IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 12.10.2022

Pronounced on: October 28, 2022

RSA-856-2015 (O&M)

Jamal ....Appellant

vs.

Naresh Kumar ....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. P.S. Saini, Advocate with
Ms. Vibha Nagar, Advocate, for the appellant.

Mr. Gaurav Chopra, Sr. Advocate with
Mr. Mohit Giri, Advocate, for the respondent.

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HARKESH MANUJA J.

The appellant-defendant (appellant herein) is in Regular Second Appeal against the judgment and decree dated 01.11.2014 passed by learned Additional District Judge, Nuh, whereby, an appeal filed against judgment and decree dated 28.02.2014 passed by learned Civil Judge (Senior Division), Mewat, dismissing the suit for specific performance filed at the instance of respondent-plaintiff, has been allowed.

Facts leading to the present appeal are that the respondent-plaintiff (respondent herein) filed a suit for possession by way of specific performance with the averments that an agreement to sell dated 30.10.2009 was executed between the parties regarding the suit land measuring 5 kanals. It has been stated in the plaint that the total sale consideration was Rs.25 lakhs, out of which, an amount of Rs.8,50,000/- was paid as earnest money and remaining sale consideration of

Rs.16,50,000/- was agreed to be paid at the time of registration of sale deed i.e. 15.09.2010. It has been further stated that on 14.09.2010 i.e. one day prior to the target date, the respondent-plaintiff approached appellant-defendant for execution of sale deed on 15.09.2010, however, the appellant- defendant showed his bonafide inability to appear before the Registrar on 15.09.2010 and requested for fixing of some other date in this regard. It has been further submitted that a legal notice dated 25.04.2012 was served upon the respondent-plaintiff calling upon him to pay the balance sale consideration and get the sale deed executed, however, the needful was not done by the appellant-defendant, accordingly, a suit for specific performance was filed on 14.06.2012.

The appellant-defendant appeared and filed his written statement controverting the pleadings set-up by the respondent-plaintiff. In the written statement, it was submitted that in fact, no agreement to sell as alleged, was ever executed between the parties and the same was just a loan transaction and for the said purpose his thumb impression on certain blank papers and blank cheques were obtained by the respondent-plaintiff.

Learned Trial Court vide its judgment and decree dated 28.02.2014 though, recorded a finding in favour of the respondent-plaintiff as regards the execution of agreement to sell, however, non-suited him on account of having failed to prove his readiness and willingness.

Aggrieved against the judgment and decree dated 28.02.2014, the respondent-plaintiff filed first appeal and the same has been allowed by the court of learned Additional District Judge, Nuh, vide its judgment and decree dated 01.11.2014 granting him relief by way of decree for specific performance.

First Appellate Court upheld the finding in favour of the respondent-plaintiff as regards the factum of execution of the agreement in question, disbelieving the plea raised by the appellant-defendant regarding signatures/ thumb impression having been obtained on blank paper. The learned first Appellate Court, however, reversed the finding on the point of readiness and willingness and resultantly granted decree for specific performance in favour of respondent-plaintiff.

By way of present appeal, the aforesaid judgment passed by the first Appellate Court has been impugned herein.

It has been contended by learned counsel appearing for the appellant-defendant that in the facts and circumstances of the present case, respondent-plaintiff has failed to establish his readiness and willingness to perform his part of the agreement. He further submits that the respondent-plaintiff has not been able to prove his visit on 14.09.2010 to the house of the appellant-defendant. He also submits that the service of legal notice dated 21.04.2012 at the instance of respondent-plaintiff has also not been proved. He also contends that learned first Appellate Court has not specifically and categorically reversed the reasoning recorded by the learned trial court while arriving at a conclusion that the respondent-plaintiff was not ready and willing to perform his part of the agreement. As regards the findings recorded by the courts below on the issue of execution of the agreement to sell is concerned, no serious argument has been raised at the instance of learned counsel for the appellant-defendant.

