(2010) 09 KAR CK 0021

In the Karnataka High Court

Case No : Regular First Appeal No. 329 of 2010

Smt. Savitramma Gowda APPELLANT

Vs

Dr. M.P. Somaprasad and Sri Amrut Prasad RESPONDENT

Date of Decision : 14-09-2010

Acts Referred:

Citation : (2011) 4 KarLJ 30

Hon'ble Judges : K.L. Manjunath, J;B. Manohar, J

Bench : Division Bench

Advocate : N.G. Kotre, for the Appellant; Vinaygiri, for King and Patridge, for the Respondent

Judgement

K.L. Manjunath, J.—The Appellant herein is challenging the legality and correctness of the judgment and decree dated 14.12.2009 passed by the XI Additional City Civil Judge, Bangalore City, in O.S. No. 1979/2004.

2. The Appellant was the Defendant and the Respondents were the Plaintiffs in the suit.

3. We have heard the learned Counsel for the parties.

4. The facts leading to this case are as under:

Plaintiffs instituted the suit to enforce the agreement/memorandum of understanding dated 27.12.2003 executed by the Defendant to sell 1 acre 10 guntas of land (excluding 1 gunta kharab) situated in Sy. No. 121/1(P) at Boganahalli Village, Varthur Hobli, Bangalore East Taluk, for total consideration of Rs. 27,84,375/-. On the date of the agreement, a sum of Rs. 3,00,000/- was paid as advance sale consideration. The parties agreed to complete the transaction within 30 days from 27.12.2003. According to the Plaintiffs, on 23.01.2004, a public notice was issued on behalf of the Plaintiffs through their advocate informing the general public at large about their intention to purchase the suit property from the Defendant and inviting objections from any person claiming any right or title over the suit property within 7 days from the date of publication. The said publication was made at the instance of the Plaintiffs by their counsel in Kannada daily newspaper ''Praja Vani'' and that no objections were received from the general public. According to the Plaintiffs, in spite of several demands, Defendant failed to receive the balance sale consideration of Rs. 24,84,375/- offered by them and failed to handover the original documents relating to the suit property and deliver vacant possession of the suit property to the Plaintiffs. Therefore, legal notice dated 21.02.2004 was issued along with the draft sale deed. Since the Defendant did not send any reply or came forward to receive the balance sale consideration by executing the registered sale deed and as the Plaintiffs learnt that the Defendant is making an attempt to alienate the property to third parties, Plaintiffs filed the suit to enforce the agreement of sale on the ground that they are ready and willing to perform their part of the contract and are ready with balance sale consideration and that the cost of the stamp duty and registration charges to get the sale deed registered in their favour is lying in the Bank Account of the 1st Plaintiff. Therefore, the Plaintiffs requested the Court to grant decree for specific performance of the agreement dated 27.12.2003 by directing the Defendant to execute the registered sale deed by receiving the balance sale consideration and restrain the Defendant from alienating the suit property to any third party and for costs of the suit.

5. Defendant appeared before the Court and filed a detailed statement of objections. According to the Defendant, memorandum of understanding dated 27.12.2003 was entered into after the Plaintiffs satisfying themselves about the marketable title to the property and they agreed to get the sale deed executed within 30 days from 27.12.2003 and was well within the knowledge of the Plaintiffs that they have to perform their part of the contract within a period of 30 days and not a day beyond that.

6. Defendant, however, contended that the very fact that a public notice was published on 23.01.2004 shows that the Plaintiffs were never serious about the time fixed under the agreement. Seven days time was given for the general public claiming any right or title over the suit property to file objections. by efflux of time, the time fixed under the memorandum of understanding had come to an end. It is also the specific case of the Defendant that the Plaintiffs who were aware of the fact that the time is the essence of contract, failed and neglected to perform their part of the contract before 26.01.2004 on which date, the last date to perform their part of the contract was fixed. She has totally denied that the Plaintiffs have approached her and demanded her to execute the sale deed and that she failed to respond over the same. According to her, for the reasons best known to the Plaintiffs, they kept quiet for long time without negotiating and later approached the Court for the relief which they are not entitled. It is also her case that sending of the draft sale deed by the Plaintiffs'' counsel is a futile exercise, since by the time the draft sale deed was sent, the time stipulated to complete the agreement had come to an end. It is also the contention of the Defendant that the Plaintiffs having failed to perform their part of the contract,

