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A.S.No.96 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2026

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

A.S.No.96 of 2018

1.C.N.Krishnan
Padmakrishnan (died)
2.Anandha Babu
3.K.Prakash
4.Anitha
5.Vijaya
6.C.N.Ramamoorthy
7.Sarodaya
8.Gowtham
9.Praveen
10.Sridevi

... Appellants

Vs.

G.N.Govindarajulu

... Respondent

Prayer : Appeal filed under Section 96 of the Code of Civil Procedure r/w. Order XLI Rule 1 CPC against the judgment and decree dated 13.10.2017 passed in O.S.No.2 of 2006 on the file of the Additional District Court, Hosur.



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For Appellants : Mr.P.Mani
For Respondent : Mr.S.Parthasarathy
Senior Counsel
for Mr.T.M.Hariharan

J U D G M E N T

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

Aggrieved over the decree and judgment passed by the learned Additional District Judge, Hosur, in O.S.No.2 of 2006, dated 13.10.2017, granting specific performance, the present appeal has been filed by the defendants in the suit.

2.For the sake of convenience, the parties will be referred to as per their ranking before the trial Court.

3.The following are the brief facts of the case :

The defendants agreed to sell the suit properties to the plaintiff for a sum of Rs.20,28,750/- and accordingly, a sale agreement came to be executed between the plaintiff and the defendants on 24.10.1999 (Ex.A1). On the date of agreement, the plaintiff paid a sum of Rs.2,00,000/- as

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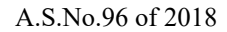
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advance. It was agreed between the parties that the balance sale consideration will be paid within a period of four months from the date of sale agreement. It is the case of the plaintiff that time was not the essence of the contract. Pursuant to the said agreement, possession was also delivered by the defendants to the plaintiff on the date of agreement itself. After the parties entered into the sale agreement, the elder brother of the defendants 1 and 7 filed a suit for partition in O.S.No.17 of 2000 on the file of the Subordinate Court, Hosur, not only in respect of the properties covered under the sale agreement, but also other properties. Admitting the filing of the suit by their brother, an endorsement was made by all the defendants on 10.10.2000 (Ex.A2) extending the period for execution of sale deed for a further period of four months or till the said suit for partition is finally disposed by way of settlement out of Court. It is the specific case of the plaintiff that all the defendants have also signed in the above endorsement (Ex.A2) made on the backside of the original sale agreement, on 10.10.2000. Further, the plaintiff also paid a further sum of Rs.50,000/- on 17.06.2001 and the same was acknowledged by the 1st defendant by making an endorsement on the backside of Ex.A1, which is marked as Ex.A3. Thereafter, whenever the plaintiff approached the defendants 1 to 7 and



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enquired about the stage of the suit filed by their brother in O.S.No.17 of 2000, the defendants 1 and 7 stated that they are trying to amicably settle the matter among themselves and made the plaintiff believe their version, as possession was already handed over to him. It is the contention of the plaintiff that he was always ready and willing to pay the remaining sale consideration and perform his part of the contract. Even during the pendency of the suit, the plaintiff sent a legal notice on 27.12.2004 (Ex.A4) expressing his readiness and willingness to perform his part of the contract and calling upon the defendants 1 and 7 to execute the sale deed. However, the same has not been replied by the defendants 1 and 7. Later, the suit in O.S.No.17 of 2000 came to be initially dismissed for default on 15.11.2005. The plaintiff, having reasons to believe connivance between the defendants 1 and 7 and their brother in filing the suit for partition, sent another legal notice to all the defendants on 05.12.2005 (Ex.A6). Despite receiving the same, no reply was sent by the defendants. Therefore, the plaintiff has filed the present suit for specific performance to enforce the sale agreement dated 24.10.1999 (Ex.A1).



