

(2025) 09 TEL CK 0666
In the Telangana High Court
Case No : A.S.No.356 Of 2020

Avula Krishnaiah

APPELLANT

Vs

Banoth Shankar

RESPONDENT

Date of Decision : 11-09-2025

Acts Referred:

Civil Procedure Code, 1908 — Order 38 Rule 5, Order 37 Rule 3

Citation : (2025) 09 TEL CK 0666

Hon'ble Judges : T.Vinod Kumar, J

Bench : Single Bench

Advocate : V.V.S. Satyanarayana, C. Haripreeth

Final Decision : Allowed

Judgement

B.R.Madhusudhan Rao, J

1. This appeal is filed by the appellant-defendant aggrieved by the judgment and decree passed in O.S.No.24 of 2013, dated 20.01.2020 by the Special Sessions Judge for Fast Tracking the Case Relating to Atrocities against Women-Cum-VIII Additional District and Sessions Judge at Khammam.

2.1. The respondent-plaintiff has filed suit for specific performance of contract under Order VII, Rule 1 r/w Section 26(1) of Civil Procedure Code, 1908 in respect of the plaint schedule property against the appellant-defendant.

2.2. The prayer in the original plaint is a) to direct the defendant to execute the registered sale deed in favour of the plaintiff in respect of the suit schedule property by receiving the balance sale consideration, as per the terms of the agreement of sale, b) in case of failure of the defendant, the Hon'ble Court may be pleased to execute the registered sale deed on behalf of the defendant to the plaintiff, c) to award costs of the suit, d) to grant any other relief or relief's, which the Hon'ble Court may deem fit and proper in the circumstances of the case.

2.3. The original plaint schedule is land to an extent of Ac.01-00 gts., in and out of Sy.Nos.315, 316 of Vandanam Village, Chinthakani Mandal, Khammam District with boundaries as East: V.Venkatayapem to Chinthakani Road, West: Land of Pannam Narayana, North: Land of Chilaka Venkateswarlu, South: Land of Kanagala Ramaiah.

3.1. The plaint is amended as per the orders in IA.No.3 of 2019 dated 02.12.2019. The amended prayer in the plaint is the same with that of the prayer (a) to (d), prayer (e) is added that is to direct the defendant (appellant herein) to refund an amount of Rs.3,00,000/- (Rupees Three Lakhs only) with interest @ 24% per annum from the date of receipt of the amount till the date of payment.

3.2. The Amended Schedule is land to an extent of Ac.0-20 gts., in and out of Sy.No.315/AA, land to an extent of Ac.0-20 gts., in and out of Sy.No.316/AA, a single compact block total to an extent of Ac.01-00 gts., of Vandanam Village, Chinthakani Mandal, Khammam District bounded by East: V.Venkatayapem to Chinthakani Road, West: Land of Vemu Chiranjivi and P.Narayana, North: defendant own land, South: Land of Avula Krishnaiah.

4. It is stated in the plaint that respondent-plaintiff and appellant-defendant are acquainted with each other, the appellant-defendant offered to sell the land to the respondent-plaintiff for a total sale consideration of Rs.12,00,000/-. On 10.02.2012, appellant-defendant has executed an agreement of sale in favour of the respondent-plaintiff and received a sum of Rs.3,00,000/- and acknowledged the same, it was agreed to execute registered sale deed within 6 months in favour of the respondent-plaintiff or to his order on demand by receiving balance sale consideration of Rs.9,00,000/-. The appellant-defendant undertook that the property is free from all encumbrances and that the respondent-plaintiff was ready and willing to perform his part of contract, many times he requested that the appellant-defendant to execute registered sale deed by receiving balance sale consideration. The respondent-plaintiff was always ready and willing to perform his part of contract and ready to pay the balance sale consideration and requested the appellant-defendant to execute the registered sale deed but he failed to perform the same. On 05.12.2012, respondent-plaintiff has got issued a legal notice to the appellant-defendant to execute sale deed by receiving balance sale consideration. The appellant-defendant has got issued a reply on 22.12.2012 to furnish the photo copy of the agreement of sale dated 10.02.2012. On 07.01.2013, respondent-plaintiff has sent photo copy of the agreement of sale to the appellant-defendant and requested him to come forward to execute the sale deed by receiving the sale consideration and prayed to decree the suit.