they cannot find out fault with the Defendant, who is always ready to perform her part of the contract. Since the time was the essence of contract and after the expiry of the period stipulated, she is entitled to deal with the property in any manner she likes. Since the Plaintiffs have approached the Court after the expiry of the period stipulated under the agreement, the question of receiving the balance sale consideration and executing the sale deed by delivering the original title deeds does not arise at all. It is also her case that if the Plaintiffs have the balance sale consideration and kept it in the bank, after the period to complete the transaction had expired, the same cannot be held that the Plaintiffs were ready and willing to perform their part of the contract. In the circumstances, she requested the Court to dismiss the suit. The Trial Court, after considering the pleadings of the parties, framed the following issues for consideration:

1. Whether the Plaintiffs prove that they have been always ready and willing to perform their part of the contract?

2. Whether the Defendant proves that the Plaintiffs have committed the breach of contract?

3. Whether the Plaintiffs are entitled to the relief of specific performance of contract?

4. To what order or decree?

7. In order to prove their respective contentions, on behalf of the Plaintiffs, Plaintiff No. 1 - Dr. Somaprasad was examined as P.W.1 and relied upon Exs.P1 to P6. No oral or documentary evidence was let in, on behalf of the Defendant. The Trial Court after considering the entire evidence let in by the parties held issue No. 1 in affirmative, issue No. 2 in negative, issue No. 3 in affirmative and ultimately the suit of the Plaintiffs came to be decreed by the judgment and decree dated 14.12.2009. The Trial Court directed the Plaintiffs to deposit the balance sale consideration of Rs. 24,84,375/- into the Court within two months from the date of the judgment and Defendant was directed to execute the registered sale deed in respect of the suit property in favour of the Plaintiffs within one month from the date of deposit of the balance sale consideration amount by the Plaintiffs into the Court. This judgment and decree is called in question in this appeal.

8. The matter was heard at length. During the course of arguments, it was brought to the notice of the Court by the learned Counsel for both the parties that during the pendency of the suit, the Appellant-Defendant had deposited the amount of Rs. 3,00,000/- which she received as advance sale consideration and the same was deposited into the Court on 14.07.2008. Similarly, the Respondents-Plaintiffs pursuant to the judgment and decree passed by the Court below have deposited the balance sale consideration of Rs. 24,84,375/- within the period of two months. Considering the arguments advanced by both the parties, the Court suggested the parties to settle their dispute amicably to put an end to this litigation. Counsel for the Respondents offered a sum of Rs.

10,00,000/- in addition to balance sale consideration which has been deposited before the Court below. Counsel for the Appellant submitted that in addition to Rs. 3,00,000/- which has already been deposited during the pendency of the suit which the Defendant received as advance sale consideration, she is willing to pay an additional sum of Rs. 25,00,000/- to the Plaintiffs. Parties did not agree to the said terms. In the circumstances, we have heard the appeal on merits.

9. The main contention of the Appellant-Defendant before us is that the Trial Court did not consider the evidence of P.W. 1 properly. If the Trial Court had considered the evidence of P.W.1 properly, the Trial Court would not have granted the decree in favour of the Plaintiffs. According to the Defendant, she did not approach the lawyer to draft the agreement in question. According to her, the agreement was drafted in the office of the Plaintiffs, by the Manager of the Plaintiffs one Srinivas and their real estate agent one Ajit Tandoor, who was looking after the affairs of the Plaintiffs and document was prepared after looking into the original title deeds of the Defendant and having satisfied themselves that the Defendant is having a marketable title to the property, the agreement was drafted by the Manager - Srinivas and the real estate agent -Ajit Tandoor, on the instructions of the Plaintiffs. According to her, time was the essence of contract and she was agreed to sell the property with a specific condition that the sale deed shall be executed within a period of 30 days from the date of the agreement and that she was ready and willing to perform her part of the contract by receiving the balance sale consideration.

