

DECREE IN ORIGINAL SUIT
IN THE COURT OF THE II ADDL.SENIOR CIVIL JUDGE:RANGA REDDY
DIST, AT L.B.NAGAR; HYDERABAD
PRESENT:- SRI G. VALLABHA NAIDU, B.A.,B.L.,
II ADDL.SENIOR CIVIL JUDGE
RANGA REDDY DISTRICT.

DATED THIS THE 22nd DAY OF JULY, 2009

OS.NO. 1223of 2007

BETWEEN:-

G. Bala Krishna S/o Late G.T.Swamy,
Aged about years, Occ: Business,
R/o PlotNo.111, Lalitha Nagar,
Ramnagar Gundu, Adikmet, Hyd.

....Plaintiff.

And

M/s Summit Builders, a registered partnership
Firm having office at 5-4-187/3&4, III Floor,
M.G.Road, Secunderbad, rep. By its partner
Mr.Soham Modi S/o Satish Modi,
Aged about 37 years.

...Defendant.

CLAIM:- Suit for Specific performance of agreement of sale,
dt. 31-08-2006.

VALUATION:- That the Suit for Specific performance of agreement
of sale and the suit is valued at Rs.7,25,000/- and a
Court fee of Rs.9726/- is paid U/s 39 of APCF and
SV Act.

CAUSE OF ACTION:- arose on 31/8/2006 when the plaintiff
entered into an agreement of sale with the defendant in
respect of schedule property and on 26-2-2007 when
the defendant refuses to take DD and refused to
registered the schedule property.

Plaint Presented:- 8-5-2007

Plaint Numbered on:- 8-5-2007

This suit is coming on this day before me for final hearing in the
presence of Sri. Mohd. Moian Ahmed Quadri, Counsel for the plaintiff and
of Sri C. Balagopal, Counsel for the defendant and upon perusal of the
material papers and hearing the arguments and the matter having stood
over for consideration till this day this court made the following decree:-

1. That the suit of the plaintiff be and the same is hereby
Dismissed.
2. That there is no order as to costs of the suit.

Given under my hand and the seal of this court on this the
22nd day of July, 2009.

G. Vallabha Naidu
II ADDL.SENIOR CIVIL JUDGE
& RANGA REDDY DISTRICT.



**COSTS OF THE SUIT
FOR PLAINTIFF:-**

FOR DEFENDANT

1. Stamp on Plaint	Rs. 9726-00	--
2. Stamp on power	Rs. 2-00	Rs. 2-00
3. Stamp on process.	Rs. 30-00	
4. Advocate fee		
5. Mis. Charge		
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Total	Rs. 9758-00	2-00

for the not filed

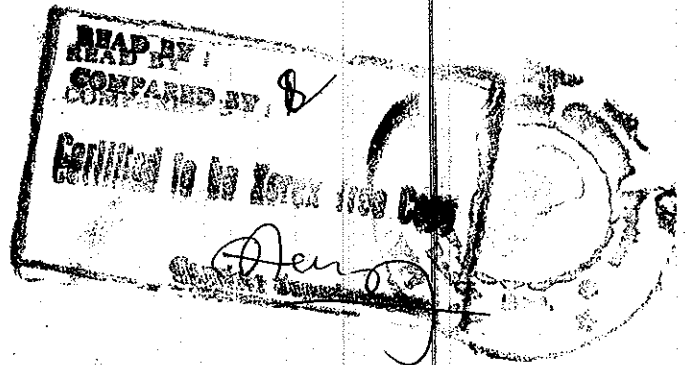
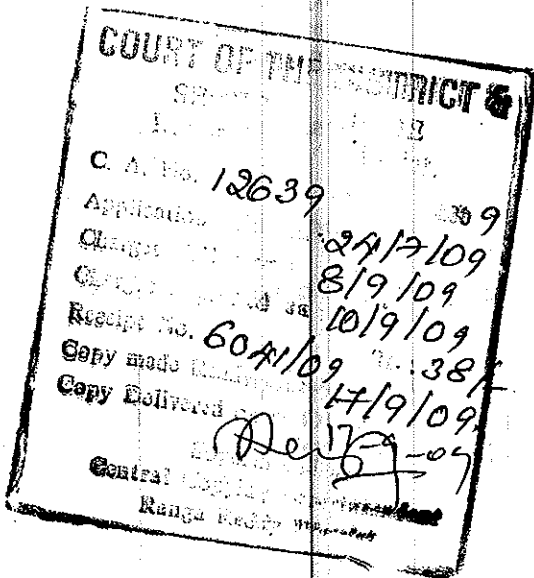
G. Vallabha Naidu
II ADDL. SENIOR CIVIL JUDGE
RANGA REDDY DISTRICT.

