2026 INSC 573

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. …………………… OF 2026
(@ Special Leave Petition (Civil) No.32390 of 2025)

A. SHAHUL HAMEED … APPELLANT (S)

Versus

N. MALLIGARJUNA AND ORS. … RESPONDENT (S)

J U D G M E N T

SANJAY KAROL, J.

Leave Granted.

2. The present appeal arises out of the impugned judgment and decree dated 25.06.2025 passed by the High Court of Judicature at Madras in S.A. No.905 of 2017, whereby the High Court partly allowed the Second Appeal preferred by the Plaintiff-Appellant. The High Court dismissed the suit *qua* the relief of specific performance, however, it directed the Defendant(s)-Respondent(s) to return a sum of Rs.9,30,000/- along with 12% interest per annum from the date of the suit, i.e., 10.03.2011, till the date of realization to the Plaintiff-appellant.

3. For the sake of convenience, the appellant herein shall be referred to as the plaintiff and the respondent(s) herein shall be referred to as the defendant(s).

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4. The facts of the case in a nutshell are as follows. The plaintiff (purchaser) entered into a sale agreement dated 19.03.2010[1] with the defendant(s) (vendors) for the purchase of the property bearing Survey No.75/1[2] for a total sale consideration of Rs.9,30,000/-, out of which a sum of Rs.9,00,000/- was paid as earnest money. The balance amount of Rs.30,000/- was agreed to be paid at the time of execution of the sale deed, within four months. According to the plaintiff, he was always ready and willing to perform his part of the contract and, in July 2010, approached the defendant(s) to complete the sale transaction, however, they sought further time. In December 2010, when the plaintiff again insisted on the execution of the subject sale agreement, the defendant(s) allegedly became evasive and demanded more money and when the plaintiff refused, they threatened to alienate the property to a third party. As a result, the plaintiff issued a legal notice dated 01.02.2011, calling upon the defendant(s) to receive the balance consideration and execute the sale deed in accordance with the agreement. Since no reply thereto was furnished, the plaintiff instituted OS No.35 of 2011 before the Court of the Subordinate Judge, Hosur[3], seeking specific performance of the Agreement to Sell dated 19.03.2010.

5. The defendant(s), in their written statement, denied the averments made in the plaint in toto and contended that the subject sale agreement dated 19.03.2010 was only a nominal agreement and was never intended to be acted upon as a genuine agreement for sale. According to them, the subject sale agreement was merely executed as a '*security document*' in relation to an earlier sale transaction involving purchasers from Bangalore[4]. It was their case that under an earlier sale agreement dated 17.07.2009, certain lands were agreed to be sold to the *Bangalore Buyers*, however, since one portion of the land could not be conveyed

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[1] Hereinafter referred to as the 'subject sale agreement'.
[2] Hereinafter referred to as the 'subject suit property'.
[3] Hereinafter referred to as the 'Trial Court'.
[4] Hereinafter referred to as the 'Bangalore Buyers'.

due to defects in title, the subject sale agreement came to be executed in favour of the plaintiff (relative of '*Bangalore Buyers*') as a security to ensure completion of the sale of the remaining portion of land. Reliance was also placed on the alleged reconveyance deed executed by the plaintiff in favour of the defendant(s) on the same date in respect of the subject suit property. Although the receipt of the legal notice was admitted, it was contended that no reply was sent, as the plaintiff had orally stated that the notice could be ignored. The defendant(s) further denied receiving Rs.9,00,000/- as sale consideration and disputed the plaintiff's readiness and willingness to perform the agreement.

6. Upon appreciation of oral and documentary evidence, the Trial Court *vide* judgment dated 21.12.2012 decreed the suit for specific performance in favour of the plaintiff. The Trial Court noted that the defendant(s) had admitted execution of the agreement, including signatures thereon, and had not raised the plea of forgery either in the written statement or during trial. The defence that the agreement was merely a security document in respect of the unsold portion of land was found to be improbable and unconvincing. The Trial Court further noted that, despite being in receipt of the legal notice, the defendant(s) failed to reply to the same denying the transaction. Accordingly, the Trial Court held that the subject sale agreement dated 19.03.2010 was genuine, valid and enforceable and directed the plaintiff to deposit the balance sale consideration and the defendants to execute the sale deed within two months.