On the other hand, learned senior counsel Mr. Gaurav Chopra, appearing for the respondent-plaintiff points out that his client has throughout remained ready and willing to perform his part of the agreement and for the said purpose, he refers to notice dated 21.04.2012 (Ex.P-8 at pages 251 & 253) and contend that his client has been able to establish on record that he has been repeatedly approaching the appellant-defendant for the purpose of execution of sale deed along with the balance sale consideration, however, it was the appellant-defendant who has been delaying the same on one pretext or the other. He also submits that the appellant-defendant could not raise the plea of questioning the readiness and willingness of his client as the appellant-defendant himself called upon the respondent-plaintiff to pay the balance sale consideration of Rs.16,15,000/- by way of notice dated 24.04.2012 (Ex.P-8) to get the sale deed executed, besides having denied the execution of agreement in question. He also submits that in his affidavit dated 09.05.2012 (Ex.P-3), in order to establish his readiness and wiliness he has specifically stated that he was present in the office of Sub-Registrar along with the balance sale consideration as well as necessary expenses. He further submits that he appeared as PW-1 in the witness-box and made deposition to the same effect, however, there was no specific and categoric cross-examination on the issue of balance sale consideration, at the instance of appellant-defendant.

I have heard learned counsel for the parties and gone through the record. As there is no argument raised on behalf of learned counsel for the appellant as regards the issue of execution of the agreement in question therefore, the same is not required to be dealt with in this case, as such, findings recorded by both the courts below in this regard has to remain undisturbed, consequently upheld. Now, the only question which survives in the present appeal is about the readiness and willingness of the respondent-plaintiff so as to perform his part of the agreement in question.

Readiness and willingness has been expounded upon by the Hon'ble Supreme Court in judgments titled as ***"His Holiness Acharya Swami Ganesh Dassji vs. Sita Ram Thapar"**, AIR 1996 SC 2095* followed by ***"J.P. Builders and another v. A Ramadas Rao and another**, (2011) 1 SCC 429,* and it has been held that readiness means the capacity of the plaintiff to perform his part of contract which includes his financial position to pay the purchase price and the willingness to perform his part of the contract which relates to his conduct. Relevant portion of para 2 of ***Dassji*"s** *case* (supra) is reproduced here under for reference:-

> "*There is a distinction between readiness to perform the contract and willingness to perform the contract. By readiness may be meant the capacity of the plaintiff to perform the contract which includes his financial position to pay the purchase price. For determining his willingness to perform his part of the contract, the conduct has to be properly scrutinised. There is no documentary proof that the plaintiff had ever funds to pay the balance of consideration. Assuming that he had the funds, he has to prove his willingness to perform his part of the contract. According to the terms of the agreement, the plaintiff was to supply the draft sale deed to the defendant within 7 days of the execution of the agreement, i.e., by 27.2.1975. The draft sale deed was not returned after being duly approved by the petitioner. The factum of readiness and willingness to perform plaintiff's part of the contract is to be adjudge with reference to the conduct of the party and the attending circumstances. The court may infer from the facts and circumstances whether the plaintiff was ready and willing to perform his part of the contract..........*"

Relevant para 22 of <u>*J.P. Builders' case*</u> (supra) which is also to the same effect, is as under:-

> *"The words "ready" and "willing" imply that the person was prepared to carry out the terms of the contract. The distinction between "readiness" and "willingness" is that the former refers to financial capacity and the latter to the conduct of the plaintiff wanting performance. Generally, readiness is backed by willingness."*

Thus, in view of the law laid down by the Hon'ble Supreme Court, the pleadings and evidence available on record of the present case have to be scrutinized for the purposes of evaluating the readiness and willingness of the respondent-plaintiff. As regards the readiness of the respondent-plaintiff which corresponds to his financial position/financial capacity to pay the balance sale consideration amount, from the evidence available on record it is more than clear that the respondent-plaintiff has failed to prove the same. Besides mere oral statement made by the respondent-plaintiff while appearing as PW-1, no document at all has been produced on record so as to establish his financial capacity as regards the balance sale consideration of Rs.16,50,000/-. In the absence of any documentary evidence as regards his financial capacity in the shape of any accounts book, pass-book, statement of accounts, any other negotiable instrument or any income tax record, mere oral statement made by the respondent/ plaintiff cannot be taken to be as a proof of his financial capacity and accordingly, findings regarding readiness, thus, cannot be recorded in his favour.

