



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

SECOND APPEAL NO. 192 OF 2025

(Dhanraj S/o Chhaganlal Satpure vs. M/s. M K Real Estates Engineer and another)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. A. B. Mirza, Advocate for appellant.

CORAM : ROHIT W. JOSHI, J.
JANUARY 28, 2026

- 1) The present appeal is arising out of a suit for specific performance of contract. The appellant is the original plaintiff and respondents are defendants. The respondent No.1 is proprietorship concern of which the respondent No.2 is the sole proprietor. The defendants had issued a public notice inviting offers for purchasing houses in a scheme floated by them. The plaintiff had booked a plot bearing No.195, (hereinafter referred to as 'suit property') on 08/08/2008, pursuant to the said public notice. At the time of booking the plaintiff had deposited a sum of Rs.10,000/-. It is the case of the plaintiff that he has deposited the amount of Rs.1,15,000/- with the defendants from time to time, the last payment being made on 06/07/2010.
- 2) The plaintiff filed a suit for specific performance of contract on 07/02/2013 inter alia claiming that although he is ready and willing to perform his part of contract to purchase the suit property, the defendants did not execute sale deed. The defendants filed written statement contending that the plaintiff did not make payment of sale consideration as agreed and therefore, is not entitled to relief of specific performance of

contract. Learned trial Court has dismissed the suit in its entirety.

- 3) Being aggrieved by the dismissal of the suit, the plaintiff preferred an appeal, which came to be partly allowed by the learned first appellate Court. The learned first appellate Court has granted decree for refund of amount of Rs.1,15,000/- along with interest @9%p.a. from the date of filing of the suit till realization. The relief of specific performance of contract is not granted by the learned first appellate Court on the ground that the plaintiff had failed to establish that he was ever ready and willing to perform his part of contract. The original plaintiff has filed the present appeal challenging the said decree.
- 4) The learned counsel for the appellant contends that since the agreement between the parties was proved, the learned Courts ought to have granted decree of specific performance of contract in his favour. He contends that in case of transactions of sale relating to immovable property time cannot be considered to be essence of contract and further that in the case at hand there is no evidence on record to suggest that the sale transaction was to be completed within a stipulated period.
- 5) The learned first appellate Court has held that the plaintiff could not lead cogent evidence to establish that he was ever ready and willing to perform his part of contract. It is observed that the plaintiff could not make payment of balance sale consideration despite receipt of two notices from the defendants in order to complete the sale transaction. The learned first appellate Court has therefore, refused to grant relief of specific performance of contract.

6) Having perused the findings recorded by the learned first appellate Court, this Court is also of the opinion that there is no reason to take a different view of the matter. The learned first appellate Court, has referred to the evidence of the Power of Attorney Holder of the plaintiff, who was examined as witness of the plaintiff, wherein notices issued by the defendants for payment of balance consideration is admitted by him. The said witness also admitted that the plaintiff did not deposit the balance sale consideration with the defendants despite receipt of the said notices. The witness also admitted receipt of notice for cancellation of agreement from the defendants and further that even after receipt of the said notice, the plaintiff did not issue any letter informing the defendants about his intention to complete the sale transaction. These, findings are pure findings of facts, which are arrived at on appreciation of evidence. The findings cannot be said to be perverse by any stretch of imagination.

7) No substantial question therefore arises for consideration, Second Appeal is therefore dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)