7. In appeal, the First Appellate Court[5] *vide* judgment dated 28.08.2014, partly modified the order of the Trial Court. While concurring the finding returned by the Trial Court that the subject sale agreement dated 19.03.2010 was genuine and valid and that the defendant(s) have failed to establish that the

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[5] Third Additional District Session Court, Hosur in Appeal Suit No.09/2013.

agreement was executed for merely for security purposes, the First Appellate Court denied to grant the relief of specific performance on the ground that the plaintiff had failed to establish his readiness and willingness in terms of Section 16 (c) of the Specific Relief Act 1963[6]. It was observed that since the plaintiff did not issue the legal notice within the time period stipulated in the subject sale agreement, i.e., immediately after the expiry of four months, he has failed to prove that he was ready and willing to perform the contract. Accordingly, the First Appellate Court directed the defendant(s) to refund the advance amount of Rs.9,00,000/- along with 6% interest.

8. Against the judgment and decree of the First Appellate Court, a second appeal was filed before the High Court, wherein the following substantial questions of law were formulated:

> "(i) After having concurred with the findings of the trial Court on the point of genuineness of the agreement and enforceability of the same, can the Lower Appellate Court reverse the judgment and decree of the trial Court for specific performance of the contract finding that the appellant/Plaintiff has not come to the court within the time stipulated in the agreement dated 19.10.2010 [sic, should be 19.03.2010]?
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> (ii) Whether the readiness and willingness shown by the appellant in the notice issued under Ex.A-2 dated 01.02.2011 and his averment in the plaint that he is ready and willing to perform his part of the contract having parted with a sum of Rs.9.00 lakhs are not sufficient compliance of the requirement as contemplated under Section 16 of the Specific Relief Act to decree the suit for specific performance of the contract?"

9. The High Court, *vide* the impugned judgment dated 25.06.2025, partly allowed the second appeal preferred by the plaintiff and modified the judgment of the First Appellate Court by holding that the subject sale agreement was never intended for sale of suit property and was executed merely as a security for the earlier transaction involving the *Bangalore Buyers*. It further held that the

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[6] Hereinafter referred to as 'SPA 1963'.

plaintiff has failed to adduce any evidence to prove his willingness to perform the contract within the stipulated time period i.e., on or before 19.07.2010. Thus, while affirming denial of the relief of specific performance, the High Court directed the defendant(s) to pay a sum of Rs.9,30,000/- along with 12% interest per annum from the date of suit i.e., 10.03.2011 till the date of realization to the plaintiff. For ready reference, the relevant portion is extracted hereunder:

> "19. To sum up, this Court concludes that Ex-A.1 - Sale Agreement was never intended for sale of Suit Property and it was executed only as a security, as insisted by the Bangalore buyers in favour of plaintiff, for either getting Sale Deed executed in respect of Survey No.76I/lB or returning Rs.9,30,000/-, which the first defendant owed the Bangalore buyers in lieu of non-execution of Sale Deed in respect of Survey No.761/lB. There is no evidence available on record to show that first defendant got Sale Deed executed in respect of Survey No.761/1B in favour of the Bangalore buyers. The defendants cannot absolve their liability. Hence, the First Appellate Court was right in ordering return of money but it failed to consider that the first defendant's liability is to the tune of Rs.9,30,000/-, though it seem to be only Rs.9,00,000/- as per Ex-A. I. Further, considering the fact that the transaction in this case, being one of real estate, is commercial in nature and hence, the First Appellate Court ought to have awarded 12% interest considering the facts and circumstances of the case. Hence, this Court directs the defendants to pay the plaintiff a sum of Rs.9,30,000/- with interest at the rate of 12% from the date of plaint till the date of realisation. Further, to enable the plaintiff to realise the said amount, a charge shall be created on the Suit Property.
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> 20. The First Appellate Court's concurred with the Trial Court's finding that Ex-A.1 - Sale Agreement is true and valid but the First Appellate Court went on to hold that the plaintiff failed to prove his readiness and willingness to perform his part of the contract within 4 months and hence, the plaintiff is not entitled to the relief of specific performance. The First Appellate Court has not denied the relief of specific performance on the ground that the plaintiff failed to approach the Court on time. Hence the first Substantial Questions of Law does not arise at all in this case. As regards the second one, mere pleadings do not amount to proof. As stated supra. the payment of a major chunk of the alleged sale consideration as advance by the plaintiff may show his readiness, but there is no evidence available on record to prove his willing to perform his part of the contract within the stipulated time period i.e., on or before July 19, 2010. It is settled law that even in the absence of specific plea by the opposite party, in view of Section 16 (c) of the Specific Relief Act, 1963, the plaintiff has to prove his readiness and willingness to perform his part of the contract. The plaintiff is bound to prove his readiness and willingness during the stipulated period of performance till the conclusion of trial but in this case Ex-A.2 - Notice issued quite long after the lapse of period of performance cannot be termed to show his readiness and willingness during the period of performance. Hence, the plaint pleadings, Ex-A.2, as well as payment of Rs.9,00,000/- as advance

