



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

MISC. CIVIL APPLICATION NO.291 OF 2026

Sau. Vandana W/o Ramesh Sahastrabuddhe **Vs.** Sau. Jayashree W/o Anil Sable

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr V.G. Bhamburkar, Advocate for applicant.

CORAM : ROHIT W. JOSHI, J.

DATE : 08/05/2026

1. By the present application, the applicant seeks review of the judgment dated 27.03.2026 passed by this Court dismissing Second Appeal No.122 of 2023. The said second appeal was filed in order to challenge the concurrent decrees in a suit for specific performance of contract. The applicant is the original plaintiff.

2. The learned trial Court refused to grant decree for specific performance of contract and instead granted a decree for refund. The learned First Appellate Court confirmed the decree. Both the learned Courts have held that the plaintiff had failed to make out a case of being ready and willing to perform his part of contract all throughout. The plaintiff has set up a case that he had sold one immovable property in order to arrange funds to make payment of balance sale consideration in terms of the agreement. The agreement in question is dated 20.07.2010. The sale deed was to be executed on or before 20.11.2010. The plaintiff paid a sum of Rs.9,00,000/- to the defendant, Rs.4,00,000/- on the date of agreement and further amount

of Rs.5,00,000/- on 04.08.2010. Thus, out of total consideration of Rs.21,00,000/-, a sum of Rs.12,00,000/- was outstanding. The plaintiff did not bring any evidence on record to establish sale of another immovable property from which amount was generated for making payment of balance sale consideration.

3. In view of the aforesaid, the learned Courts held that the plaintiff failed to establish readiness and willingness. The contention of the learned advocate for the applicant is that pursuant to order dated 29.04.2015 passed by this Court in First Appeal No.99 of 2015, the appellant had deposited a sum of Rs.12,00,000/- with this Court on 12.05.2015. It is contended that this aspect of the matter is not dealt with by this Court while dismissing the appeal. Deposit of the amount as on 12.05.2015 will demonstrate availability of funds as on the said date. The said deposit will not proof of readiness and willingness on the part of the plaintiff to complete the sale transaction as on target date.

4. The findings recorded by both the learned Courts are pure findings of facts based on appreciation of evidence. Relief of specific performance is denied due to lack of evidence on the part of the plaintiff to demonstrate readiness to complete the sale transaction. This Court concurred with the concurrent decrees passed by the learned Courts below, finding that the view taken by both the learned Courts was a possible view.

5. In that view of the matter, no case of interference is made out. Application for review is **rejected**.

6. At this stage, learned advocate for the applicant draws attention to Paragraph 8 of the judgment dated 27.03.2026 and contends that appellant had deposited a sum of Rs.12,00,000/- with this Court and likewise amount of Rs.9,00,000/- was deposited by the defendant/respondent. The learned advocate correct himself and states that the amounts were not deposited in the present second appeal as earlier contended but in First Appeal No.99 of 2015, which was subsequently registered as Regular Civil Suit No.266 of 2016 in view of enhancement of pecuniary jurisdiction of the learned District Judge.

7. Although no case for interference on merits are made out. Issue notice to the non-applicant to consider request of the applicant for withdrawal of amount deposited by the non-applicant with this Court, returnable on **16.06.2026**.

8. The applicant is directed to serve the non-applicant by speed post in addition to regular mode of service and file affidavit of service before the returnable date.

(ROHIT W. JOSHI, J.)