5. Appellant-defendant has filed his written statement and contended that the respondent-plaintiff is a stranger and he has no acquaintance with him, he never approached the respondent-plaintiff nor offered to alienate the suit schedule property nor received the consideration under the alleged sale agreement dated 10.02.2012. Appellant-defendant has no necessity to sell the agricultural land

which is the only source of income to maintain his family and that the respondent-plaintiff has created the agreement of sale, dated 10.02.2012. As per the alleged agreement dated 10.02.2012, the schedule property is in and out of Sy.Nos.315/AA and 316/AA. In the plaint suit survey number is shown as Sy.Nos.315, 316, it can be understood that the agreement of sale is forged and fabricated. Respondent-plaintiff has not followed the provisions of Section 16(c) of Specific Relief Act, mere stating in the plaint that the respondent-plaintiff is ready and willing to perform the contract cannot be kept alive unless the balance sale consideration is paid. The payment of balance sale consideration to be paid is within 6 months which is the essence of the contract as per the alleged agreement of sale, dated 10.02.2012 and he failed to do so which can be said that respondent-plaintiff is not ready and willing to perform his part of contract.

6. The Trial Court has framed the following issues on 17.06.2015 (prior to the amendment):

1. Whether agreement of sale dated 10.02.2012 is true, valid and defendant received consideration of Rs.3,00,000/-?
2. Whether the plaintiff is entitled for specific performance as prayed for?
3. To what relief?

7. Appellant-defendant has filed additional written statement on 12.12.2019 after the plaint is amended and contended that the suit is filed in the year 2013 for a decree of specific performance of agreement which was entered into by and between the parties on 10.02.2012, the relief for refund of money was available to the respondent-plaintiff on the date of institution of the suit but no such relief is claimed, it was only after expiry of 6 ½ years amendment application came to be filed seeking the relief of refund of earnest money. There cannot be any dispute that the suit for mere refund of earnest money was not maintainable beyond the period of three years. The claim for refund of earnest money is barred by limitation in 2015 and there is no cause of action for the plaintiff to seek the relief of refund of Rs.3,00,000/- and prayed to dismiss the same.

8. After the amendment of the pleadings, the following additional issue is framed by the Trial Court which reads as under :

“Whether the claim of plaintiff for refund of earnest money is barred by limitation”?

9. The issues were recasted by the Trial Court which reads as under:

1. Whether agreement of sale dated 10.02.2012 is true, valid and defendant received consideration of Rs.3,00,000/-?
2. Whether the plaintiff is entitled for specific performance as prayed for?
3. Whether the claim of plaintiff for refund of earnest money is barred by limitation?

4. To what relief?

10. Respondent-plaintiff is examined as PW.1 and also examined PW.2-G.Upender-scribe, PW.3-Bhukya Chinna-scribe and got marked Exs.A1 to A5. Appellant-defendant is examined as DW.1, got examined DW.2 Mittapally Sreenu and got marked Ex.B1.

11. The learned Trial Court after considering the evidence led in by the parties has decreed the suit of the respondent-plaintiff for specific performance of contract and directed him to deposit Rs.9,00,000/- in the Court on or before 20.02.2020 and after deposit of the said amount, he should inform the appellant-defendant by way of issuing notice within 15 days from the date of such intimation, defendant shall execute registered sale deed in favour of the plaintiff (respondent herein) and deliver possession of the schedule property, the plaintiff (respondent herein) shall bear the expenses of stamp duty and registration and the amount deposited by the plaintiff can be withdrawn by the defendant (appellant herein) after execution of the sale deed and after delivery of possession of the suit property failing which the plaintiff is at liberty to take steps for execution of the decree.

12.1. Learned counsel for the appellant submits that Section 16(c) of Specific Relief Act, 1963 postulates continuous readiness and willingness on the part of the respondent-plaintiff as a condition precedent for obtaining the relief of grant of specific performance of agreement and has to plead his readiness and willingness through his pleadings, prove the same. Respondent-plaintiff admittedly failed to bring documentary evidence on record to prove that he is financially strong enough to pay the alleged balance sale consideration of Rs.9,00,000/- from the very beginning except making bald averments that he is ready and willing to perform his part of the contract and no evidence is brought on record to substantiate the same. The Trial Court ought not to have granted the relief of specific performance in his favour. PW.1 admitted in his cross-examination that he has not deposited the remaining consideration of Rs.9,00,000/- in the Court nor produced Bank statement to prove that he is capable of paying the said amount. The initial burden lies on the respondent-plaintiff to prove his case, he failed to discharge his burden and in such case, the onus of proof cannot be put on the appellant-defendant. Respondent-plaintiff has also entered into another agreement of sale with one Chilaka Venkateshwarlu on the same day of the suit agreement of sale for which he filed suit for specific performance vide OS.No.25 of 2013 on the file of IV Additional District Judge at Khammam and he failed to prove his willingness and readiness by adducing documentary evidence and the said suit was dismissed.

