



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.319 OF 2024

APPELLANT

Ori. Defendant
On R.A.

:- Anjalitai Narendra Mankar
Aged 61 years, Occupation household,
Resident of Sukhakarta Apartment,
Chaitanyawadi, Buldana

..VERSUS..

RESPONDENTS

Ori. Plaintiffs
on R.A.

- :-** 1. Sujit Sheshrao Ingle
Aged 49 years, Occupation: Agriculture
Resident of Takli (Watpal) Post Jigao
Taluka Nandura District Buldana
2. Satyajit Ajitsingh Patil
Aged 48 years, Occu: agriculture and
business, Resident of 14 Manraj Park,
Jalgaon Khandesh Taluka and district
Jalgaon Khandesh

Mr. Rahul Tajne, Advocate for Appellant.
Mr. N. B. Kalwaghe, Advocate for the Respondents.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **09.04.2026**

J U D G M E N T :

- 1) Heard finally with consent of learned advocates for the respective parties.
- 2) The present Second Appeal arises out of concurrent

decrees for specific performance of contract passed by the learned Civil Judge, Junior Division, Nandura in Regular Civil Suit No.64 of 2012 and judgment and decree dated 13.10.2023 passed by the learned Ad-hoc District Judge-1, Malkapur in Regular Civil Appeal No.20 of 2019.

3) Following substantial questions of law were framed in the present appeal vide order dated 14.12.2024:-

(i) Whether the trial Court and the First Appellate Court are right in passing decree of specific performance when the defendant was not having a perfect title ?

(ii) Whether the suit for specific performance is maintainable in absence of the pleading of readiness and willingness ?

4) The learned advocate for the appellant/defendant does not press the first substantial question of law. His contention with respect to second substantial question of law is that the plaint averments do not satisfy the requirement of Section 16(c) of the Specific Relief of Act, as also, Form Nos.47 and 48 in Appendix A of the Code of Civil Procedure,

1908, which prescribe format of plaint in a suit for specific performance. The learned advocate contends that, in order to arrive at an inference that the plaintiffs were all the while ready and willing to perform their part of contract, the plaintiffs must specifically mention in the plaint the obligations that they have to discharge in terms of the agreement in order to complete the sale transaction and that they must further aver that they were ready and willing to perform their part of the contract from the date of agreement till the date of institution of the suit and further even after institution of the suit till culmination of transaction.

5) Whereas, there cannot be any dispute with the legal proposition canvassed by the learned advocate for the appellant/defendant, on perusal of paragraphs 3 and 4 of the plaint, I am of the considered opinion that the pleadings in the plaint clearly make out readiness and willingness on the part of the plaintiffs to perform their part of the contract.

6) Perusal of the agreement shows that apart from making payment of consideration, there is no other obligation to be discharged by the plaintiffs. The plaintiffs

have stated in paragraph 3 of the plaint that they were and are ready and willing to act in accordance with the contract.

7) The agreement is a registered document executed on 13.05.2010 and the sale deed was to be executed on or before 12.05.2012. A specific averment is made in paragraph 3 of the plaint that in the month of March 2011, the plaintiffs had contacted the defendant on two to three occasions requesting to complete the sale transaction by accepting balance sale consideration. The plaintiffs have averred that the defendant assured that he will execute the sale deed in terms of the agreement, however, he avoided to do so. Plaint averments reveal that notice for specific performance was issued on 29.04.2011 calling upon the defendant to complete the transaction within one month from the date of issuance of notice. The plaintiffs have further averred that after receipt of notice, the defendant met him personally and requested to defer execution of the sale deed due to some domestic difficulties. The plaintiffs have made an averment in paragraph 4 of plaint that on an apprehension that the defendant would create third party interest over the suit

property, they had issued a caution notice in news paper *Deshonnati* on 09.05.2012. The plaintiffs have further averred that the last date for execution of sale deed was 12.05.2012 which was a holiday and the plaintiff attended the office of Sub-registrar, Nandura on 14.05.2012. The pleadings read cumulatively, clearly make out that readiness and willingness is properly pleaded.

8) The substantial question of law No.(ii) is answered against appellant/defendant and in favour of the respondents/plaintiffs. Second Appeal is therefore **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

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