> does not prove the readiness and willingness of the plaintiff. Thus Section 16 (c) of the Specific Relief Act, 1963 is not complied with by the plaintiff. …
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> … … …
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> 22. Resultantly, the Second Appeal stands partly-allowed and the Judgment and Decree of the First Appellate Court is modified as hereunder:
> (a) The Suit is dismissed qua the relief of specific performance and decreed for return of money;
> (b) The defendants are directed to pay a sum of Rs.9,30,000/- along with 12% interest per annum from the date of Suit i.e. March 10, 2011, till the date of realization to the plaintiff;"

10. It is in this background that the plaintiff has preferred the present appeal before this Court. Having heard the learned counsel for the parties and perused the material on record, the issues that arises for our consideration are: ***(a)*** whether the High Court, while exercising jurisdiction under Section 100 of the Code of Civil Procedure, 1908[7], was justified in reversing the concurrent findings of the Courts below holding the subject sale agreement dated 19.03.2010 to be genuine and valid; and ***(b)*** whether the plaintiff had established continuous readiness and willingness in terms of Section 16(c) SPA 1963 so as to entitle him to the relief of specific performance.

11. Before adverting to the merits of the case, it would be apposite to briefly reiterate the principles of law governing the power of the High Court under Section 100 CPC. It is a well settled legal position that Section 100 confers jurisdiction on High Court to entertain a second appeal, only when it is satisfied that the case involves a substantial question of law. Re-appreciation of evidence and interference with concurrent findings of fact is impermissible unless such findings are shown to be perverse, based on no evidence, or suffering from material illegality or misreading of evidence. Merely because another possible

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[7] Hereinafter referred to as 'CPC'.

view may arise from the same material on record would not justify interference under Section 100 CPC.

11.1. In ***Kondiba Dagadu Kadam v. Savitribai Sopan Gujar***[8], this Court has held that if, from a given set of circumstances, two inferences are possible, then the one drawn by the lower appellate Court is binding on the High Court. Relevant extract is reproduced hereunder:

> "**4.** … In exercise of the powers under this section the findings of fact of the first appellate court are found to have been disturbed. It has to be kept in mind that the right of appeal is neither a natural nor an inherent right attached to the litigation. Being a substantive statutory right, it has to be regulated in accordance with law in force at the relevant time. The conditions mentioned in the section must be strictly fulfilled before a second appeal can be maintained and no court has the power to add to or enlarge those grounds. The second appeal cannot be decided on merely equitable grounds. The concurrent findings of facts howsoever erroneous cannot be disturbed by the High Court in exercise of the powers under this section. The substantial question of law has to be distinguished from a substantial question of fact. …
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> **5.** It is not within the domain of the High Court to investigate the grounds on which the findings were arrived at, by the last court of fact, being the first appellate court. It is true that the lower appellate court should not ordinarily reject witnesses accepted by the trial court in respect of credibility but even where it has rejected the witnesses accepted by the trial court, the same is no ground for interference in second appeal when it is found that the appellate court has given satisfactory reasons for doing so. In a case where from a given set of circumstances two inferences are possible, one drawn by the lower appellate court is binding on the High Court in second appeal. Adopting any other approach is not permissible. The High Court cannot substitute its opinion for the opinion of the first appellate court unless it is found that the conclusions drawn by the lower appellate court were erroneous being contrary to the mandatory provisions of law applicable or its settled position on the basis of pronouncements made by the Apex Court, or was based upon inadmissible evidence or arrived at without evidence."

