991 setting aside the order of the single Judge and remitting the application back to the single Judge for fresh disposal after rehearing. Thereafter, the said application was allowed to be dismissed for non-prosecution on 08.08.1995. As pointed out supra, the period of pendency of the said application can be allowed to be excluded from the period of limitation under Section 14 of the Limitation Act, provided the respondent/plaintiff was prosecuting the said application with due diligence.

55. The very fact that the respondent/defendant allowed the application to be dismissed for default will negative due diligence on his part. Even if it is assumed that he was prosecuting the said application bona fide, then the period upto 08.08.1995 alone shall be excluded. Even if such period is excluded, the acknowledgement should have been made within

three years from the date of 08.04.1989, excluding the period spent on prosecuting Application No.4413 of 1989 which ended by 08.08.1995. Even if it is assumed that the application came to be filed immediately after the receipt of Ex.P23 reply notice dated 27.05.1989, then the period within which the acknowledgement should have been made shall be a period, 19 days short of three years from 08.08.1995. Even if we disregard that 19 days preceding the filing of Application No.4413 of 1989, the acknowledgement of liability should have been made within three years from the date of Ex.D2 namely 08.08.1995, which will take us to 08.08.1998. Admittedly, no such acknowledgement in writing as contemplated under Section 18 of the Limitation Act came to be made by the deceased first defendant on or before 08.08.1998. On the other hand, the respondent/plaintiff claims that an acknowledgement in writing was made by the deceased first defendant G.B.Chakaravarthy on 20.03.1999 by making an endorsement on Ex.P1 agreement. As pointed out supra, the said endorsement was not separately marked as an exhibit. The date of the said endorsement is beyond the period of three years from the date of Ex.D2, namely the date of dismissal of Application No.4413 of 1989. Hence, it is quite obvious that an acknowledgement was sought to be made after the expiry of the period of limitation as an attempt to infuse fresh life into a dead body.

56.Mr.R.Thiagarajan, learned counsel for the respondent/plaintiff, changing his earlier stand made a meek attempt to contend that the endorsement dated 20.03.1999 could be construed to be a fresh agreement and hence the suit filed based on such agreement for specific performance could not be branded as one filed beyond the period of limitation because the suit was filed on 14.03.2002 i.e., within three years from 20.03.1999, the date of the endorsement and that hence the suit was not barred by limitation. The said contention is not in consonance with the pleading made by the respondent herein/plaintiff. The respondent herein/plaintiff in his plaint has made a clear plea that he was filing the suit for specific performance of the obligations of the deceased first defendant under Ex.P1 agreement for sale dated 17.11.1988 and that the endorsement dated 20.03.1999 was projected only as an acknowledgement. Paragraph 15 and 16 of the plaint reciting the cause of action are reproduced for better appreciation:

"15. The cause of action arose at Chennai on 17.11.1988 when the original Sale Agreement was entered into and the initial advance of Rs.10,001 was paid to the defendant, on 01.12.1988 when further advance of Rs.40,000/- was paid to the defendant, on 22.03.1989 when a registered letter was sent by the plaintiff to the defendant, on 01.04.1989 when the plaintiff sent a registered letter through his lawyer to the defendant, on 27.05.1989 when the defendant's counsel sent a reply to the plaintiff's counsel, on

20.03.1999 when the defendant made an endorsement on the original Sale Agreement undertaking to conclude the sale transaction before 10.6.2001, on 30.3.2001 when Public Notice was published in DINAMALAR dated 30.03.2001, on 11.4.2001 when a legal notice was issued to the Defendant calling upon him to execute the sale deed, on 13.04.2001 when the defendant sent his Reply Notice to the Plaintiff's counsel and on various other dates.

16. The suit is within the time based on the endorsement made on 20.03.1999 and suit has been filed within the time limit of three years. Therefore, the suit is not barred by limitation under the Limitation Act."