12.2. The boundaries of the land in possession of the appellant-defendant are different from that of the suit schedule property. The determination of the boundaries is an essential activity that must be done at the time of agreement itself and the description of the property in the agreement of sale (Ex.A1) is uncertain and unenforceable in law. The Trial Court has shifted the burden on the

appellant-defendant without the respondent-plaintiff fulfilling the basic pre-condition for seeking the relief of specific performance. As per Ex.A1 dated 10.02.2012, the balance sale consideration is to be paid within six months from the date of agreement of sale i.e., by 10.08.2012 but the legal notice was issued on 05.12.2012 and the suit was filed on 01.03.2013, there is a delay of almost four months in sending the initial legal notice and further delay of almost seven months in filing the suit. "Time is of essence" of the contract as per Ex.A1. Ex.A1 is insufficiently stamped and the Trial Court did not take appropriate steps to rectify this defect rendering Ex.A1 inadmissible. Appellant-defendant is not the absolute owner of the schedule land as it was inherited from his forefather, his children are also the joint owners of the ancestral property. The description of the property is wrong in terms of survey number, extent and boundaries and there are catastrophic latches on the part of the respondent-plaintiff which ought to have been considered by the Trial Court. Counsel to substantiate his contention has relied on the decisions in the cases of 1) N.P.Thirugnanam (D) By Lrs. Vs. Dr.R.Jagan Mohan Rao and Others 1995 INSC 394 2) Nahar Singh Vs. Harnak Singh and Others 996 INSC 1245 3) Pawan Kumar Dutt and Another Vs. Shakuntala Devi and Others 2010 SCC 15 601 : 2013 SCC CIV 2 235 4) C.S.Venkatesh Vs. A.S.C.Murthy (D) by Lrs. And Others Manu/SC/0142/2020 5) Vijay Kumar and Others Vs. Om Prakash Civil Appeal No.10191 of 2018 of Supreme Court of India, dated 03.10.2018 6) Pydi Ramana @ Ramulu Vs. Davarasety Manmadha Rao 2024 INSC 507, prayed to set aside the impugned order.

13. Learned counsel for the respondent-plaintiff submits that plaintiff has proved his readiness and willingness and also proved Ex.A1 by examining two independent witnesses i.e., PW.2 and PW.3. Counsel further submits that Ex.A1 specifically states that the balance amount shall be paid after the measurements of the land. As the appellant-defendant failed to measure the property thereby respondent-plaintiff has got issued legal notice under Ex.A2. The Trial Court has discussed all the contentions and issues raised by the appellant-defendant in its judgment, no interference is called for and in support of his contention, he relied on the decision in the case of Basavaraj Vs. Padmavathi AIR 2023 SC 282, and prayed to dismiss the Appeal.

14. Heard learned counsel, perused the record.

15. Now the point for consideration is: whether the impugned order passed by the learned Special Sessions Judge – Cum -VIII Additional District Judge at Khammam in O.S.No.24 of 2013, dated 20.01.2020 suffers from perversity or illegality, if so, does it requires interference of this Court?

16. As per the impugned judgment dated 28.06.2019 respondent – plaintiff has deposited an amount of Rs.9,00,000/- in the account of Principal District and Sessions Judge, Khammam towards balance sale consideration on 19.02.2020 and informed the appellant – defendant by way of notice dated 29.02.2020.

POINT:

17. Section 16 of the Specific Act provides certain bars to the relief of specific performance.

"16. Personal bars to relief:- Specific performance of a contract cannot be enforced in favour of a person-

(a) ----

(b) ----

"(c) who fails to aver and prove that he has 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 terms the performance of which has been prevented or waived by the defendant". Explanation- for the purpose of clause (c),-

(i) Where a contract involves the payment of money, it is not essential for the plaintiff to actually tender to the defendant or to deposit in Court any money except when so directed by the Court;

(ii) The plaintiff must aver performance of, or readiness and willingness to perform, the contract according to its true construction."