10. It is also the case of the Appellant-Defendant that the Plaintiffs who were not ready and willing to purchase the property did not complete the sale transaction within 30 days from the date of the agreement as agreed upon and later by issuing a public notice, filed a suit as if the Plaintiffs were ready and willing to perform their part of the contract. According to the learned Counsel for the Appellant, after the execution of the agreement, Plaintiffs did not approach the Defendant and that the Plaintiffs did not possess the balance sale consideration and the bank statement relied upon by the Plaintiffs was up to 31.12.2003 and whether the Plaintiffs had balance in their bank account subsequent to 31.12.2003 is not made known to the Court in spite of putting a suggestion to P.W. 1 that the Plaintiffs did not get the sale deed completed since they had no sufficient money with them. The Plaintiffs had not placed any other material, subsequent to 31.12.2003, to show that they had funds with them and they approached the Defendant to execute the sale deed and that they were ready and willing to perform their part of the contract. According to the learned Counsel for the Appellant, by merely pleading that the Plaintiffs were ready and willing to perform their part of the contract, it would not be sufficient to grant a decree for specific performance when the other materials produced before the Court below would show contrary to their conduct. In the circumstances, relying upon the judgment of the Constitutional Bench of the Apex Court in the case of Smt. Chand Rani (dead) by LRs. Vs. Smt. Kamal Rani (dead) by LRs., , he Contends that the Trial Court has committed a serious error in granting decree

for specific performance. The Appellant has also relied upon the judgments of the Apex Court in the case of His Holiness Acharya Swami Ganesh Dassji Vs. Shri Sita Ram Thapar, and also in the case of P. Purushottam Reddy and Another Vs. Pratap Steels Ltd., . Relying upon these judgments and taking us through the evidence of P.W.1, he requests the Court to reverse the findings of the Trial Court on the ground that appreciation of evidence by the Trial Court is perverse and requires to be set aside.

11. Per contra, learned Counsel for the Respondents contends that even though the parties agreed to complete the transaction within 30 days from the date of the agreement, as the sale was in respect of immovable property, time shall not be treated as essence of contract. To support his arguments, he has relied upon the judgment of the Apex Court in the case of Smt. Chand Rani (dead) by LRs. Vs. Smt. Kamal Rani (dead) by LRs., stating that if the Plaintiffs have complied with three conditions stipulated in paragraph-24 of the judgment, the Trial Court is bound to grant the decree for specific performance of the contract and that since the Plaintiffs in the present case has fulfilled all the three conditions stipulated in paragraph-24 of the said judgment, the Trial Court has rightly granted the decree for specific performance. Therefore, he contends that the judgments relied upon by the learned Counsel for the Appellant are not applicable to the facts and circumstances of the present case. According to him, the Plaintiffs were ready and willing to perform their part of the contract. In terms of the agreement, it was for the Defendant to make out marketable title by producing title deeds of the property in question. Therefore, the Plaintiffs got issued a public notice and thereafter they issued a legal notice to the Defendant calling upon her to execute the sale deed. As the Defendant failed to execute the sale deed, having no other option, the suit was instituted for specific performance of contract within a reasonable time. Therefore, the Plaintiffs cannot be non-suited as contended by the learned Counsel for the Appellant. According to him, the findings of the Trial Court is based on proper appreciation of evidence and there is no perversity in the findings recorded by the Trial Court. He has also relied upon the Division Bench judgment of the Apex Court in the case of Sukhbir Singh and others Vs. Brij Pal Singh and others, According to him, it is not required for the Plaintiff to carry money or to show the ready cash before the Court, but they were ready with the balance sale consideration. In the circumstances, he requested the Court to dismiss the appeal.

12. Having heard the learned Counsel for the parties, the points that arise for consideration in this appeal are:

i) Whether the Plaintiffs were ready and willing to perform their part of the contract and whether the time was the essence of contract?

if) Whether any breach had been committed by the Defendant?

iii) Whether the findings of the Trial Court is perverse and requires to be reversed by this Court?