(emphasis supplied)

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[8] (1999) 3 SCC 722.

11.2. This Court in ***C. Doddanarayana Reddy v. C. Jayarama Reddy***[9], while placing reliance on ***Karnataka Board of Wakf v. Anjuman-E-Ismail Madris-Un-Niswan***[10], held that the scope to interfere with the finding of facts in second appeal is limited and observed as under:

> "**25.** The question as to whether a substantial question of law arises, has been a subject-matter of interpretation by this Court. In the judgment in *Karnataka Board of Wakf* v. *Anjuman-E-Ismail Madris-Un-Niswan* [*Karnataka Board of Wakf* v. *Anjuman-E-Ismail Madris-Un-Niswan*, (1999) 6 SCC 343] , it was held that findings of the fact could not have been interfered within the second appeal. This Court held as under : (SCC pp. 347-48, paras 12-15)
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> > "*12*. This Court had repeatedly held that the power of the High Court to interfere in second appeal under Section 100 CPC is limited solely to decide a substantial question of law, if at all the same arises in the case. It has deprecated the practice of the High Court routinely interfering in pure findings of fact reached by the courts below without coming to the conclusion that the said finding of fact is either perverse or not based on material on record.
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> > *13*. In *Ramanuja Naidu* v. *V. Kanniah Naidu* [*Ramanuja Naidu* v. *V. Kanniah Naidu*, (1996) 3 SCC 392] , this Court held : (SCC p. 393)
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> > 'It is now well settled that concurrent findings of fact of trial court and first appellate court cannot be interfered with by the High Court in exercise of its jurisdiction under Section 100 of the Civil Procedure Code. The Single Judge of the High Court totally misconceived his jurisdiction in deciding the second appeal under Section 100 of the Code in the way he did.'
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> > *14*. In *Navaneethammal* v. *Arjuna Chetty* [*Navaneethammal* v. *Arjuna Chetty*, (1996) 6 SCC 166] , this Court held : (SCC p. 166)
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> > 'Interference with the concurrent findings of the courts below by the High Court under Section 100 CPC must be avoided unless warranted by compelling reasons. In any case, the High Court is not expected to reappreciate the evidence just to replace the findings of the lower courts. … Even assuming that another view is possible on a reappreciation of the same evidence, that should not have been done by the High Court as it cannot be said that the view taken by the first appellate court was based on no material.'
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> > *15*. And again in *Taliparamba Education Society* v. *Moothedath Mallisseri Illath M.N.* [*Taliparamba*

[9] (2020) 4 SCC 659.

[10] (1999) 6 SCC 343.

Education Society v. *Moothedath Mallisseri Illath M.N.*, (1997) 4 SCC 484] , this Court held : (SCC p. 486, para 5)

'*5.* … The High Court was grossly in error in trenching upon the appreciation of evidence under Section 100 CPC and recording reverse finding of fact, which is impermissible."

(emphasis supplied)

11.3. In ***State of Rajasthan v. Shiv Dayal***[11], it was held as under:

"**15.** It is a trite law that in order to record any finding on the facts, the trial court is required to appreciate the entire evidence (oral and documentary) in the light of the pleadings of the parties. Similarly, it is also a trite law that the appellate court also has the jurisdiction to appreciate the evidence de novo while hearing the first appeal and either affirm the finding of the trial court or reverse it. If the appellate court affirms the finding, it is called "concurrent finding of fact" whereas if the finding is reversed, it is called "reversing finding". These expressions are well known in the legal parlance.