SCHEDULE OF PROPERTY

All that the Flat No.213 on the 2nd floor, admeasuring 775 SFT of super built up area together with proportionate undivided share of land to the extent of 38.75 Sq.Yards and a reserved parking space for two wheeler bearing No.37 in residential apartment named as Silver Oak Apartments forming part of Sy.No.290, situated at Cherlapally village, Ghatkesar Mandal, RR Dist., bounded by:

- NORTH: Flat No.214.
- SOUTH : Flat No.212.
- EAST : 6' wide corridor..
- WEST : Open to sky

G. Vallabha Naidu
II ADDL. SENIOR CIVIL JUDGE
RANGA REDDY DISTRICT.



IN THE COURT OF THE II ADDL. SENIOR CIVIL JUDGE; RR.DISTRICT
AT L.B.NAGAR: HYDERABAD.

PRESENT: SRI G.VALLABHA NAIDU, B.A., B.L.,
II ADDL. SENIOR CIVIL JUDGE
RANGA REDDY DISTRICT.

DATED THIS THE 22nd DAY OF JULY, 2009.

OS.No.1223 OF 2007.

Between:-

G.Bala Krishna S/o. Late G.T.Swamy,
Occ: Business, R/o.Plot no.111,
Lalitha Nagar, Ramnagar Gundu,
Adikmet, Hyderabad.

..PLAINTIFF

AND

M/s.Summit Builders, a Registered Partnership
Firm Having office at 5-4-187/3 &4, III Floor,
M.G.Road Secunderabad.
Rep.by its Partner MR.Soham Modi
S/o.Satish Modi, Age:37yrs.

..Defendant.

This suit is coming before me for hearing in the presence of Sri Mohd.Moian Ahmed Quadri, Advocate for the plaintiff and Sri C.Balagopal, Advocate for the defendant and upon perusal of the record the matter having stood over for consideration till this day; this court delivered the following:-

JUDGEMENT

Suit for Specific performance of agreement of sale by directing the defendant to execute a registered sale deed in favour of the plaintiff in respect of the suit schedule property and for costs of the suit.

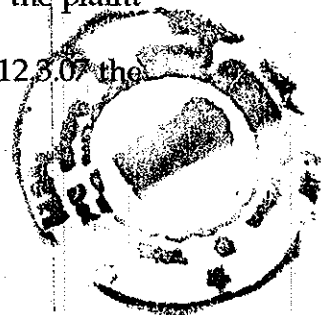
2. The averments of the plaint in brief are that the defendant has agreed to sell the plaint schedule property and the defendant agreed to purchase the same through oral agreement of sale dtd:31.8.06 for a valid consideration of Rs.7,25,000/- Out of which the plaintiff paid an amount of