My aforesaid view is also derived from the law laid down by the Hon'ble Supreme Court in <u>***"Vijay Kumar and others vs. Om Parkash**, AIR*</u>

<u>*2018 Supreme Court 5098*</u>, <u>***Ritu Saxena vs. J.S. Grover and another***</u>, <u>*(2019) 9 SCC 132*</u> and <u>***Bhavyanath v. K.V. Balan**, (2020) 11 SCC 790.*</u>

For reference, para 7 of <u>***Vijay Kumar's case***</u> (supra) is as under:-

> "*In order to obtain a decree for specific performance, the plaintiff has to prove his readiness and willingness to perform his part of the contract and the readiness and willingness has to be shown through out and has to be established by the plaintiff. In the case in hand, though the respondent- plaintiff has filed the suit for specific performance on 29th April, 2008, the respondent-plaintiff has not shown his capacity to pay the balance sale consideration of Rs.22,00,000 (Rupees Twenty Two Lakhs). In his evidence, the respondent- plaintiff has stated that he has borrowed the amount from his friends and kept the money to pay the balance sale consideration. As rightly pointed out by the Trial Court, the respondent-plaintiff could not produce any document to show that he had the amount of Rs.22,00,000 (Rupees Twenty Two Lakhs) with him on the relevant date; nor was he able to name the friends from whom he raised money or was able to raise the money. Further more, as rightly pointed out by the Trial Court, the respondent-plaintiff could have placed on record his Accounts Book, Pass Book or the Statement of Accounts or any other negotiable instrument to establish that he had the money with him at the relevant point of time to perform his part of the contract. We are, therefore, in agreement with the view taken by the Trial Court that the respondent-plaintiff has not been able to prove his readiness and willingness on his part.*"

Relevant portion of para 15 of <u>***Ritu Saxena's** case*</u> (supra) is as under:-

> "*..........Such self- serving statements without any proof of financial resources cannot be relied upon to return a finding that the appellant was ready and willing to perform her part of the contract. The appellant has not produced any*

> *income tax record or the bank statement in support of her plea of financial capacity so as to be ready and willing to perform the contract. Therefore, mere fact that the bank has assessed the financial capacity of the appellant while granting loan earlier in respect of another property is not sufficient to discharge of proof of financial capacity in the facts of the present case to hold that the appellant was ready and willing to perform her part of the contract. Such is the finding recorded by both the courts below as well."*

To oppose this and while contending that the purchaser is not required to always carry the balance money with him in the shape of cash, from the date of agreement till the date of decree, learned counsel for the respondent-plaintiff placed reliance upon case titled as ***"Sukhbir Singh vs. Brij Pal Singh**, AIR 1996 Supreme Court 2510*, "***Azhar Sultana vs. B. Rajamani and others**", AIR 2009 Supreme Court 2157* as well as ***Poonam Sharma and another vs. Balbir Kaur*** passed in RSA-1199-2012, decided on 13.03.2012. Relevant paragraphs of the above judgments are as under:-

Para 5 of Sukhbir Singh's case (supra):-

> *"Law is not in doubt and it is not a condition that the respondents should have ready cash with them. The fact they attended the Sub-Registrar's office to have the sale deed executed and waited for the petitioners to attend the office of the Sub-Registrar is a positive fact to prove that they had necessary funds to pass on consideration and had with them the needed money with them for payment at the time of registration. It is sufficient for the respondents to establish that they had the capacity to pay the sale consideration. it is not necessary to pay the sale consideration. It is not necessary that they should always carry the money with them from the date of the suit till date of the decree."*

Para 20 of *Azar Sultana's case* (supra)

> *"We are, however, in agreement with Mr. Lalit that for the aforementioned purpose it was not necessary that the entire amount of consideration should be kept ready and the plaintiff must file proof in respect thereof. It may also be correct to contend that only because the plaintiff who is a Muslim lady, did not examine herself and got examined on her behalf, her husband, the same by itself would lead to a conclusion that she was not ready and willing to perform her part of contract."*

Para 12 of *Poonam Sharma's case* (supra)

> "*In facts in hand, wherein the agreement to sell and payment of earnest money stands admitted and wherein the vendee i.e. the plaintiff-respondent has duly proved her presence in the office of the Sub Registrar on the stipulated date as also coupled with the fact that she got a legal notice served soon thereafter calling upon the defendants-appellants to perform their part of the contract and having instituted present suit immediately thereafter would clearly demonstrate the readiness and willingness on the part of the plaintiff-respondent to perform her part of the contract in relation to the agreement to sell dated 28.1.2005. I am unable to accept the argument raised by learned counsel that it was necessary for the plaintiff-respondent to have furnished proof with regard to the balance sale consideration amount in the light of the observations made by Hon'ble the Supreme Court as referred to herein above."*

I have gone through the aforesaid judgments cited by learned senior counsel appearing on behalf of the respondent-plaintiff. In all the aforementioned judgments, it has been primarily discussed and decided that in order to prove his readiness a plaintiff is not required to file proof of entire amount of balance sale consideration being ready with him in the shape of cash. With utmost respect, the aforesaid judgments do not support the case/cause of the respondent-plaintiff as the facts and circumstances of the present case and the evidence available on record creates clear cut distinction.