16. When any concurrent finding of fact is assailed in second appeal, the appellant is entitled to point out that it is bad in law because it was recorded dehors the pleadings or it was based on no evidence or it was based on misreading of material documentary evidence or it was recorded against any provision of law and lastly, the decision is one which no Judge acting judicially could reasonably have reached. (See observation made by learned Judge, Vivian Bose, J., as his Lordship then was a Judge of the Nagpur High Court in *Rajeshwar Vishwanath Mamidwar* v. *Dashrath Narayan Chilwelkar* [*Rajeshwar Vishwanath Mamidwar* v. *Dashrath Narayan Chilwelkar*, 1942 SCC OnLine MP 26 : AIR 1943 Nag 117] para 43.)"

11.4. Recently, this Court in ***Ramachandra Reddy v. Ramulu Ammal***[12], through one of us (Sanjay Karol, J) reiterated the principle that the jurisdiction of the High Court to interfere with concurrent findings in second appeal is limited and held as under:

"**28.** The above conclusion apart, it was also to be demonstrated by the High Court that the reversal of concurrent findings by the courts below was justified. The jurisdiction to interfere in findings where the courts below have been ad idem, is limited and such limitation is well expounded. We may only refer to a few authorities.

29. Dalveer Bhandari, J. in *Gurdev Kaur* v. *Kaki* [*Gurdev Kaur* v. *Kaki*, (2007) 1 SCC 546] referred to various earlier judgments in the following manner: (SCC pp. 561 & 565-66, paras 55-56, 73 & 81)

[11] (2019) 8 SCC 637.
[12] (2025) 8 SCC 788.

> "*55*. This Court again reminded the High Court in *HRCEC* v. *P. Shanmugama* [*HRCEC* v. *P. Shanmugama*, (2005) 9 SCC 232] that the High Court has no jurisdiction in second appeal to interfere with the finding of facts.
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> *56*. Again, this Court in *State of Kerala* v. *Mohd. Kunhi* [*State of Kerala* v. *Mohd. Kunhi*, (2005) 10 SCC 139] has reiterated the same principle that the High Court is not justified in interfering with the concurrent findings of fact. This Court observed that, in doing so, the High Court has gone beyond the scope of Section 100 of the Code of Civil Procedure.
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> *73. The Judicial Committee of the Privy Council as early as in 1890 stated* [*Durga Choudhrain* v. *Jawahir Singh Choudhri*, 1890 SCC OnLine PC 10 : (1889-90) 17 IA 122] *that there is no jurisdiction to entertain a second appeal on the ground of an erroneous finding of fact, however gross or inexcusable the error may seem to be, and they added a note of warning that no court in India has power to add to, or enlarge, the grounds specified in Section 100.*
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> ***
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> *81*. Despite repeated declarations of law by the judgments of this Court and the Privy Council for over a century, still the scope of Section 100 has not been correctly appreciated and applied by the High Courts in a large number of cases. In the facts and circumstances of this case the High Court interfered with the pure findings of fact even after the amendment of Section 100CPC in 1976. The High Court would not have been justified in interfering with the concurrent findings of fact in this case even prior to the amendment of Section 100CPC. The judgment of the High Court is clearly against the provisions of Section 100 and in no uncertain terms clearly violates the legislative intention."
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> (emphasis supplied)"

12. In the present case, both the Trial Court and the First Appellate Court, upon appreciation of the oral and documentary evidence on record, concurrently held that the subject sale agreement dated 19.03.2010 was genuine, valid, and duly executed between the parties. The defendant(s) had admitted the execution of the subject sale agreement and their signatures thereon, and had not raised any plea of forgery either in their written statement or during trial. The testimony of PW1, plaintiff, was found to be duly corroborated by PW2, an attesting witness to the agreement, and PW3, the scribe of the document. Both PW2 and PW3 consistently deposed that a sum of Rs.9,00,000/- had been paid by the plaintiff towards advance sale consideration and only a balance amount of Rs.30,000/-

remained payable at the time of registration of the sale deed. The Courts below, therefore, concluded that execution of the agreement and payment of substantial consideration stood clearly established from the evidence on record.