5. In the written statement filed by the 1st defendant and adopted by the other defendants, the defendants have disputed the endorsements alleged to have been made on 10.10.2000 (Ex.A2) extending the period for execution of sale deed for a further period of six months or till the disposal of the suit filed by their brother in O.S.No.17 of 2000 and also the endorsement Ex.A3 made on 17.06.2001 for receipt of further sum of Rs.50,000/-. It is their contention that they have never made such endorsements and the same are forged and fabricated by the plaintiff. The signatures in the endorsements are disputed by the defendants. Delivery of possession is also disputed by the defendants. It is their contention that the plaintiff was never ready and willing to perform his part of the contract. The plaintiff did not come



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forward with any money to complete the transaction. According to the defendants, time was the essence of the contract. Even assuming that time was not the essence of the contract, the plaintiff ought to have filed the suit within a period of three years from the date originally fixed for completion of the contract, which ends on 24.02.2003. It is their contention that, since the value of the properties have increased manifold, the present suit for specific performance has been filed after 6 years from the date of agreement and therefore, the suit is barred by limitation.

6.The defendants have also filed an additional written statement stating that there was no stay or injunction granted in O.S.No.17 of 2000 and therefore, the plaintiff cannot take advantage of the suit filed by their brother, for partition. It is further stated that, right from the date of sale agreement, i.e., 24.10.1999, possession of the suit properties is with one Durairaj as tenant, and therefore, delivery of possession to the plaintiff is also disputed by the defendants.

7.Based on the above pleadings, the trial Court has framed the following issues :



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- (1) *Whether agreement of sale dated 24.10.1999 is true and valid ?*
- (2) *Whether endorsement dated 10.10.2000 is forged and created is true ?*
- (3) *Whether the plaintiff is always ready and willing to perform his part of the contract ?*
- (4) *Whether the suit is barred by limitation ?*
- (5) *Whether the plaintiff is entitled to get the relief of specific performance ?*
- (6) *To what relief the plaintiff is entitled to ?*

8.The trial Court has also framed the following additional issues :

- (1) *Whether the suit properties kept vacant since 24.10.1999 is true ?*
- (2) *Whether the plaintiff is entitled for delivery of possession, as prayed for ?*
- (3) *Whether the plaintiff is entitled to get advance amount, as prayed for ?*

9.On the side of the plaintiff, P.W.1 and P.W.2 were examined and Exs.A1 to A19 were marked. On the side of the defendants, D.W.1 to D.W.3 were examined and Ex.B1 was marked. The reports of the Forensic Science Department were marked as Exs.C1 to C3.



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10. Based on the evidence and materials on record, the trial Court granted the decree of specific performance by its decree and judgment dated 13.10.2017 in favour of the plaintiff.

11. Aggrieved by the same, the present appeal has been filed by the unsuccessful defendants.

12. The main contention of the learned counsel for the appellants/defendants is that the time agreed in the agreement is only four months and the plaintiff has not come forward to pay the remaining sale consideration within the said period. According to the learned counsel, though four months' time agreed in the agreement Ex.A1 expired on 24.02.2000, the balance sale consideration had not been deposited by the plaintiff. Therefore, it is his contention that the plaintiff has not proved his readiness and willingness. Further, the learned counsel would submit that the endorsement alleged to have been made by the defendants on 10.10.2000 (Ex.A2) extending the period for execution of sale deed till the disposal of the suit filed by the brother of the defendants 1 and 7, is forged and



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fabricated one. The 1st defendant has never signed the endorsement Ex.A2.

He would also submit that the endorsement Ex.A3 for receipt of further sum of Rs.50,000/- is also a forged and fabricated one. This has been clearly spoken by D.W.2 (Handwriting Expert) who has deposed that the alleged signature of 1st defendant found in Exs.A2 and A3 differs from his admitted signatures. When the very endorsement Exs.A2 and A3 itself has been forged, which has been clearly established by the defendants, the relief of specific performance cannot be granted. The trial Court has not appreciated the evidence properly. The present value of the property is Rs.10 Crores and the suit has been decreed on 13.10.2017 and the deposit of the remaining sale consideration of Rs.17,78,750/- has been made only on 26.10.2017. Therefore, it is his contention that a huge amount of Rs.17,78,750/- has not been paid all these years merely on the ground of pendency of the other suit in O.S.No.17 of 2000 filed by one of the brothers of the defendants 1 and 7. Therefore, it is his contention that the plaintiff is not entitled to specific performance, as readiness and willingness is not established. In support of his contentions, the learned counsel has placed reliance on the following judgments :