57. The date of Ex.P1 agreement on which initial advance of Rs.10,001/- was paid, the date of Ex.P29 on which further advance of Rs.40,000/- was paid and the dates on which the notices were exchanged upto 27.05.1989 were cited as the dates on which the cause of action arose. In addition, 20.03.1999, the date of endorsement and subsequent issuance of notice and publication of notice to the public have also been stated as the dates on which the cause of action arose in part. Paragraph 16 of the plaint is to the effect that the suit was filed within the period of limitation since it was filed within three years from the date of endorsement (20.03.1999) acknowledging liability. There is no plea in the plaint that the suit was filed for enforcement of a fresh agreement entered into on 20.03.1999 referring to the endorsement. If at all the suit came to be filed taking the endorsement dated 20.03.1999 as a fresh agreement, the pleading should have been made in such a way that a fresh agreement came to be made on 20.03.1999 fixing same amount fixed in Ex.P1 or a different amount as sale consideration and recognizing the amount paid under Ex.P1 and Ex.P29 as part payment of consideration and advance for the fresh agreement dated 20.03.1999. If at all the endorsement dated 20.03.1999 was projected as a fresh agreement, based on which the suit for specific performance was filed, before ever marking the agreement dated 17.11.1988 and the endorsement dated 01.12.1988 respectively, as Exs.P1 and P29, the endorsement dated 20.03.1999 should have been marked as an exhibit and only to prove the passing of consideration in part, Exs.P1 and P29 should have been marked. Curiously, that was not done and the endorsement dated 20.03.1999 was not at all marked as a separate document. Hence, the contention of the learned counsel for the plaintiff, raised as an afterthought, that the endorsement dated 20.03.1999 was a fresh agreement based on which the suit came to be filed, falls to the ground and the same deserves to be rejected as untenable.

58. Mr.R.Thiagarajan, learned counsel for the respondent/plaintiff has contended that when fulfilment of an

obligation cast on a party under an agreement is dependant on the fulfilment of the obligations cast on the other party, till the other party fulfils his obligation, the former party cannot be said to have committed any default. The learned counsel for the respondent/plaintiff contended that the initial obligations cast on the respondent/plaintiff was to pay at the rate of Rs.20,000/- per acre as part payment of the consideration, was dependant on first defendant's obligation to execute general Power of Attorney in his favour; that though the deceased first defendant G.B.Chakravarthi did not come forward to execute the general Power of Attorney, the respondent/defendant expressing his readiness and willingness to perform that part of his obligation under the agreement, issued several notices and that it was the deceased first defendant G.B.Chakravarthi, who refused to perform the said initial obligations cast on him i.e, execution of the Power of Attorney. It is the further contention of the learned counsel for the respondent/plaintiff that till the execution of the Power of Attorney and handing over of the land to the respondent/plaintiff for development into house sites, the question of obtaining sanction from CMDA would not arise and that therefore, the respondent /plaintiff could not be found fault with for not taking steps towards getting sanction for the layout from the MMDA. It is his further contention that as per the agreement, the respondent/plaintiff had got 11 months time from the date of obtaining of the sanction from MMDA; that till the date of filing of the suit, the time for fulfilment of the said obligation of the respondent/plaintiff, namely payment of the entire sale consideration and getting the sale deed executed in his favour did not arise; that the said time had not started running, even as on the date of filing of the earlier unnumbered civil suit and the leave application, namely Application No.4413 of 1989 on the original side of the High Court; that the time for performance was fixed only under the endorsement dated 20.03.1999 and that therefore, the limitation should be counted either from 20.03.1999 or from the date of expiry of the period prescribed therein, namely 10.06.2001.

59. There is no substance in the said contention. First of all, the endorsement itself has not been proved and on the other hand, as pointed out supra, it has been proved to be forged. Secondly, though no specific date was fixed under Ex.P1 for completion of the sale transaction and the period for completion of the transaction was fixed as 11 months from the date of obtaining sanction from the MMDA, a vendor under the agreement, who simply keeps quite for years together, without doing anything towards completion of the transaction, cannot be allowed to contend that he cannot be found fault with for not discharging his obligation under the agreement till sanction for the lay out is obtained. It is pertinent to note that no specific date has been mentioned within which

the sanction from MMDA was to be obtained. For obtaining the sanction for the layout from the MMDA, the property was to be handed over to the respondent/plaintiff and a general Power of Attorney was to be executed by the vendor viz., the deceased first defendant G.B.Chakravarthi. For such execution of Power of Attorney and for handing over possession of the property to the purchaser viz., the respondent /plaintiff to enable him to obtain sanction for layout, no date or time was fixed under the agreement. When no time for performance of that part of the obligations was fixed under the agreement, the same should be enforced within a reasonable time. Even otherwise, when no time has been fixed for the fulfilment of the obligations under the agreement, then the limitation shall start from the date of refusal to perform.