18. Ex.A1 is the agreement of sale, dated 10.02.2012. The schedule mentioned therein is land admeasuring Ac.0-20 guntas in Survey No.315/AA and land admeasuring Ac.0-20 guntas in Survey No.316/AA, total extent of Ac.01-00 guntas situated at Vandanam Village, Chintakani Mandal, Khammam District with specific boundaries as shown in Paragraph No.2.3 supra. The tenor of the agreement is that the entire property is valid at Rs.12,00,000/- and the respondent- plaintiff has paid an amount of Rs.3,00,000/- as an advance. The condition in Ex.A1 is that "the remaining sale consideration shall be decided after measuring the land and after deciding the same, the remaining sale consideration shall be paid within six months from this date (10.02.2012)".

19. Appellant's counsel contended that Ex.A1 is allegedly executed on Rs.40/- stamp paper, it is insufficiently stamped and it is inadmissible document. Ex.A1 document goes to show that stamp duty and penalty is collected on 01.03.2013 which is paid by the respondent-plaintiff. During the course of the evidence of the respondent-plaintiff as PW.1, while marking the documents, no such objection was raised by the defendant, for the first time it is raised in the grounds of Appeal. As stamp duty penalty is paid by the respondent-plaintiff on Ex.A1, the contention of the appellant counsel that Ex.A1 is insufficiently stamped is negative.

20. Respondent-plaintiff before instituting the suit got issued a legal notice on 05.12.2012 (Ex.A2) to the appellant-defendant stating that the parties are acquainted with each other and out of such acquaintance, appellant-defendant has approached him to sell the schedule property for a total sale consideration of

Rs.12,00,000/- and accordingly on 10.02.2012 respondent-plaintiff has paid Rs.3,00,000/- as advance and the appellant-defendant executed the agreement of sale in the presence of the witnesses and the respondent-plaintiff was ready to perform his part of contract and called upon the appellant-defendant to execute registered sale deed in his favour within seven days from the receipt of the notice. Appellant-defendant has got issued a reply on 22.12.2012 under Ex.A4 denying the allegations made in the legal notice under Ex.A2 and sought for a Xerox copy of alleged agreement of sale dated 10.02.2012 for giving a detailed reply. Respondent-plaintiff has sent the copy of the agreement of sale, dated 10.02.2012 by way of legal notice, dated 07.01.2013 under Ex.A5. No reply is given by the appellant-defendant to Ex.A5 till he filed his written statement in the suit.

21. Ex.B1 is the pattadar pass book of the appellant – defendant, the land possessed by him is to an extent of Ac.0-23 guntas in Survey No.315/9 and Ac.0-23 guntas in Survey No.316/9, total Ac.1-06 guntas. Ex.A1-property is to an extent of Ac.01-00 gts.

22.1 In N.P.Tirugnanam case¹, an application is filed by the defendant therein with a direction to deposit Rs.2,00,000/- or furnish Bank guarantee and the same was ordered by the Court on 11.02.1991 by giving time up to 11.03.1991. The plaintiff therein neither deposited the amount nor has given Bank guarantee and he was not ready and he failed to prove readiness and willingness to perform the part of contract.

22.2 In Nahar Singh's case², there are no Kasara numbers, no area, no boundaries, no length and breadth of the land mentioned therein in Ex.A1 agreement.

22.3 In Pawan Kumar Dutt's case³, there were no boundaries in the suit agreement and it is not clear from what point the area is to be measured. So also, it is not clear whether the land situated is in the middle of the total land or in one portion or at the extreme end of a particular place.

22.4 In C.S.Venkatesh's case⁴, it is a suit for reconveyance of the property and the sale deed marked as Ex.P8 is an outright sale deed.

22.5. The decisions cited by the appellant's counsel stated supra from Para Nos.22.1 – 22.4 do not assist his case in any manner as the facts differ from the case on hand.

23. In Vijay Kumar's case⁵, the Supreme Court held that in order to obtain a decree for specific performance, the plaintiff has to prove his readiness and willingness to perform his part of the contract and the readiness and willingness has to be shown throughout and has to be established by the plaintiff.

24. In Pydi Ramana @ Ramulu's case⁶, the Supreme Court held that the plaintiff has to adduce evidence either oral or documentary to establish that there was any demand made by him for the land been surveyed by defendant.

25.1. In Basavaraj's case⁷, the Supreme Court held that unless the plaintiff was not called upon to produce pass book either by vendor or by the Court to show readiness and willingness on his part, no adverse inference can be drawn against him.

25.2. The above said decision cited by respondent's counsel do not assist his contention in view of the fact that the facts in the above decision are slightly different with the facts of the case.

26. Applying the law laid down by the Supreme Court in Vijay Kumar⁵ and Pydi Ramana @ Ramulu⁶, now have to see whether the respondent-plaintiff falls within the principles laid down therein.