1. Thiruvengada Pillai v. Navaneethammal and another [2008 (2)]



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2. *Sangita Sinha v. Bhawana Bhardwaj and others* [2025 SCC Online SC 723]

3. *Janardan Das and others v. Durga Prasad Agarwalla and others* [2024 SCC Online SC 2937]

4. *Tilak Ram and others v. Nathu and others* [AIR 1967 SC 935]

5. *Gurbux Singh and others v. Chinti and others* [MANU/PH/0006/1975]

6. *U.N.Krishnamurthy (since deceased) through LRs v. A.M.Krishnamurthy* [2022 (2) MWN (Civil) 799]

13. Whereas, the learned Senior Counsel appearing for the respondent/plaintiff would submit that the agreement dated 24.10.1999 (Ex.A1) is not disputed by the defendants. Though the endorsement made on the backside of the agreement, on 10.10.2000 (Ex.A2), extending further time of six months or till the disposal of the other suit in O.S.No.17 of 2000, and the endorsement made on 17.06.2001 (Ex.A3) acknowledging the receipt of further sum of Rs.50,000/-, are said to have been forged and D.W.2 (Handwriting Expert) has deposed that the signature of the 1st defendant has not tallied with the admitted signatures of 1st defendant, it is the contention of the learned Senior Counsel that such contention has no legs to stand for the simple reason that the signatures of all the defendants in the

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endorsement Ex.A2 and the signature of the 1st defendant in Ex.A3 has been admitted by D.W.1 in his cross-examination. It is his further contention that, though in the legal notice dated 27.12.2004 (Ex.A4) sent to the defendants 1 and 7, it is clearly pleaded that there was an endorsement made by all the defendants on 10.10.2000 (Ex.A2) and further sum of Rs.50,000/- was received vide endorsement Ex.A3, the said facts have not been denied by the defendants. Similarly, in the other legal notice dated 05.10.2005 (Ex.A6) sent to all the defendants on 05.12.2005 also, the endorsements Exs.A2 and A3 have been clearly pleaded. However, the said notice has also not been disputed or replied to. For the first time, in the written statement, a plea has been taken as if the endorsements Exs.A2 and A3 have been fabricated. Whereas, D.W.1, in his evidence, has clearly admitted not only his signature found in Ex.A2, but also his brothers' in Exs.A2 and A3. It is the contention of the learned Senior Counsel that the 1st defendant has conveniently not chosen to examine himself. All these facts clearly indicate that the defence set up by the defendants is only to defeat the rights of the plaintiff. Further, it is his contention that the evidence of D.W.1 clearly indicates that the plaintiff had the capacity to pay the remaining amount and he was ready and willing to perform his part of the contract. Though four months' time was



originally fixed in the agreement, sale could not be executed due to the pendency of the suit filed by the brother of the defendants 1 and 7 in O.S.No.17 of 2000, wherein, interim injunction was also granted not to alienate the property. Thereafter, immediately after the said suit was dismissed as not pressed on 11.12.2006, the present suit has been filed by the plaintiff for specific performance. Therefore, the delay in filing the present suit was only due to the interim order passed in O.S.No.17 of 2000 and therefore, time is not the essence of the contract and the suit has been filed in time. Therefore, he prayed for dismissal of this Appeal.