13. The Courts below further rejected the defence of the defendant(s) that the subject sale agreement was merely a nominal/security document executed in relation to an earlier transaction involving *Bangalore Buyers*. Upon a thorough analysis, both the Trial and First Appellate Court found the said defence to be wholly improbable and unconvincing. It was observed that if the *Bangalore Buyers* were genuinely interested in securing title over the remaining land, they could have entered into a sale agreement directly with the original owners. The explanation furnished by the defendant(s) that the subject agreement came to be executed in favour of the plaintiff because he was related to the *Bangalore Buyers* did not inspire confidence.

14. The execution of the alleged reconveyance deed was also disbelieved, *inter alia*, on the ground that the scribe had not signed the document and evidence of the attesting witness (DW-2) was weak and unreliable inasmuch as he admitted during cross-examination that he was unaware of the contents of the document, the survey number mentioned therein and even the year of its execution. Additionally, DW-2 did not employ the term '*security*' for the executed sale agreement. Consequently, the reconveyance deed was held to lack credibility.

15. Even otherwise, assuming *arguendo*, that the subject sale agreement and reconveyance deed were executed only as a security arrangement in relation to the alleged transaction with the *Bangalore Buyers*, the defendant(s) failed to place any material on record to substantiate such a plea. No evidence was adduced to establish that the alleged sale transaction with respect to the unsold portion of land with such *Bangalore Buyers* ever materialized. Further, the defendant(s)

neither revoked the subject sale agreement upon expiry of such four months nor filed suit for specific performance of reconveyance deed. Pertinently, the defendant(s) have failed to examine *Bangalore Buyers* to prove the claim of alleged security arrangement or to show that an amount of Rs.9,30,000/- was payable and intended to be returned to them.

16. Therefore, drawing from the conspectus of the aforesaid facts and circumstances, we are of the considered view that the High Court, while exercising the power under Section 100 CPC, erred in interfering with the concurrent findings of fact returned by the Courts below regarding the validity and genuineness of the subject sale agreement. The Trial Court and First Appellate Court had drawn their conclusion after appreciating the evidence available on record. The High Court, while interfering with the said finding, failed to demonstrate that the conclusions arrived at by the Courts below suffered from any perversity, material illegality or were in ignorance of relevant evidence. In effect, the High Court reappreciated the evidence so as to come to a different conclusion, which is clearly impermissible within the limited scope of Section 100 CPC.

17. Insofar as the second issue regarding readiness and willingness under Section 16(c) SPA 1963 is concerned, we find it difficult to sustain the findings returned by the First Appellate Court and as affirmed by the High Court *vide* the impugned judgment. It is trite law that in order to obtain a decree for specific performance, the plaintiff must aver and prove that he was always '*ready and willing*' to perform the terms of the contract which are to be performed by him. Such readiness and willingness of the plaintiff is to be gathered from the entirety of facts and circumstances of the case, including the overall conduct of the parties prior and subsequent to the filing of the suit. [See: ***Syed Dastagir v. T.R.***

Gopalakrishna Setty[13]; ***Sughar Singh v. Hari Singh***[14]; and ***Janardan Das v. Durga Prasad Agarwalla***[15]]

17.1 In ***C.S. Venkatesh v. A.S.C. Murthy***[16], this Court, on consideration of various decisions, culled out what is implied by the words 'ready and willing'. It was held:

> "**16.** The words "ready and willing" imply that the plaintiff was prepared to carry out those parts of the contract to their logical end so far as they depend upon his performance. The continuous readiness and willingness on the part of the plaintiff is a condition precedent to grant the relief of performance. If the plaintiff fails to either aver or prove the same, he must fail. To adjudge whether the plaintiff is ready and willing to perform his part of contract, the court must take into consideration the conduct of the plaintiff prior, and subsequent to the filing of the suit along with other attending circumstances. The amount which he has to pay the defendant must be of necessity to be proved to be available. Right from the date of the execution of the contract till the date of decree, he must prove that he is ready and willing to perform his part of the contract. The court may infer from the facts and circumstances whether the plaintiff was ready and was always ready to perform his contract.
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> **17.** In *N.P. Thirugnanam* v. *R. Jagan Mohan Rao* [*N.P. Thirugnanam* v. *R. Jagan Mohan Rao*, (1995) 5 SCC 115] , it was held that continuous readiness and willingness on the part of the plaintiff is a condition precedent to grant of the relief of specific performance. This circumstance is material and relevant and is required to be considered by the court while granting or refusing to grant the relief. If the plaintiff fails to either aver or prove the same, he must fail. To adjudge whether the plaintiff is ready and willing to perform his part of the contract, the court must take into consideration the conduct of the plaintiff prior to and subsequent to the filing of the suit along with other attending circumstances. The amount of consideration which he has to pay to the defendant must necessarily be proved to be available.
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> **18.** In *Pushparani S. Sundaram* v. *Pauline Manomani James* [*Pushparani S. Sundaram* v. *Pauline Manomani James*, (2002) 9 SCC 582] , this Court has held that inference of readiness and willingness could be drawn from the conduct of the plaintiff and the totality of circumstances in a particular case. It was held thus: (SCC p. 584, para 5)
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>> "5. … So far these being a plea that they were ready and willing to perform their part of the contract is there in the pleading, we have no hesitation to conclude, that this by itself is not sufficient to hold that the appellants were ready and willing in terms of Section 16(*c*) of the Specific Relief Act. This requires not only such plea but also proof of the same. Now examining the first of

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[13] (1999) 6 SCC 337.
[14] (2021) 17 SCC 705.
[15] (2024) 19 SCC 276.
[16] (2020) 3 SCC 280.

the two circumstances, how could mere filing of this suit, after exemption was granted be a circumstance about willingness or readiness of the plaintiff. This at the most could be the desire of the plaintiff to have this property. It may be for such a desire this suit was filed raising such a plea. But Section 16(*c*) of the said Act makes it clear that mere plea is not sufficient, it has to be proved."”

17.2 In ***Madhukar Nivrutti Jagtap v. Pramilabai Chandulal Parandekar***[17], this Court held that '*readiness and willingness*' of the plaintiff to perform his part of the contract has to be examined with reference to all the facts and circumstances and held as under:

"**13.** When the agreements in question were for the sale of suit property, the plaintiffs were entitled to take up the action seeking specific performance. However, in order to succeed in their claim, the plaintiffs were required to aver and prove that they were always ready and willing to perform their part of the contract. …

… … …

13.2. The question as to whether the plaintiff seeking specific performance has been ready and willing to perform his part of the contract is required to be examined with reference to all the facts and the surrounding factors of the given case. The requirement is not that the plaintiff should continuously approach the defendant with payment or make incessant requests for performance. For the relief of specific performance, which is essentially a species of equity but has got statutory recognition in terms of the Specific Relief Act, 1963 [Its forerunner being the Specific Relief Act, 1877.] , the plaintiff must be found standing with the contract and the plaintiff's conduct should not be carrying any such blameworthiness so as to be considered inequitable. The requirement of readiness and willingness of the plaintiff is not theoretical in nature but is essentially a question of fact, which needs to be determined with reference to the pleadings and evidence of parties as also to all the material circumstances having bearing on the conduct of parties, the plaintiff in particular. …

… … …

13.5. … when the plaintiffs had the limitation of three years for filing the suit for specific performance, it cannot be said that during the aforesaid period, the plaintiffs were required to show overt act by them in furtherance of the agreement in question. … In *Pushparani S. Sundaram* [*Pushparani S. Sundaram* v. *Pauline Manomani James*, (2002) 9 SCC 582] , the basic requirements of Section 16 of the 1963 Act were reiterated. In contrast to what is suggested on behalf of the appellants, we may point out that recently, in *R. Lakshmikantham* v. *Devaraji* [*R. Lakshmikantham* v. *Devaraji*, (2019) 8 SCC 62] , this Court has again explained that when the suit for specific

[17] (2020) 15 SCC 731.

performance is filed within the period of limitation, delay cannot be put against the plaintiff. This Court has said: (SCC p. 66, para 11)