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Rs.60,000/- towards part payment of sale consideration and the remaining amount was agreed to be paid by the plaintiff at the time of registration. It is further averred in the plaint that the defendant has promised to execute a registered sale deed in favour of the plaintiff whenever he makes the payment after completion of the flat. At the first instance the plaintiff had paid Rs.10,000/- towards booking amount. On 17.10.06 the defendant requested the plaintiff to pay a sum of Rs.50,000/- as he is in financial need to complete the construction of the apartments. The plaintiff paid an amount of Rs.50,000/- to the defendant on 17.10.06 for which the defendant has passed a separate receipt. As the defendant collected sum of Rs.60,000/- from the plaintiff, the plaintiff asked the defendant to execute a register agreement of sale in his favour. It is further averred in the plaint that on 18.10.07 the defendant came to the plaintiff and offered to enter into agreement of sale but the terms of the agreement was not acceptable by the plaintiff as such he refused to sign on the agreement of sale. The defendant assured to the plaintiff that he will soon get the register agreement of sale in his favour and asked the plaintiff to sign on the agreement of sale which was brought by him and that he can keep the same as a collateral security. It is further averred in the plaint that the plaintiff is ready and willing to perform his part of contract since the date of the agreement till the sale deed is registered in favour of him. On 26.2.07 the plaintiff got prepared a demand draft in the name of the defendant and requested the defendant to accept the said demand draft and execute a registered sale deed in favour of him in respect of the plaint schedule property. But the defendant declined to do so. On 12.3.07 the

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plaintiff got issued a legal notice to the defendant but the defendant did not give any reply. On 22.4.07 again the plaintiff approached the defendant and requested him to execute a sale deed in his favour but the defendant not only abused him in filthy language and also threatened him with dire consequences. The defendant having received part payment of sale consideration in respect of the suit schedule property is under a legal obligation to perform his part of contract. Under these circumstances, the plaintiff filed the suit against the defendant for specific performance of agreement of sale by directing the defendant to execute a register sale deed in favour of him in respect of the suit schedule property after receiving the balance sale consideration. Hence, the plaint.

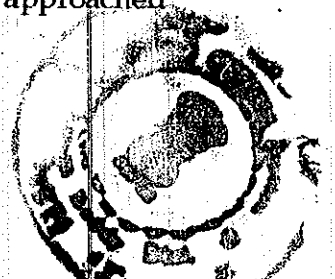
3. The defendant contested the suit by filing his written statement denying all the allegations made in the plaint. The contention of the defendant as per his written statement that the suit filed by the plaintiff is not maintainable either in law or on facts. The defendant denied that there was an oral agreement on 31.8.06 in between him and the plaintiff in respect of the suit schedule property. The defendant admitted that the plaintiff has paid a sum of Rs.60,000/- but he categorically denied that he was agreed to receive the balance amount at the time of the registration. The defendant admitted that the plaintiff paid booking amount of Rs.10,000/- and at the time of the said payment he informed to him that the value of the suit flat is Rs.7,25,000/- exclusive of registration and other charges and also informed to the plaintiff about the payment schedule. As a part of the payment schedule, the plaintiff has paid Rs.50,000/- on 18.10.06. Agreement of sale dtd:18.10.06 in favour of the plaintiff has

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been signed by Smt G.Chandra Kala and he is not aware of any such person. It is further averred in the written statement of the defendant that he has no knowledge with regard to any change with regard to the payments schedule. The plaintiff took a flat on 31.8.06 and booking form was given to him and the plaintiff acknowledged the same as per the procedure followed by the defendant firm. The said booking form clearly spells out payment schedule to be followed by the purchaser of the flat. It is further averred in the written statement of the defendant that the plaintiff agreed to pay the installments. According to the scheme, the plaintiff has to pay an amount of Rs.50,000/- on 30.9.06 but the plaintiff paid amount on 17.10.06 which is one day before the execution of the agreement of sale. The plaintiff is supposed to pay further installments of Rs.2,21,666/- on 16.10.2006 and Rs.2,21,666/- on 15.11.06 and again Rs.2,21,668 on 31.12.06. But the plaintiff never bothered to pay the said amount as agreed. In fact he had sent reminders on 10.11.2006 and 16.11.2006 requested the plaintiff to finalise the payments and come forward for execution of the payments. It is further averred in the written statement of defendant that after the sale agreement was executed in favour of the plaintiff but signed by one Chandrakala for the reasons best known to the plaintiff. The plaintiff is bound by the terms of the agreement. It is further averred in the written statement of the defendant that inspite of repeated reminders issued by him several times regarding the installment payment issued a cancellation notice dtd:29.11.2006. The plaintiff never bothered to take any steps for arranging payments at that stage also. The plaintiff never approached

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him for execution of the sale deed on 22.4.2007 much less with a D.D and the plaintiff does not mention the value of the D.D but simply gives D.D number. But there is no mention of the bank name also. It is further averred in the written statement of the defendant that the defendant firm is a leading building firm in the twin cities and has been in business since long time and developed various projects and sold number of plots but there was no complaint from any of the customers. The plaintiff taking advantage of the increase of the value of the property as come up with this false suit for unlawful gain. The plaintiff has never shown any interest for performing his part of contract and he did not approach the court with clean hands. Hence, the defendant prays the court to dismiss the suit with costs.