There is a difference between proof of financial capacity of the plaintiff and proof of balance amount of sale consideration in the shape of cash in his hand. It is correct that the purchaser is not required to prove that he was carrying balance sale consideration in cash throughout with him, however, it is also correct that in order to prove readiness he is required to prove his financial capacity as regards the balance sale consideration. Financial capacity of an individual has to be proved by way of documentary evidence, which would mean any document or information relating to his ability to manage funds and may not be required to prove through cash; but has to be established through bank statement, tax returns, borrowed funds based on loan documents or any other similar reliable evidence in this regard. Even in ***Sukhbir Singh's*** case (supra), the Hon'ble Supreme Court has been pleased to record that "......it is sufficient for the respondents to establish that they had the capacity to pay the balance sale consideration. It is not necessary that they should always carry the money with them from the date of suit till the date of the decree.....". Thus, meaning thereby that despite being not required to prove cash in hand throughout, plaintiff was required to prove his financial capacity based on reliable documents as discussed hereinabove.

Even ***Bhavyanath's*** case (supra) is clearly distinguishable, as in the said case, the plaintiff had produced evidence to the effect that he along with his family was having gold jewellery worth Rs.24,00,000/-, besides arrangement of cash of Rs.8 lakhs. In the present case, no such evidence has been produced at the instance of the respondent-plaintiff as regards his financial capacity.

In the facts and circumstances of the present case as well as from the evidence available on record in the shape of mere oral statement made by PW-1, the financial capacity of the respondent-plaintiff towards the payment of balance sale consideration has not been established on record. It is correct that the respondent- plaintiff has not been cross-examined qua the portion of his oral deposition in his examination-in-chief as regards he being possessed of balance sale consideration, however, as already discussed, once the financial capacity was required to be established through reliable documentary evidence, mere uncontroverted oral evidence would not be of much relevance and/or help to him in this regard. He cannot succeed there being no documentary proof on record, particularly in view of Sections 59 & 103 of the Indian Evidence Act read with Section 16 (1) (c) of the Specific Relief Act, besides the rule of production of best evidence being implicit in the Evidence Act. Conjoint reading of the aforementioned two provisions cast statutory burden upon the respondent-plaintiff to establish his financial capacity in order to succeed in the suit for specific performance and mere absence of cross-examination as regards his financial capacity would not lead to its proof.

As regards willingness to perform his part of the agreement in question at the instance of the respondent-plaintiff, the same has also not been established, in the facts and circumstances of the present case. The agreement in question was executed in the present case on 30.10.2009 with 15.09.2010 being the target date for registration of the sale deed. It has been alleged by the respondent-plaintiff that on 14.09.2010, he visited the house of the appellant-defendant with the balance amount for the purpose of execution of sale deed, however, the appellant-defendant deferred the same by making an excuse. It has been submitted that a notice dated 25.04.2012 (Ex.P-10) was thereafter issued to the respondent-plaintiff for getting the sale deed executed on 09.05.2012 and on the said date, the respondent-plaintiff appeared before the office of Sub-Registrar and even proved on record an affidavit to this effect as Ex.P-3. Thereafter, the suit in question was filed on 11.06.2012. From the facts and circumstances of the present case, wherein, the agreement was executed on 30.10.2009 with 15.09.2010 being the target date, the first notice calling upon the appellant- defendant for execution of the sale deed was served on 25.04.2012 despite there being previous denial on his part for execution of the sale deed on 14.09.2010 and the suit thereafter was filed on 11.06.2012, willingness on the part of respondent- plaintiff has not been established. In one of the latest judgment passed by the Hon'ble Supreme Court in case of ***"U.N. Krishnamurthy (since deceased) through LRs. vs. A.M. Krishnamurthy**, 2022 Livelaw (SC) 588*, it has been held that the delay in filing the suit has to be treated as fatal to the interest of the plaintiff-purchaser. Para 43 of the said judgment is reproduced as under:-