60. In this case, as pointed out earlier, the deceased first defendant G.B.Chakravarthi refused to perform his part of the obligations under Ex.P1 - agreement on 06.04.1989 itself under Ex.P15. It was received before 08.04.1989 and the respondent/defendant got notice of such refusal before 08.04.1989. Hence, the time for filing the suit for specific performance started running from the said date. The respondent/plaintiff, after such refusal by the vendor (first defendant), cannot keep quiet for a number of years and then come forward with a plea that since the vendor had not performed his obligation agreed to be performed first in point of time, time for performance of his obligations under the agreement has not started running. In the case on hand, treating the refusal to perform as breach of contract, the respondent/plaintiff filed the earlier suit (unnumbered C.S.No.... of 1989) along with the leave Application No.4413 of 1989 on the original side of this Court under Clause 12 of the Letters Patent. Having taken such a step, the respondent / plaintiff cannot again go back and say that he can leave the same and still wait for the vendor (deceased first defendant) to fulfil his obligations under the agreement and contend that the limitation for filing the suit has not arisen. In the instant case, it is not the contention of the vendor under Ex.P1 agreement, namely deceased first defendant G.B.Chakaravarthi, that time was the essence of the contract under Ex.P1 agreement. On the other hand, it was his contention that there was no concluded contract and he had refused to perform his part of the obligations under the said agreement for sale. As such, there is no question of considering the question whether the time was the essence of the contract or not. The learned trial Judge seems to have been misled by the argument that time was not the essence of the contract under Ex.P1 agreement.

61. Besides contending that there was no agreement for sale, the vendor under Ex.P1 agreement, namely deceased first defendant G.B.Chakaravarthi, took a concrete stand that the present suit is barred by limitation as it was filed beyond the period of three years stipulated under Article 54 of the limitation Act from the date of refusal to perform, of course

excluding the period spent on the previous litigation, namely Application No.4413 of 1989 on the original side of this Court. The learned trial Judge, misconstrued the said plea as a plea that time was the essence of the contract under Ex.P1 agreement. The same alone has made the learned trial Judge refer to a number of decisions dealing with the circumstances under which time shall be taken to be the essence of the contract. Before this Court also, learned counsel for the respondent/plaintiff cited a number of judgments on the above said aspect. As it is not the subject of controversy, the said judgments are not relevant. Suffice to state that it is not the case of the appellants that the time stipulated in Ex.P1 was the essence of the contract and that on the other hand, their contention is that the agreement itself was not a concluded one and that even if it is assumed that it was a concluded agreement, suit is hopelessly barred by limitation since it was filed beyond the period of three years from the date of refusal to perform.

62. In Gunwantbhai Mulchand Shah and Others Vs. Anton Elis Farel and Others reported in (2006) 3 SCC 634, cited by the learned counsel for the respondent/plaintiff, the Supreme Court has held that Article 54 of the Limitation Act 1963 has got two limbs, namely 1) Limitation starting from the date, if any, fixed in the agreement for performance and 2) Limitation starting from the date of refusal to perform in case no date is fixed for such performance. Here is a case in which no date has been fixed for the performance of the first part of the obligations, namely execution of the Power of Attorney. When demand for such performance was made, it was flatly refused by the vendor, the deceased first defendant. Hence, as rightly contended by the deceased first defendant, limitation started running from the date of receipt of Ex.P15 letter containing the deceased first defendant's refusal to perform his obligations under the agreement for sale.