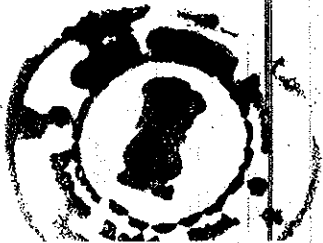
4. Basing on the pleadings, the following issues were settled for trial:

- 1) Whether the defendant executed an agreement of sale dtd:31.8.2006 ?
- 2) Whether the plaintiff is always ready and willing to perform his part of the contract ?
- 3) Whether the plaintiff is entitled for specific performance of contract as prayed for ?
- 4) To what relief ?

5. To establish the case of the plaintiff, PW1 was examined and Exs.A1 to A4 were marked. On behalf of the defendant DW1 was examined and Exs.B1 to B9 were marked.

6. ISSUES NO.1 TO 3: To avoid repetition of the discussion all the three issues are clubbed together. The onus to prove these issues at the

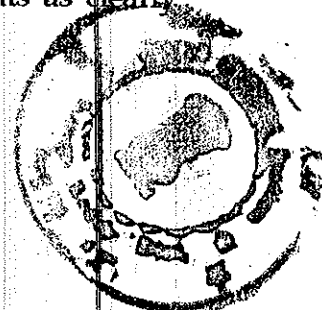
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first instance is lies on the plaintiff. The learned counsel for the plaintiff submits that the defendant agreed to sell the plaint schedule property and the plaintiff agreed to purchase the same for total sale consideration of Rs.7,25,000/- and the plaintiff paid an amount of Rs.60,000/- towards advance sale consideration to the defendant and the plaintiff agreed to pay the remaining balance sale consideration at the time of the execution of the registered sale deed by the defendant in favour of the plaintiff in respect of the plaint schedule property. The learned counsel for the plaintiff further contended that though the plaintiff is ready and willing to perform his part of contract since the oral agreement of sale dtd:31.8.06 the defendant did not come forward to execute a registered sale deed in respect of the plaint schedule property. The learned counsel for the plaintiff further contended that the plaintiff got issued a legal notice to the defendant and the defendant received the same and did not give any reply and did not execute any registered sale deed in favour of the plaintiff in respect of the plaint schedule property and also threatened the plaintiff with dire consequences.

On the other hand the learned counsel for the defendant submits that the plaintiff has booked a flat on 31.8.06 and booking form was given to him and at the time of the booking of the flat the plaintiff paid an amount of Rs.10,000/- towards booking amount and subsequently on 17.10.06 the plaintiff has paid Rs.50,000/-. The learned counsel for the defendant further contended that in fact the defendant was ready to execute register sale deed in favour of the plaintiff in respect of the plaint schedule property, the plaintiff failed to pay the installments as clearly

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spells out in the payment schedule. The learned counsel for the defendant further contended that as the plaintiff fails to pay the installments as per the terms and the plaintiff is not ready and willing to perform his part of contract, as such the defendant issued a cancellation notice on 29.11.06.

The learned counsel for the defendant further contended that inspite of several reminders issued by the defendant firm the plaintiff did not bother to pay the installments to the plaintiff firm and the plaintiff never approached the defendant firm for the execution of the sale deed. The learned counsel for the defendant further contended that as the value of the suit schedule property has gone up and the plaintiff having taken advantage of the same filed this false suit for unlawful gain. The learned counsel for the defendant lastly contended that the plaintiff has never shown any interest to perform his part of contract. He did not approach the court with clean hands, as such he is not entitled for the relief of specific performance of the agreement of sale as prayed for. Hence, he prays the court to dismiss the suit.