27. The rider in Ex.A1 is that "the remaining sale consideration shall be decided after measuring the land and shall be paid within six months from this date (10.02.2012). Ex.A2 is the legal notice, dated 05.12.2012 which set the law into motion for filing the suit. On reading of the legal notice (Ex.A2) the respondent-plaintiff did not call upon the appellant-defendant to measure the land. It only stated that he is ready to pay the balance sale consideration.

28. As stated supra, appellant-defendant is having Ac.0-23 guntas each in Survey No.315/AA and Survey No.316/AA and the total extent in the above said two survey numbers is Ac.1-06 guntas but the schedule shown in Ex.A1 is Ac.01-00 guntas of land with boundaries. There is no explanation from the plaintiff how he has arrived that the land of defendant falls on the northern side of the amended suit schedule property, but the agreement of sale under Ex.A1 shows the land of Chilaka Venkateshwarlu.

29. It is not the case of the respondent-plaintiff that he requested the appellant-defendant to measure the land, which is also missing in Ex.A2-legal notice, dated 05.12.2012. Respondent -plaintiff admitted in his cross-examination that after going through the pahanies, he came to know that the land which he purchased from the appellant-defendant falls in the Survey Nos.315/AA and 316/AA. On the date of Ex.A1, he also entered into agreement of sale with one Chilaka Venkateshwarlu and he also filed a suit vide O.S.No.25 of 2013 on the file of IV Additional District Judge, which agreement was entered at 11.00 a.m., and Ex.A1 took place at 04.30 p.m. One Suri Ganesh has filed recovery suit covered by registered mortgage deed in the year 2005, which was decreed and he preferred an Appeal against the said judgment. Respondent-plaintiff denied the suggestion that he has no capacity to purchase land worth Rs.24,00,000/- from the appellant-defendant and Ch.Venkateshwarlu and that he has no capacity to advance sale consideration to a tune of Rs.6,00,000/- on a single day i.e., Rs.3,00,000/- to the appellant-defendant and Rs.3,00,000/- to Chilaka Venkateshwarlu and also denied the suggestion that Ex.A1 is brought into existence subsequent to issuance of legal notice under Ex.A1 and that he is facing criminal cases for the offence under Section

138 of N.I. Act.

30. PW.2 deposed that the suit schedule property is a compact block to an extent of Ac.01-00 guntas in Sy.No.315/AA to an extent of Ac.00-20 guntas and in Sy.No.316/AA to an extent of Ac.00-20 guntas. He knows the respondent-plaintiff and the appellant-defendant and on 10.02.2012, appellant-defendant offered to alienate the land for a total sale consideration of Rs.12,00,000/- and accordingly, respondent-plaintiff paid Rs.3,00,000/- as an advance and the appellant-defendant has acknowledged the receipt and he has to receive the balance sale consideration of Rs.9,00,000/- within six months and to execute valid registered sale deed in favour of the respondent-plaintiff, during the said transaction, himself, Bhukya Chinna and Nakkala Srinu were present and they have attested Ex.P1. In his cross-examination, he stated that he has gone through Ex.A1 before he signed it and the transaction took place at about 4.30 p.m., he got acquaintance with the appellant-defendant.

31. PW.3 is also an attester to Ex.A1, his evidence is similar to that of the evidence of PW.2. In his cross-examination, he stated that appellant-defendant has put his signature on the agreement of sale and as per Ex.A1, respondent-plaintiff has to pay the balance sale consideration to the defendant within six months from the date of Ex.A1. He denied the suggestion that himself, PW.2, respondent-plaintiff colluded with each other and formed a gang and brought into existence Ex.A1.

32. PW.2 and PW.3 did not speak about the condition in Ex.A1 that the land has to be measured. Even otherwise, plaint is also silent that the property has to be measured.

33. The evidence of appellant-defendant as DW.1 is total denial and his bone of contention is that Ex.A1 is a created document and that the respondent-plaintiff has no capacity to purchase the land and further he had no occasion to sell the same. In his cross-examination, he has admitted that he requested the respondent-plaintiff to send Ex.A1 agreement of sale to send a detailed reply but he failed to do so and he has not filed any case against the respondent-plaintiff after receipt of the rejoinder notice nor gave reply. He denied the suggestion that he executed Ex.A1 and the boundaries were also given by him and a suggestion is put to the witness that the boundaries mentioned in the agreement of sale are correct and the signature shown to him on the vakalath is not that of him and the signatures on Ex.A3 – postal acknowledgment, written statement and chief affidavit are that of him.

