

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SECOND APPEAL NO.868 OF 2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. M.M.Sathaye i/b Mr.Sanjay P. Shinde for the applicant

**CORAM : K. K. TATED, J.
DATE : DECEMBER 13, 2017**

P.C.:

1. Heard.
2. **Admit.**
3. Substantial questions of law involved are as under:

“a. Whether the courts below in the facts of the case committed error in holding that the Plaintiff was ready and willing to perform his part of alleged contract dt. 12/4/2007 in terms of sec.16(c) of the Specific Relief Act ? The Plaintiff did not lead any evidence to show that he had got the said amount of balance consideration ready with him so also he had not indicated any source of getting of such a huge amount ready for paying to the Defendant before 12/6/2007. Therefore, the finding of readiness and willingness is perverse.

b. Whether the courts below were justified in holding that the time as the essence of contract ? particularly when as per the alleged agreement dt.124/2007, the sale deed was to be executed on

or before 12/6/2007 and Plaintiff failed to pay the balance consideration as per the said agreement therefore specific performance could not have been granted of the said alleged agreement ?

c) Whether both the courts below failed to consider that in view of cancellation of agreement for sale by defendant's letter dated 12.11.2007 [Exhibit-57], respondent plaintiff is entitled for specific performance of agreement dated 12.4.2007 and 23.4.2007.

4. Appellants to file private paper book excluding Roznama within one year from today, failing which the Second Appeal shall stand dismissed without further reference to the court.

5. Printing dispensed with.

(K.K.TATED, J.)