> "*43. In Saradamani Kandappan (supra) this Court reiterated that (i) while exercising discretion in suits for Specific Performance, the Courts should bear in mind that when the parties prescribed a time for taking certain steps or for completion of the transaction, that must have some significance and therefore time/period prescribed cannot be ignored; (ii) the Courts will apply greater scrutiny and strictness when considering whether purchaser was ready and willing to perform his part of the contract and (iii) every suit for Specific Performance need not be decreed merely because it is filed within the period of limitation, by ignoring time limits stipulated in the*

agreement. The courts will also frown upon suits which are not filed immediately after the breach/refusal. The fact that limitation is three years does not mean that a purchaser can wait for one or two years to file a suit and obtain Specific Performance. The three year period is intended to assist the purchaser in special cases, as for example where the major part of the consideration has been paid to the vendor and possession has been delivered in part performance, where equity shifts in favour of the purchaser."

More than that, even issuance of notice calling upon vendor to execute the sale deed coupled with the fact of having appeared before the Sub-Registrar on the target fixed and having obtained an affidavit in this regard solely has also not been considered to be proof of readiness and willingness on the part of the a vendee- purchaser. Reference in this regard can be made to judgment passed in case of ***"Jagjit Singh (D) through Lrs. vs. Amarjit Singh**, (2018) 9 SCC 805*, "***Atma Ram vs. Charanjit Singh**" AIR 2020 Supreme Court 3413.* Relevant portion of para 3 of ***Jagjit Singh's*** case (supra) as well as para 9 of ***Atma Ram's*** case (supra) are reproduced hereunder:-

Jagjit Singh's case (supra)

".....We fail to understand as to how the issuance of notice on 13.10.2003 or the filing of the suit on 09.01.2004 can lead to the conclusion that the plaintiff was always ready and willing to perform his part of the contract from the date of agreement to sell till date of filing of suit…."

Atma Ram's case (supra):-

"........The fact that the petitioner chose to issue a legal notice dated 12.11.1996 and the fact that the petitioner created an alibi in the form of an affidavit executed before the Sub-Registrar on 7.10.1996 (marked as Exhibit P2) to show that he was present before the SubRegistrar for the purpose of completion of the transaction, within the time stipulated for its

> *performance, was not sufficient to conclude that the petitioner continued to be ready and willing even after three years, on 13.10.1999 when the plaint was presented. ......"*

Learned counsel for the respondent-plaintiff has also referred to a latest judgment passed by the Hon'ble Supreme Court in case of *"**Sughar Singh v. Hari Singh**, AIR 2021 Supreme Court 5581*, so as to contend that in view of amendment having been carried out by the Legislature thereby inserting Section 10 (a) in Specific Relief Act, the specific performance is now no longer a discretionary relief. Relevant para 10 of the aforesaid judgment is reproduced hereunder:-

> *"Now, so far as the finding recorded by the High Court and the observations made by the High court on Section 20 of the Act and the observation that even if the agreement is found to be duly executed and the plaintiff is found to be ready and willing to perform his part of the Agreement, grant of decree of specific performance is not automatic and it is a discretionary relief is concerned, the same cannot be accepted and/or approved. In such a case, many a times it would be giving a premium to the dishonest conduct on the part of the defendant / executant of the agreement to sell. Even the discretion under Section 20 of the Act is required to be exercised judiciously, soundly and reasonably. The plaintiff cannot be punished by refusing the relief of specific performance despite the fact that the execution of the agreement to sell in his favour has been established and proved and that he is found to be always ready and willing to perform his part of the contract. Not to grant the decree of specific performance despite the execution of the agreement to sell is proved; part sale consideration is proved and the plaintiff is always ready and willing to perform his part of the contract would encourage the dishonesty. In such a situation, the balance should tilt in favour of the plaintiff*

> *rather than in favour of the defendant – executant of the agreement to sell, while exercising the discretion judiciously.*
>
> *For the aforesaid, even amendment to the Specific Relief Act, 1963 by which section 10(a) has been inserted, though may not be applicable retrospectively but can be a guide on the discretionary relief. Now the legislature has also thought it to insert Section 10(a) and now the specific performance is no longer a discretionary relief. As such the question whether the said provision would be applicable retrospectively or not and/or should be made applicable to all pending proceedings including appeals is kept open. However, at the same time, as observed hereinabove, the same can be a guide."*