14. In the light of the above submissions, now, the points that arise for consideration in this Appeal are as follows :

1. *Whether the endorsements dated 10.10.2000 (Ex.A2) and 17.06.2001 (Ex.A3) are fabricated ?*
2. *Whether the suit to enforce the contract, dated 24.10.1999 (Ex.A1), is barred by limitation ?*
3. *Whether the plaintiff was ready and willing to perform his part of the contract ?*



Point Nos.(1) and (2) :

15.It is not in dispute that the agreement, dated 24.10.1999 (Ex.A1), was executed by all the defendants for sale of the suit property to the plaintiff for a total consideration of Rs.20,28,750/- and they received an advance of Rs.2,00,000/- on the date of agreement. At the time of agreement itself, it was agreed that the parties intended to complete the sale within a period of four months from the date of the agreement. The said four months' time was supposed to expire on 24.02.2000. Meanwhile, before the time period of four months stipulated in the agreement expired, a suit in O.S.No.17 of 2000 came to be filed by one of the brothers of the defendants 1 and 7, for partition, in respect of several properties including the properties which are the subject matter of the sale agreement. The said suit was filed on 04.02.2000. The plaint copy of O.S.No.17 of 2000 is marked as Ex.A8. In the said suit, an interim order of injunction was originally granted not to alienate the properties. The interim order was originally granted for two weeks. Though it appears that the interim order was not extended later, the fact remains that the said suit was pending. It is relevant to note that, pending the said suit in O.S.No.17 of 2000 also, the plaintiff sent Ex.A4



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legal notice on 27.12.2004 to the defendants 1 and 7 clearly mentioning about the endorsement Ex.A2 made by all the defendants extending further period of four months and the endorsement Ex.A3 for receipt of further sum of Rs.50,000/- as advance. It is relevant to note that, as per the endorsement Ex.A2, further four months' period was extended from 10.10.2000 or till the disposal of the suit earlier by way of settlement out of Court. All the defendants have signed the said endorsement, which is marked as Ex.A2. It is relevant to note that, in the legal notice Ex.A4, the Ex.A2 endorsement has been clearly pleaded. Having received the legal notice, the endorsement Ex.A2 pleaded in Ex.A4 has not been disputed and no reply, whatsoever, sent.

16.It is further to be noted that, in O.S.No.17 of 2000, the defendants 1 and 7 herein have filed written statement (Ex.A9) on 06.06.2005. In the written statement filed in the said suit, in Para No.7, they have clearly admitted the execution of the sale agreement dated 24.10.1999 (Ex.A1) and opposed the suit filed by their brother on the ground that the said suit has been filed only to defeat the sale agreement dated 24.10.1999. It is relevant to note that the said written statement was filed on 06.06.2005 much after



the endorsement Ex.A2 dated 10.10.2000. The plea made in the said written statement filed by the defendants 1 and 7 herein in O.S.No.17 of 2000, which is marked as Ex.A9, makes it clear that the suit agreement Ex.A1 dated 24.10.1999 and another agreement dated 03.11.1999 are still alive. This fact clearly substantiates the version of the plaintiff that there was an endorsement (Ex.A2) made by all the defendants extending the time period.

17.Later, pre-suit notice dated 05.12.2005 (Ex.A6) was also sent. In the said pre-suit notice also, it is pleaded about the endorsement Ex.A2 made on 10.10.2000 extending time for conveyance by another four months and it is pleaded that the performance of the contract would be completed either on the date of judgment of the trial Court or the date of compromise outside the Court. In the said notice, the endorsement Ex.A3 for receipt of further sum of Rs.50,000/- is also pleaded. Despite specific plea in this regard in Ex.A6, the said notice has also not been replied by the defendants. Whereas, for the first time, in the written statement filed in the present suit, a contention is raised by the defendants as if Exs.A2 and A3 endorsements are not made by the defendants and that the same have been fabricated.



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18.It is relevant to note that, to prove the endorsement Ex.A2, P.W.2, who drafted the endorsement, was also examined by the plaintiff and P.W.2 has clearly spoken about the endorsement Ex.A2. It is further to be noted that D.W.2 (Handwriting Expert) has been examined to show that the signature of the 1st defendant found in Exs.A2 and A3 differs and not that of his. Though the Handwriting Expert (D.W.2) has given his opinion based on comparison of certain documents, it is relevant to note that, at the earlier point of time, when Exs.A4 and A6 legal notices were sent, specifically pleading about the endorsements Exs.A2 and A3, there was no reply, whatsoever, sent to deny the endorsements. Further, in the written statement filed by the defendants 1 and 7 herein in the other suit in O.S.No.17 of 2000 marked as Ex.A9, it is the specific stand of the defendants that the suit agreement dated 24.10.1999 (Ex.A1) is still alive and the partition suit in O.S.No.17 of 2000 has been filed only to defeat the suit agreement. Therefore, the above conduct of the defendants and their pleadings make it clear that the parties were aware that time was extended and sale could not be completed within a period of four months as agreed, since a partition suit has been filed by one of the brothers of the defendants 1 and 7. Merely