34. DW2 is a third party and he deposed that the suit schedule property is the ancestral property of the appellant – defendant and he has no necessity to alienate his agriculture lands. In his cross examination he stated that he do not know the facts of the case.

35. It is worth mentioning that a suggestion is put to the appellant-defendant that the boundaries mentioned in the agreement of sale are correct which is denied by the witness. Respondent-plaintiff has amended the plaint vide IA.No.3

of 2019 dated 02.12.2019 wherein he has amended the suit schedule showing the appellant-defendant land on the northern side.

36. Section 16 (c) of Specific Relief Act mandates readiness and willingness of the plaintiff to be averred and proved and it is a condition precedent to obtain the relief of specific performance. Readiness is the capacity of the respondent-plaintiff to perform the contract which includes its financial position to pay the sale consideration. Willingness is the conduct of the party. Respondent-plaintiff could able to prove the sale agreement, dated 10.02.2012 (Ex.A1) on which date he paid Rs.3,00,000/- to the appellant-defendant which is supported with the evidence of PWs.2 and 3. As per Ex.A1, the balance amount to be paid by the respondent-plaintiff to the appellant-defendant is Rs.9,00,000/-, suit land has to be surveyed and the total sale consideration was agreed to settle after the survey.

37. Respondent-plaintiff counsel contends that appellant-defendant did not come forward to survey the suit land. As stated supra, there is no pleading in the plaint that the respondent-plaintiff requested the appellant-defendant to measure the land, which is also missing in Ex.A2 legal notice so also PWs.2 and 3 did not depose about the same. Respondent-plaintiff did not produce any evidence to establish that a demand is made by him to the appellant-defendant to survey the land.

38. The respondent-plaintiff failed to prove his willingness to perform his part of contract in view of the fact that there is no pleading in the plaint calling the appellant-defendant to measure the suit property. Ex.B1 shows that appellant-defendant is having property to an extent of Ac.01-06 guntas i.e., Ac.00-23 guntas in Sy.No.315/AA and Ac.00-23 guntas in Sy.No.316/AA. In Ex.A1, the boundaries shown does not show the remaining part of the appellant-defendant land but schedule came to be amended on 02.12.2019 vide IA.No.3 of 2019 after a period of six years.

39. No independent witness are examined by the respondent – plaintiff to show that he was ready and willing to pay the balance sale consideration except his testimonies and he failed to establish the same. The ratio laid down by the Supreme Court in Vijay Kumar's case⁵, Pydi Ramana case⁶ are applicable to the facts on hand and that the respondent-plaintiff failed to prove the willingness. The learned Trial Court has lost sight of the same and the findings in Para Nos.19 to 22, 26 to 40 are perverse and liable to be set aside.

40. In so far as refund of earnest money is concerned, the learned Trial Court answered the issue in favour of the respondent-plaintiff that the alternate relief seeking refund of money is within limitation. The relief of refund of money is sought vide IA.No.319 of 2019 dated 02.12.2019. The amendment of plaint dates backs to the presentation of the suit i.e., on 01.03.2013 and it can be safely said that the suit filed by the respondent-plaintiff is within limitation for refund of the amount.

41. Respondent-plaintiff could able to prove through his evidence and with the

evidence of PWs.2 and 3 that he paid an earnest amount of Rs.3,00,000/- to the appellant-defendant under Ex.A1 and it has to be necessarily paid back to the respondent-plaintiff with interest @ 12% per annum from the date of agreement-Ex.A1 dated 10.02.2012 till date i.e., 11.09.2025 and thereafter @ 10% per annum till the date of realizing the payment. Appellant-defendant to pay the above said amount by way of Demand Draft in favour of the respondent-plaintiff within eight weeks from today i.e., 11.09.2025. Respondent-plaintiff has deposited Rs.9,00,000/- before the Principle District and Sessions Judge, Khammam, vide Challan No.0190337338 dated 19.02.2020 and he is permitted to withdraw the same with interest if any accrued on the said amount.

42. In the result, AS.No.356 of 2020 is allowed and the judgment and decree passed in OS.No.24 of 2013 dated 20.01.2020 on the file of Special Sessions Judge Cum VIII Additional District Judge at Khammam is set aside. Respondent-plaintiff is entitled for a return of amount as indicated in the judgment. Interim orders if any, stands vacated. Consequently, Miscellaneous application/s if any, are closed. There shall be no order as to costs.