In view of the submissions made by the respective counsel of both parties and before going to the merits of the case in a suit for specific performance of agreement of sale the burden is on the plaintiff to prove that he is always ready and willing to perform his part of the contract.

It is settled law that remedy for specific performance is an equitable remedy and is in the discretion of the court, which discretion requires to be exercised according to the settled principles of law and not arbitrarily as adumbrated U/s.20 of Specific Relief Act 1963. U/s.20 of the Specific Relief Act, the court is not bound to grant the relief just because

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there was a valid agreement of sale . Sec.16(c) of the Act envisages that plaintiff must plead and prove that he had performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him, other than those terms the performance of which has been prevented or waived by the defendant. The continuous readiness and willingness on the part of the plaintiff is a condition precedent to grant 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 ever 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 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 of necessity be proved to be available. Right from the date of the execution till the date of the decree he must prove that he is ready and has always been willing to perform his part of the contract.

In the present case in order to establish the case of the plaintiff, the learned counsel for the plaintiff filed the evidence affidavit of the plaintiff as PW1. As seen from the evidence affidavit of the PW1 he categorically reiterated all the contents of the plaint. The plaintiff in order to prove his case also got marked Exs.A1 to A4. Ex.A1 is the office copy of the legal notice got issued by the plaintiff through his Advocate to the defendants firm dtd:12.3.07. Ex.A2 is the postal acknowledgement. Ex.A3 is the copy of D.D dtd:26.2.07. Ex.A4 is the proceedings of the

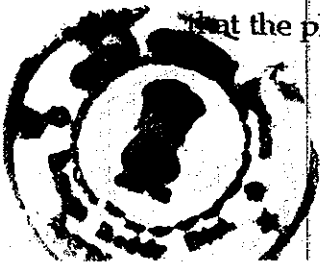
G. Venkatesh Naidu



Commissioner incharge of the employment and training, Hyderabad. According to case of the plaintiff as per his evidence there was an oral agreement of sale dtd:31.8.06 in between him and the defendant firm in respect of the purchase of the plaint schedule property. As seen from the evidence affidavit of PW1 he categorically stated that he agreed to purchase the plaint schedule property for total consideration of amount of Rs.7,25,000/- and he has paid an amount of Rs.10,000/- towards booking amount of the plaint schedule property and again on 17.10.06 he paid Rs.50,000/- to the defendant for which the defendant has passed a separate receipt. The further case of the plaintiff that though the defendant firm has received an amount of Rs.60,000/- towards advance sale consideration but the defendant did not execute any register sale deed in favour of him in respect of the plaint schedule property even though he is ready and willing to perform his part of the contract.

On the other hand in order to substantiate the case of the defendant, the learned counsel for the defendant filed the evidence affidavit of the General Manager of the defendant company as DW1. As seen from the evidence affidavit of DW1 he categorically reiterated all the contents of the written statement filed by him. According to the case of the defendant and as per his evidence that the plaintiff has booked a flat on 31.8.06 and a booking form was given to him and as per the procedure the plaintiff cancelled the same. The further case of the defendant that the said booking form clearly spells out the payment schedule to be followed by the plaintiff. DW1 further stated in his evidence affidavit that the plaintiff agreed to pay the installments as spells out in the booking

