



WEB COPY

A No. 5919 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2026

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

**A No. 5919 of 2025
in C.S.No.133 of 2017**

1. N.A.Abdul Raheem
S/o. N.S.Abdul Khader, Plot 9 Old
No.3/362 New Door No.3/479
Venkateswara Nagar 2nd street, East
Coast Road,Kottivakkam, Ch 41

Applicant(s)

Vs

1. K.V.Harish Kumar and another
S/o.Late K.P.Venkitachalam, No.3/681,
Kuppam Beach Road, Kaveri Nagar,
Kottivakkam, Chennai 41.

2.M/s.Sreshta Sumanth Builders Pvt
Ltd
Rep.by its Authorised Signatory
Mr.P.Selvakumar, No.8/57, Luz
Avenue, Mylapore, Chennai 600 004.

Respondent(s)

PRAYER: Application is filed to permit the Applicant/Plaintiff to produce the documents mentioned below in the list of documents as additional documents on the side of the Applicant/ Plaintiff and to receive the same.

For Applicant(s): M/s. Paul And Paul

For Respondent: Mr.S.Thankasivan



ORDER

The plaintiff has filed this application seeking to receive certain documents which have been shown in the list of documents furnished by him.

2. It is submitted by the learned counsel for the applicant / plaintiff that the list of documents are necessary in order to establish the applicant's financial capability to purchase the suit property for which he had entered into a sale agreement. He further stated that his failure to produce these documents at the time of filing of suit is neither wilful nor wanton. It was only because the documents were missed and left to be produced due to oversight.

3. The learned counsel for the respondents / defendants vehemently objected to the application filed by the applicant by stating that in the suit for specific performance which has been filed as early as in the year 2017, trial opened in the year 2021 and P.W.1 has filed his chief-in-affidavit and thereafter he did not make his appearance to subject himself for cross-examination. It is further submitted by the learned counsel for the respondents that the plaintiff's intention is just to delay the proceedings to the extent possible and he has not given any plausible explanation for his failure to produce those documents at the earlier instance.



4. The suit has been filed by the plaintiff seeking for the relief of specific performance. No doubt the suit has been filed as early as in the year 2017 and it is still pending. On perusal of the records it appears that P.W.1 has been examined in-chief on 18.12.2022 and thereafter P.W.1 cannot be examined either due to his failure to appear before the Court or seeking time for some reason or the other. The records would show that the counsel for the defendant continue to be present and ready to cross-examine P.W.1, but P.W.1 did not turn up. Various reasons have been stated by the learned counsel for the plaintiff on each hearing and the matter has been adjourned for more than 100 hearings. At this remote point of time, the plaintiff has come up with this application seeking to produce the list of documents for the purpose of marking them as evidence.

5. The suit sale agreement is dated 20.04.2013. Even at the time of filing, the plaintiff is well aware that to get the relief of specific performance he is expected to prove the financial capability to purchase the property at the relevant point of time. In fact, the document which is sought to be produced are sale deeds of Power of Attorney relating to the years prior to the execution of the sale agreement. So far as the listed documents in Sl.Nos.5 to 8 are concerned, they are guideline value of the property and the encumbrance certificate in respect of the property. The guideline value and the encumbrance certificates are irrelevant for a suit for specific performance where the properties are said to have agreed to do sale transaction in respect of the suit property in



accordance with the terms of the sale agreement irrespective of the difference between the value agreed and the market value or guideline value and the property during the relevant point of time.

6. To prove the financial capability of the applicant, there cannot be any relevancy to produce some sale deeds of the year 2006 and 2011 and the power of attorney of the year 2011. The plaintiff has filed this application just to delay the proceedings on some pretext or the other. In the affidavit of the application the applicant has not stated any acceptable explanation for his failure to produce these documents at the earliest point of time. In fact P.W.1 has been examined as early as in the year 2022 and so far the trial has not been progressed further. Under these circumstances, the applicant / plaintiff chosen to file this application by stating reasons which are neither relevant nor acceptable. Hence, I find the application lacks merit and the same is liable to be dismissed.

7. Accordingly, this application is dismissed.

30-01-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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R.N.MANJULA J.

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