63. The other judgment, namely Panchanan Dhara and Others Vs. Monmatha Nath Maity (Dead) through Lrs. And Another reported in (2006) 5 SCC 340 cited by the learned counsel for the respondent/plaintiff is also not helpful to him. The ratio decided therein is that in a suit for specific performance of the contract, while dealing with the plea of the suit being barred by limitation, the applicability of the first and second parts of Article 54 of the Limitation Act should be taken into account. It was held by the Supreme Court that even in case time has been fixed for performance in an agreement, if the time thus fixed is extended by the parties, then instead of taking the date of expiry of the time fixed in the agreement for completion of the transaction as the date from which the limitation starts running, the second part, namely the date on which the plaintiff gets notice that performance is refused shall be taken as the starting point of limitation. The said judgment is also not helpful to the respondent /plaintiff. It is not the case of

either party that any time was fixed in the agreement for the execution of the Power of Attorney. On the other hand, when a demand was made, the deceased first defendant refused to perform. Once that refusal came to the notice of the respondent/plaintiff, the limitation started running. Hence, the said judgment will not help the respondent/plaintiff in substantiating his contention that the suit is not barred by limitation.

64. Furthermore, it is quite obvious, as pointed out supra, that the limitation for filing a suit based on Ex.P1 agreement dated 18.11.1988 expired prior to 08.08.1998. By the time the endorsement dated 20.03.1999 was allegedly made, more than 10 years period had elapsed from the date of original agreement. It is highly improbable for any prudent man to execute a fresh agreement for sale of the property for the very same price, simply because a higher amount than the one agreed under the original agreement for sale was offered to be paid as part of the sale consideration at the time of execution of the power of attorney in favour of the purchaser. Even if such higher amount was agreed to be paid as part payment of sale consideration, the net result was one and the same namely, even after 10 years, the sale consideration for the land was agreed to be the same. As pointed out supra, it is highly improbable for any prudent man to agree for that. For all the reasons stated above, even if it is assumed that the endorsement dated 20.03.1999 is true, the same is not a valid acknowledgement under section 18 of the Limitation Act and the same did not give a fresh start of limitation for filing a suit for specific performance under Ex.P1 agreement for sale. The suit filed by the respondent/plaintiff is hopelessly barred by limitation. This aspect was not properly considered by the learned trial Judge, which resulted in an erroneous finding that the suit is not barred by limitation. The said finding is also perverse as it is in ignorance of the scope of Section 18 of the Limitation Act. The learned trial Judge failed to note the fact that the acknowledgement of liability alleged by the respondent/plaintiff was not made within the period of limitation and it was made, even according to the plea of the plaintiff himself, beyond the period of limitation of three years from the date of refusal to perform. Hence, the said finding of the trial Court cannot withstand the scrutiny of this Court and the same deserves to be interfered with and reversed. Accordingly, this Court holds that the respondent/plaintiff failed to prove his readiness and willingness to perform his part of the obligations under the suit sale agreement in accordance with the conditions provided under Section 16(c) of the Specific Relief Act, 1963; that the suit filed by the respondent/plaintiff for specific performance is hopelessly barred by limitation and that hence the decree of the trial Court granting specific performance is liable to be set aside and the prayer made by the respondent/plaintiff for specific performance deserves to be negatived. Point Nos.4 and 5 are answered accordingly.

Point No.6

65. This Court has held that the respondent/plaintiff is not entitled to the relief of specific performance. Normally in a suit for specific performance an alternative relief of refund of advance amount with interest shall be sought for. In this case, no prayer for refund of the advance amount has been made. In addition, the suit itself has been filed beyond the period of limitation and hence, barred by limitation. Therefore, the respondent/plaintiff shall not be entitled to the refund of advance amount or any other relief. However, considering the facts and circumstances of the case, this Court feels that no order directing payment of costs shall be made. Point No.6 is answered accordingly.

66. In the result, the appeal succeeds and the same is allowed. The decree of the lower Court, dated 18.09.2012, made in O.S.No.2500 of 2011 is set aside. O.S.No.2500 of 2011 shall stand dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

asr/gpa/gcg

To

1. The XVIII Additional Judge,
City Civil Court, Chennai.

2. The Section Officer, VR Section,
High Court, Madras.

+3 ccs to Mr.R Thiagarajan, Advocate S.R.No.4630 (15/3/16)

+1cc to Mr.R. Bharath Kumar, Advocate, S.R.No.4751

TEJ(CO)

EU(04/03/2016)

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A.S.No.193 of 2013