"*11.* … In the aforesaid circumstances, the High Court was also incorrect in putting a short delay in filing the suit against the plaintiff to state that he was not ready and willing. In India, it is well settled that the rule of equity that exists in England, does not apply, and so long as a suit for specific performance is filed within the period of limitation, delay cannot be put against the plaintiff — See *Mademsetty Satyanarayana* v. *G. Yelloji Rao* [*Mademsetty Satyanarayana* v. *G. Yelloji Rao*, AIR 1965 SC 1405] (para 7) which reads as under: (AIR p. 1409)

> '*7.* Mr Lakshmaiah cited a long catena of English decisions to define the scope of a court's discretion. Before referring to them, it is necessary to know the fundamental difference between the two systems—English and Indian—qua the relief of specific performance. In England the relief of specific performance pertains to the domain of equity; in India, to that of statutory law. In England there is no period of limitation for instituting a suit for the said relief and, therefore, mere delay—the time lag depending upon circumstances—may itself be sufficient to refuse the relief; but, in India mere delay cannot be a ground for refusing the said relief, for the statute prescribes the period of limitation. If the suit is in time, delay is sanctioned by law; if it is beyond time, the suit will be dismissed as barred by time; in either case, no question of equity arises.' ""
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> (emphasis supplied)

18. In the present case, the plaintiff had specifically pleaded that he was always ready and willing to perform his part of the contract. The principal defence set up by the defendant(s) throughout was not that the plaintiff lacked readiness and willingness, but rather that the agreement itself was merely a nominal/security agreement executed in relation to another transaction involving *Bangalore Buyers*. Once such a defence has concurrently been held to be improbable by the Trial Court and First Appellate Court, there appears no logical reason to hold that the plaintiff lacked readiness and willingness to perform its part under the contract, particularly when a substantial amount of Rs.9,00,000/-, out of the total consideration of Rs.9,30,000/- already stood paid by him. Only a nominal amount of Rs.30,000/- was left, which was payable at the time of execution of the sale deed. If the plaintiff was unwilling to perform the contract, he would not have paid nearly 93% of the sale consideration.

19. Merely because the legal notice came to be issued after expiry of four months from the stipulated period mentioned in the agreement, the same by itself cannot lead to an inference that the plaintiff was not ready and willing to perform the contract, especially when the suit itself was instituted well within the prescribed period of limitation. The readiness and willingness of the plaintiff must be assessed in light of the overall conduct of the parties and the attending circumstances of the particular case.

20. The plaintiff, in the present, has consistently pleaded and deposed that he approached the defendant(s) within the stipulated period for completion of the transaction, however, they sought further time. When the plaintiff again approached the defendant(s) in December 2010, they became evasive and demanded additional money. It was only thereafter that the plaintiff issued a legal notice dated 01.02.2011 calling upon the defendant(s) to execute the sale deed upon receipt of the balance consideration. Thus, the legal notice was issued soon after the defendant(s) refused to honour their part of the agreement. Such conduct clearly demonstrates continuous willingness of the plaintiff to perform his part of the contract.

21. It is also pertinent to note that despite admittedly receiving the legal notice, the defendant(s) failed to issue any reply denying the agreement or disputing the assertions made by the plaintiff therein. An adverse inference, therefore, arises against the defendant(s), particularly when the defence sought to be raised appears to be an afterthought. In view of the above discussion, we are of the considered opinion that the plaintiff has sufficiently established continuous readiness and willingness within the meaning of Section 16(c) SPA 1963.

22. Accordingly, the present appeal is allowed. The impugned judgment and decree dated 25.06.2025, passed by the High Court of Judicature at Madras in S.A. No.905 of 2017, as well the judgment and decree dated 28.08.2014, passed by the First Appellate Court insofar as it denied the relief of specific performance, are hereby set aside. The judgment and decree dated 21.12.2012, passed by the Trial Court decreeing the suit for specific performance is restored.

Pending application(s), if any shall stand disposed of.

…………………………………….J.
(SANJAY KAROL)

…………………………………….J.
(VIPUL M. PANCHOLI)

NEW DELHI;
27 May 2026