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form but failed to pay the installments. DW1 further stated in his affidavit that inspite of repeated reminders issued to the plaintiff by the defendant firm in respect of the payment of the installments the plaintiff never adhere the payment schedule as agreed upon. DW1 further stated in his evidence that the sale agreement dtd:18.10.06 was executed in favour of the plaintiff but signed by one Smt Chandrakala for the reasons best known to the plaintiff. DW1 further stated in his evidence that the plaintiff has not paid the balance of sale consideration as per the agreed payment schedule and the plaintiff was never ready and willing to perform his part of the contract as such he is not entitled to seek the relief of specific performance of agreement of sale. In order to substantiate the case of the defendant Exs.B1 to B9 were marked. Ex.B1 is booking form dtd:18.9.06 signed by the plaintiff. Ex.B2 is the office copy of the letter dtd:20.9.06 addressed by the defendant company to the plaintiff. Ex.B3 is the reminder notice got issued by the defendant firm to the plaintiff dtd:10.11.06. Ex.B4 is the postal acknowledgement along with another reminder notice dtd:16.11.06. Ex.B5 relied upon by the defendant is the cancellation notice got issued by the defendant company to the plaintiff dtd:29.11.06 and Ex.B6 is copy of the cancellation notice dtd:22.2.07 got issued by the defendant company to the Plaintiff along with the postal acknowledgement. Ex.B7 is the agreement of sale dtd:18.10.06. Ex.B8 is the reminder notice got issued by defendant company dtd:16.11.06 alongwith postal acknowledgement. Ex.B9 is the reply notice given by the defendant to the plaintiff dtd:29.3.07.

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In a suit for specific performance of agreement of sale it is the duty of the plaintiff to establish his readiness and willingness to perform his part of the contract. The readiness and willingness cannot be treated as a straight jacket formula. These have to be determined by the entirety of the facts and circumstances relevant to the intention and conduct of the party concerned. Time and again the Hon'ble Supreme Court held that:

"The readiness as contemplated U/s.16 of the Specific Relief Act is not confined to the one referable to the date of which the suit is filed."

On the other hand it must exist ever since the payments of the balance became due and must subsist till the suit filed and if not there after.

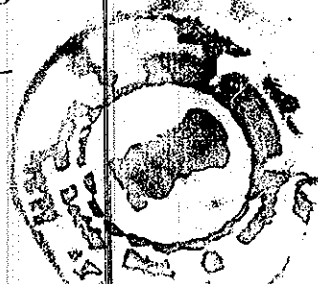
In the present case as seen from the evidence adduced by both parties there is no dispute that the plaintiff agreed to purchase the suit schedule property for total sale consideration amount of Rs.7,25,000/-. It is also not in dispute that the plaintiff paid an amount of Rs.60,000/- as advance sale consideration to the defendant. The main contention of the plaintiff that though he is always ready and willing to perform his part of the contract the defendant fails to execute register sale deed in favour of him in respect of the plaint schedule property. On the other hand it is the case of the defendant that the plaintiff failed to adhere to the terms of the agreement of sale, as such the agreement therefore cancelled and the plaintiff is not entitled to seek the equitable relief of specific performance of agreement of sale.

G. Vallabha Naidu



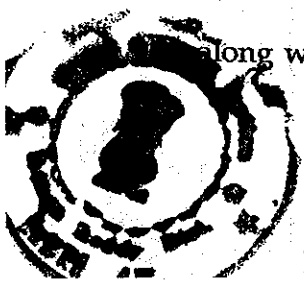
In view of the submissions made by the respective parties as seen from the contents of the plaint and the evidence of PW1 he categorically stated that an oral agreement of sale was took place in between him and the defendant on 31.8.06 in respect of the plaint schedule property. But as seen from the contents of Ex.A1 O/c. of legal notice got issued by the plaintiff to the defendant it is clearly averred that the plaintiff entered in to an agreement of sale on 18.10.06 for purchase of the plaint schedule property for total sale consideration of amount of Rs.7,25,000/- and he paid an amount of Rs.60,000/- as a first installment and agreed to pay the remaining amount or on before 31.12.06. But as seen from the contents of the plaint there is no whisper that the plaintiff was agreed to pay the remaining amount on or before 31.12.06. As seen from the evidence of PW1 at one breathe he is contending that there is an oral agreement of sale in between him and the defendant on 31.8.06 in respect of the plaint schedule property, but at another breathe as per the contents of Ex.A1 legal notice dtd:12.3.07 he is contending that he entered in to an agreement of sale on 18.10.06 with the defendant for purchase of the plaint schedule property for total sale consideration amount of Rs.7,25,000/-. Admittedly the plaintiff is not disputing about Ex.B1 booking from relied upon by the defendant. The main contention of the plaintiff that at the time of obtaining his signature on Ex.B1 the contents were not filled. Admittedly the plaintiff is not disputing his signature found on Ex.B1. When the defendant admits his signature found on Ex.B1 the presumption that can be drawn that the contents of the documents were read over and explained to the defendant. It is not the case of the plaintiff that the signature found