because the Handwriting Expert (D.W.2) had filed a report stating that the signature of 1st defendant is not tallying and it differs from his admitted signatures, that opinion has been taken advantage by the defendants to contend that the endorsements are fabricated. It is relevant to note that the opinion of the Handwriting Expert is not based on exact science. It is not a conclusive proof with regard to signature. It is only a mere opinion. Whereas, the 1st defendant, who claims that the signature found in endorsements Exs.A2 and A3 is not his, for the reasons best known to him, has not chosen to examine himself before the Court. Only the 7th defendant alone has examined himself as D.W.1. Even the 7th defendant (D.W.1), in the cross-examination, has clearly admitted that he and his brothers have signed all the signatures found in Ex.A2. He has also admitted that the signature found in Ex.A3 is his brother's. When the signatures of all the defendants found in Ex.A2 and the signature of 1st defendant found in Ex.A3 have not been disputed and are admitted by positive admission by D.W.1, we are of the view that the Handwriting Expert's opinion assumes insignificance, since the same is not based on exact science. Even the Handwriting Expert (D.W.2), in his cross-examination, has admitted that when one person signs many signatures on the very same day, variations are



bound to occur. When D.W.1 himself has admitted his signature and also the signatures of other defendants in Exs.A2 and A3 endorsements, merely on the basis of the report of D.W.2 (Handwriting Expert), which is also not based on exact science, the admission of the witness cannot be ignored altogether. When D.W.1, who is a party to the documents and the best person to prove his signature, has himself admitted not only his signature but also the signatures of all the defendants in the endorsements Exs.A2 and A3, now it cannot be contended that the endorsements have been fabricated. The 1st defendant, who has denied his signature has also not come to the Court to withstand cross-examination. Therefore, an adverse inference has to be drawn against him.

19.Learned counsel for the appellants/defendants relied upon the judgment of the Hon'ble Supreme Court in ***Thiruvengada Pillai's case*** (*supra*) to contend that the onus is on the plaintiff to prove the endorsements, though disputed by the defendants as forged. In the present case, the plaintiff has not only proved the said endorsement Ex.A2 by examining P.W.2, but also pleaded the endorsements Exs.A2 and A3 from the very beginning under Ex.A4 legal notice and Ex.A6 pre-suit notice,



which have not been replied by the defendants. Therefore, it cannot be said that the endorsements Exs.A2 and A3 are fabricated. **Accordingly, Point No.(1) is answered in favour of the plaintiff.**

20.Though the learned counsel for the appellants/defendants has relied upon the judgment of the Hon'ble Supreme Court in **Tilak Ram's case** (*supra*) and the judgment of the Punjab and Haryana High Court in **Gurbux Singh's case** (*supra*) in support of his contention that the plea made in the written statement filed by the defendants 1 and 7 herein in O.S.No.17 of 2000 (Ex.A9) cannot be construed as an acknowledgement for extension of time, those judgments cannot be applied to the facts of the case for the simple reason that the defendants 1 and 7 have specifically pleaded in the written statement filed by them in the other suit in O.S.No.17 of 2000 (Ex.A9), that the defendants have entered into a sale agreement with the plaintiff on 24.10.1999 (Ex.A1) and the said suit for partition has been filed only to defeat the sale agreement dated 24.10.1999 (Ex.A1). By taking the sale agreement (Ex.A1) itself as a defence at a much later point of time in other suit, the defendants have acknowledged the subsistence of the sale agreement even at that point of time. Therefore, the contention of the



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learned counsel for the appellants in this regard, cannot be countenanced.