I have gone through the aforementioned judgment but the same even does not come to the rescue of the respondent-plaintiff. While deciding the case of ***Sughar Singh's*** case (supra), the Hon'ble Supreme Court while dealing with the amendment incorporated by virtue of Section 10(a) in the Specific Relief Act, 1963, has been pleased to held that in case the execution of an agreement is proved and the plaintiff is found to be ready and willing to perform his part of agreement, decree for specific performance no longer remain a discretionary relief; whereas in the present case, the respondent-plaintiff has failed to prove his readiness and willingness to perform his part of the contract, thus, the judgment in ***Sughar Singh's*** case (supra) do not support the case/cause of the respondent-plaintiff.

Last but not the least, learned senior counsel appearing on behalf of the respondent-plaintiff, by relying upon judgments passed in case of ***Lal Chand vs. Tek Chand**, 2013(5) RCR (Civil) 104;* and ***Sant Singh vs. Amarjit Singh**, 2015(2) PLR 497*, has tried to raise an argument to the effect that once there was total denial of execution of agreement on the part of appellant-defendant, he was estopped from raising objection as regards the readiness and willingness on the part of the respondent-plaintiff. With respect to both the aforesaid judgments, in my view, Section 16(c) of the Specific Relief Act, 1963 has not been specifically referred to or dealt with; which statutorily enjoins the plaintiff-purchaser/vendee to establish his readiness and willingness to perform the essential terms of the contract which are to be performed by him under the agreement for the purpose of enforcement of his right of specific performance of the said contract.

My aforesaid view is also derived from law laid down by this Court, in case of *"**Gurmail Singh and another vs. Jagdish Pal Singh**"*, *2018 (3) RCR (Civil) 658*. Para 15 is relevant and is reproduced here under for reference:-

> *"The reasons assigned by the learned first appellate court is against the provisions of Section 16(c) of the Specific Relief Act. Section 16(c) of the Specific Relief Act specifically provides that the plaintiff must assert and prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him. Merely because the defendants has denied the execution of the agreement to sell does not absolve the plaintiff from the duty to assert and prove that he was always ready and willing to perform his part of the contract........"*

More than that even in the latest judgment of ***U.N. Krishnamurthy's** case* (supra), it has been emphasized that Section 16(c) of the Specific Relief Act, 1963 bars the relief of specific performance of a contract in favour of a person, who fails to aver and prove his readiness and willingness to perform his part of contract. Paras 24 and 25 of the aforesaid judgment are relevant, which are as follows:-

> *"24. Section 16 (c) of the Specific Relief Act, 1963 bars the relief of specific performance of a contract in favour of a person, who fails to aver and prove his readiness and willingness to perform his part of contract. In view of Explanation (i) to clause (c) of Section 16, it may not be essential for the plaintiff to actually tender money to the defendant or to deposit money in Court, except when so directed by the Court, to prove readiness and willingness to perform the essential terms of a contract, which involves payment of money. However, explanation (ii) says the plaintiff must aver performance or readiness and willingness to perform the contract according to its true construction.*
>
> *25. To aver and prove readiness and willingness to perform an obligation to pay money, in terms of a contract, the plaintiff would have to make specific statements in the plaint and adduce evidence to show availability of funds to make payment in terms of the contract in time. In other words, the plaintiff would have to plead that the plaintiff had sufficient funds or was in a position to raise funds in time to discharge his obligation under the contract. If the plaintiff does not have sufficient funds with him to discharge his obligations in terms of a contract, which requires payment of money, the plaintiff would have to specifically plead how the funds would be available to him. To cite an example, the plaintiff may aver and prove, by adducing evidence, an arrangement with a financier for disbursement of adequate funds for timely compliance with the terms and conditions of a contract involving payment of money."*

To sum up, in the facts and circumstances wherein the respondent-plaintiff has failed to establish his readiness and willingness to perform his part of the contract as enjoined under Section 16(c) of the Specific Relief Act, 1963, I find substance in the present appeal filed at the instance of appellant-defendant. Consequently, the same stands allowed and judgment and decree dated 01.11.2014 passed by Additional District Judge, Nuh is hereby set aside, resulting into upholding of the judgment and decree dated 28.02.2014 passed by learned trial Court.

Pending application(s), if any, shall also stand disposed off.

(HARKESH MANUJA)
JUDGE

October 28, 2022
sonika/sanjay

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No