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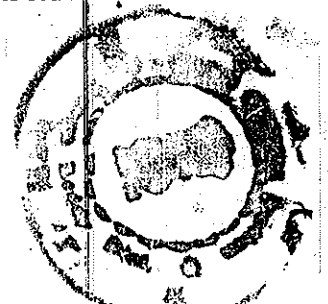
on Ex.B1 does not belongs to him. According to, the case of plaintiff that the defendant created a written agreement of sale dtd:18.10.06 which was signed by one Chandrakala. But as seen from the contents of Ex.A1 legal notice got issued by the plaintiff to the defendant he categorically admitted about the entering in to agreement of sale dtd:18.10.06 with the defendant in respect of plaint schedule property. There is no whisper either in the plaint pleadings or Ex.A1 legal notice that the defendant created Ex.B7 agreement of sale dtd:18.10.06 relied upon by the defendant. Admittedly Ex.B7 relied upon by the defendant was signed by one Chandrakala but not the plaintiff. Even assuming that the Ex.B7 relied upon by the defendant cannot be taken into consideration, plaintiff fails to pay the installments as per the terms of Ex.B1 booking form relied upon by the defendant. As seen from the cross examination of PW1 he categorically admitted that in Ex.A1 legal notice dtd:12.3.07 it is mentioned that he entered in to an agreement of sale dtd:18.10.06 with the defendant. PW1 further admitted in his cross examination that before issuance of the legal notice he made his signatures on the booking form on Ex.B1 on 18.9.06. PW1 further admitted in his cross examination that he did not mention either in Ex.A1 legal notice or in his evidence affidavit that he made his signature on the blank form. For the first time at the time of the cross examination of PW1 he categorically stated that he made his signature on Ex.B1. As seen from the recitals of Ex.B1 relied upon by the defendant as per the terms and conditions that the purchaser shall execute the required documents within the period of 30 days from this booking along with the payment of the first installment mentioned over leaf. In

G. Vellanku Naidu



case the purchaser fails to do so then this provisional booking shall stand cancelled and the builder shall be entitled to deduct cancellation charges. Admittedly as seen from the cross examination of DW1 that an oral agreement has taken place and that it was agreed that an amount of Rs.7,25,000/- to be paid in four installments before the delivery of the flat. DW1 further admitted in his cross examination that he did not pay the installments. In the present case as seen from the documents relied upon by the defendant i.e Ex.B3 it is evident that the defendant on 10.11.06 under the original of Ex.B3 notice issued reminder notice to the plaintiff to pay the installments within 7 days after receiving the notice. The said notice was received by one G.Chandrakala. Again the defendant on 16.11.06 got issued another reminder notice to the plaintiff to pay the installments. The defendant on 29.11.06 got issued a cancellation notice under the original of Ex.B5. This court is to the view that if the plaintiff is ready and willing to perform his part of the contract as pleaded by him he has to inform about his readiness and willingness to perform his part of the contract by issuing a notice to the defendant. But in the present case the plaintiff got issued a notice to the defendant at the first instance under the original of Ex.A1 on 12.3.07 i.e after issuance of the reminders and the cancellation notice by the defendant to the plaintiff. There is no iota of evidence adduced by the plaintiff to prove his readiness and willingness to perform his part of the contract except the oral say. Exs.A1 to A4 relied upon by the plaintiff are no way helpful to establish the case of the plaintiff that he is ready and willing to perform his part of the contract, but the defendant did not come forward to execute the registered sale deed in