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21. Though four months' time was originally agreed upon between the parties, the contract was kept alive, since the suit for partition in O.S.No.17 of 2000 was filed by one of the brothers of the defendants 1 and 7. In the said suit in O.S.No.17 of 2000, interim injunction was also granted earlier, which is also marked as Ex.A12. Therefore, when there is an interim order operating as against the sale of the properties, it is common knowledge that time period for execution of sale would be extended and strict compliance of the time limit agreed between the parties could not be enforced. The said suit in O.S.No.17 of 2000 was dismissed as not pressed on 11.12.2006 as per Exs.A10 and A11 (judgment and decree in O.S.No.17 of 2000). Even prior to the dismissal of the said suit, Exs.A4 and A6 legal notices were sent by the plaintiff, expressing his readiness and willingness to perform his part of the contract and thereafter, the present suit has been filed immediately on 23.01.2006.

22. It is relevant to note that, when admittedly suit is pending in O.S.No.17 of 2000, if any sale is executed pending the suit, the same will



fall within the ambit of *lis pendens*. The suit properties are immovable properties. In such view of the matter, execution of sale has been postponed due to the pendency of the suit. Therefore, now, it cannot be contended by the defendants that the suit to enforce the sale agreement is barred by limitation. The delay in filing the suit was only due to the pendency of the suit in O.S.No.17 of 2000, wherein, injunction was also operating against the defendants not to alienate the properties. In such view of the matter, this Court is of the view that the present suit filed immediately after the dismissal of the other suit in O.S.No.17 of 2000, is not barred by limitation. ***Point No. (2) is answered in favour of the plaintiff.***

Point No.(3) :

23.Learned counsel for the appellants/defendants has relied upon the judgments of the Hon'ble Supreme Court in ***U.N.Krishnamurthy's case (supra)***, ***Janardan Das's case (supra)***, ***Sangita Sinha's case (supra)***, to buttress his argument that, in order to seek a relief of specific performance, it is the bounden duty of the plaintiff to prove all along till the final decision of the suit that he was ready and willing to perform his part of the contract, by adducing evidence. No doubt, absolutely, there is no dispute with regard to



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above proposition of law. Readiness and willingness is a continuous process. The plaintiff has to not only plead readiness and willingness in the plaint, but also prove the same. It is to be noted that, in the present case, the parties have, in fact, agreed to complete the sale within a period of four months. Since a third party had intervened and filed a separate suit in O.S.No.17 of 2000 and interim orders were also granted in the said suit restraining alienation of the properties, further time has been extended by the defendants for execution of sale. Even during the pendency of the other suit, the plaintiff has sent a notice on 27.12.2004 (Ex.A4) expressing his readiness and willingness and the said legal notice has not been replied by the defendants. Similarly, Ex.A6 legal notice was also issued on 05.12.2005, which has also not been disputed or replied to by the defendants.

24.The present suit has been decreed on 13.10.2017 directing the plaintiff to deposit the balance sale consideration within a period of one month. The said direction was also complied by the plaintiff by depositing the remaining sale consideration on 26.10.2017. It is the contention of the defendants that, at the time of filing the suit, the remaining sale consideration has not been deposited and therefore, there is no readiness or



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willingness on the part of the plaintiff. It is relevant to note that, deposit of the remaining sale consideration before the Court, is not mandatory as per Section 16 of the Specific Relief Act, 1963. What is required to show is, readiness and willingness. Readiness virtually means the capacity to raise funds and willingness is the mental attitude. Unless these twin conditions are satisfied and established and the plaintiff exhibits both the conditions throughout, i.e., from the date of agreement till the agreement culminates into sale, the Court will not normally enforce such contract. However, in the present case, as far as capacity to raise funds is concerned, the plaintiff has marked his Income Tax Returns and Accounts as Ex.A16 to Ex.A18 to show that he had capacity to mobilise funds. Even D.W.1, in the cross-examination, has admitted that the plaintiff had capacity to raise funds and he had the capacity to mobilise funds from the date of agreement till now. When D.W.1 himself had admitted the capacity of the plaintiff to pay the remaining sale consideration from the date of agreement, merely because the same could not be deposited due to the pendency of the other suit, it cannot be now said that the plaintiff has not proved his readiness and willingness.



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25.The plaintiff, all along, in Exs.A4 and A6, has expressed his readiness and willingness. However, the sale could not be completed only due to the pendency of the other suit for partition in respect of same properties, in O.S.No.17 of 2000. It is relevant to note that the said suit came to be filed after the suit agreement came to be executed. Therefore, merely because delay had occurred due to the intervention of some third parties, now, it cannot be said that the plaintiff has not proved his readiness and willingness. When the plaintiff had capacity to mobilise funds at any point of time, which is also admitted by D.W.1 in the cross-examination, it has to be held that the plaintiff was always ready and willing to perform his part of the contract from the very beginning and that the delay in concluding the contract was only due to the intervention of some third parties by filing a suit for partition in O.S.No.17 of 2000. Such being the position, the delay cannot be put against the plaintiff, though he had the capacity to pay the amount at the relevant point of time pursuant to the suit agreement. Further, the plaintiff has also promptly deposited the amount after the decree of specific performance granted by the trial Court. Therefore, we are of the view that the plaintiff has clearly exhibited his readiness and willingness to



perform his part of the contract, all along, from the very inception. **Point**

No.(3) is answered in favour of the plaintiff.

26.The conduct of the defendants also has to be noted. It is brought to the notice of this Court that, even after the present suit was decreed, the suit properties have been sold by the defendants to third parties. This itself indicates that the defendants are bent upon to defeat the rights of the plaintiff. The conduct of the defendants in selling the properties even after the present decree operating against them, clearly indicates that the entire defence is set up only to defeat the rights of the plaintiff. No doubt, such transfer after the decree in favour of the plaintiff is not valid in the eye of law, however, the conduct of the defendants also assumes significance in assessing the entirety of the defence.

27.Therefore, in the light of the narrative *supra*, we of the view that the judgment and decree of the trial Court granting specific performance in favour of the plaintiff, does not suffer from any infirmity.



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28.However, it is relevant to note that, had the contract been concluded as agreed between the parties, the remaining sale consideration of Rs.17,78,750/- would have been paid within time and the defendants would have been benefited. However, at no fault of plaintiff or defendants, the delay had occurred due to the intervention of some third parties by filing a suit in O.S.No.17 of 2000 and thereby, the remaining sale consideration has been deposited only in the year 2017 after decree in the present suit, i.e., 17 years after the date of agreement, but at no fault of either plaintiff or defendants. In such view of the matter, based on equity and to meet the ends of justice, we are of the view that the plaintiff shall pay interest for the sum of Rs.17,78,750/- from the date of expiry of original four months period as per the suit agreement, i.e., 24.02.2000, till the date of actual deposit made on 26.10.2017, at the rate of 12% p.a. Accordingly, the plaintiff shall deposit a sum of Rs.37,72,120/- (Rupees Thirty Seven Lakhs Seventy Two Thousand One Hundred and Twenty only) towards interest for the sum of Rs.17,78,750/- at the rate of 12% p.a. from 24.02.2000, i.e., the date on which the four months' time originally agreed in Ex.A1 expired, till the date of deposit of Rs.17,78,750/- to the credit of the suit, i.e., on 26.10.2017.



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Such amount shall be deposited before the trial Court to the credit of the suit in O.S.No.2 of 2006. On such deposit being made, the defendants shall execute the sale. In the event of failure to execute the sale even after depositing the amount, the respondent/plaintiff is at liberty to go for execution through Court of law.

29. With the above modifications, this Appeal is dismissed. However, there shall be no order as to costs.

(N.S.K., J.) (R.S.V., J.)
07.01.2026

mkn

Internet : Yes
Index : Yes / No
Speaking Order
Neutral Citation : Yes

To

1. The Additional District Judge,
Hosur.
2. The Subordinate Judge,
Hosur.
3. The Section Officer,
VR Section,
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