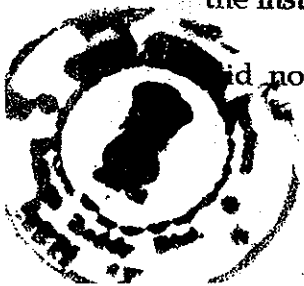
G. Vallabha Rao



favour of him in respect of the plaint schedule property. As seen from the evidence adduced by the plaintiff and as seen from the contents of Ex.A1 legal notice got issued by the plaintiff to the defendant on 12.3.07 he took inconsistent pleas. The court may infer from facts and circumstances whether the plaintiff was ready and was always ready and willing to perform his part of the contract. But in the present case as seen from the cross examination of PW1 this court safely came to a conclusion that the plaintiff is not ready and willing to perform his part of contract. In view of the circumstances and in view of the evidence adduced by both parties coupled with the documents relied upon by them, this court has no hesitation to hold that the plaintiff has not proved that he was always ready and willing to perform his part of the contract.

As seen from the cross examination of DW1 nothing was elicited to dis-credit his testimony. This court is of the view that if really the plaintiff was ready and willing to perform his part of contract what would prevent him to issue a notice to the defendant prior to issuance of the reminders and cancellation notice by the defendant to the plaintiff. As seen from the Clause VI of Ex.B7 agreement of sale that "in case of delay in payment of installments for more than three months from the due date, the agreement shall stand cancelled and the vendor shall be entitled to charge cancellation charges." Even assuming that the Ex.B7 agreement of sale does not bind on the plaintiff it cannot be said that the plaintiff is ready and willing to perform his part of the contract. The plaintiff failed to pay the installments as per the terms and conditions of Ex.B1. As the plaintiff did not approach the court for seeking the equitable relief of specific

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performance of agreement of sale as such he is not entitled to seek the equitable relief of specific performance of agreement of sale. Accordingly, these issues 1 to 3 are decided in favour of the defendant and against the plaintiff.

7. ISSUE NO.4: To what relief?

In view of the above discussion and in view of my findings on issues no.1 to 3, this court is of the opinion that the plaintiff is not entitled to seek the equitable relief of specific performance of agreement of sale as he did not approach the court with clean hands, as such he is not entitled for specific performance of contract as prayed for.

In the result, the suit filed by the plaintiff is dismissed. But under the circumstances of the case there shall be no order as to costs.

Dictated to the Personal Assistant, transcribed by her corrected and pronounced by me in the open court on this the 22nd day of July, 2009.

G. Vallabha Naidu
II ADDL.SENIOR CIVIL JUDGE,
RANGA REDDY DISTRICT.

APPENDIX OF EVIDENCE.

FOR PLAINTIFFS.

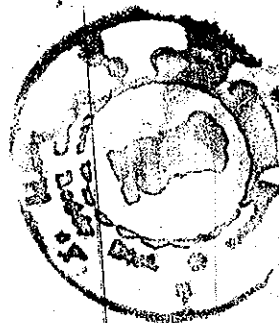
PW1 : G.Bala Krishna.

FOR DEFENDANTS

DW1 : Kanka Rao.

FOR PLAINTIFFS.

- EX.A1 : O/c. of legal notice dtd:12.3.07.
- Ex.A2 : Postal acknowledgement dtd:23.3.07.
- Ex.A3 : Copy of D.D dtd:26.2.07.
- Ex.A4 : Proceedings of Commissioner Dtd:22.8.08.



FOR DEFENDANTS:

- Ex.B1 : Booking form dtd:18.9.06.
- Ex.B2 : Letter dtd:20.9.06.
- Ex.B3 : Reminder notice dtd:10.11.06.
- Ex.B4 : Postal acknowledgement.
- Ex.B5 : Cancellation notice dtd:29.11.06.
- Ex.B6 : Cancellation notice dtd:22.2.07.
- Ex.B7 : Agreement of sale.
- Ex.B8 : Reminder notice.
- Ex.B9 : Reply dtd:29.3.07.

G. Vallabh Nayak
 II ADDL.SENIOR CIVIL JUDGE,
 R.R.DISTRICT.

COURT OF THE DISTRICT
 SESSIONS JUDGE
 R.R. DISTRICT

C. No. 12639

24/7/09
 8/19/09
 10/19/09
 6041/09 38/-
 17/19/09
 17/9/09

[Signature]

READ BY
 8
 Certified to be correct
[Signature]