13. Since all these points are interlinking with each other, we would like to consider them together.

14. The facts of this case are not in dispute to the following extent. The parties are not disputing the agreement dated 27.12.2003. They are not disputing that within 30 days, the transaction was required to be completed. But, the allegations made by the Plaintiffs is that the sale transaction could not be completed within 30 days on account of the breach committed by the Defendant. But, the Defendant contends that it is on account of the latches and negligence on the part of the Plaintiffs, even though she was ready and willing to perform her part of the contract, sale deed could not be executed. It is also the case of the Defendant that the Plaintiffs were not ready and willing to perform their part of the contract. It is also the case of the Plaintiffs that it was for the Defendant to make out marketable title to the property in question and that the Defendant did not furnish all the documents that were required by the Plaintiffs in order to get the sale deed registered. Therefore, what is required to be considered by this Court in this appeal is what were the stipulations imposed upon the Plaintiffs to perform their part of the contract and what were the conditions imposed upon the Defendant to perform her part of the contract. After considering these two points, then this Court has to examine whether the Plaintiffs were ready and willing to perform their part of the contract or they have failed to perform their part of the contract.

15. We have the evidence of the 1st Plaintiff alone. During the course of arguments, learned Counsel for both the parties admit that Ex.P1 - memorandum of understanding dated 27.12.2003 was not drafted by an Advocate. It has also come in the evidence of P.W.1 in his cross-examination that Ex.P1 is prepared in his office. Before execution of Ex.P1, the Defendant and P.W.1 had discussion on two or three occasions. He has stated that it is false to suggest that the Defendant had furnished all the documents of title at the time of discussion and only RTC extracts, mutation register, tax receipts were given to him. He has stated in evidence as hereunder:

I do not know whether the land was granted to Smt. Munilakshmamma w/o Papanna Reddy. It is true that my Manager Srinivas had prepared Ex.P1 and Ex.P1 was prepared on the instructions of myself and Ajit Tandoor, on behalf of Savithramma and Ajith Tandoor was my agent. At the time of preparing Ex.P1, the xerox copies of the documents were made available. The xerox copies of the documents were examined by my officials and my agent Ajit Tandoor. It is true that at the time of preparation of Ex.P1, sufficient documents were given to me. It is false to say that we have prepared Ex.P1 after verifying all the documents of the Defendant. Ex.P1 was entered into, subject to the Defendant furnishing the documents, which may be asked by my advocate. But, I do not know the documents which were required to be furnished to my advocate.

16. In paragraph-15 of the cross-examination, he has admitted as here under:

It is true that the transaction has to be completed within 30 days as per Ex.P1. It Is false to say that as per Ex.P1, time stipulated comes to an end on 26.01.2004. As agreed upon, the Defendant did not furnish the documents. I did contact the Defendant over phone. I did not contact the Defendant personally, but my employees had contacted her.

According to him, his employees means Srinivas - Manager and Ajit Tandoor - real estate agent. He admits in his cross-examination that the entire transaction was completed by his Manager - Srinivas, Real Estate Agent - Ajit Tandoor and his advocates. He admits that the Plaintiffs were required to pay the balance sale consideration after the Defendant making over a marketable title. In paragraph-18, he admits that he did not ask the Defendant to execute the document within the period fixed. He denies the suggestion that he had no money to purchase the property. According to him, he was in touch with the husband of the Defendant and he admits that in the pleadings he has not mentioned about he being in touch with the husband of the Defendant. He has also denied that he did not get the sale deed within 30 days even though Defendant was ready, since he did not posses money to purchase the property.

17. From the above evidence, we have to consider whether the Plaintiffs have proved their case and whether the Defendant was required to comply with any other conditions of Ex.P1.

18. Under Ex.P1, the details of the property acquired by the Defendant has been mentioned in detail. Paragraphs-1 to 6 deals with how the Defendant acquired the property in question. In paragraph-7 of the agreement, the consideration payable by the Plaintiffs to the Defendant has been mentioned. In paragraph-8, it is stated that the sum of Rs. 3,00,000/- has been paid by means of cheque as advance sale consideration.

The other paragraph is only paragraph-9 which reads as under:

On the legal advisors of the Purchaser clearing the marketable title of the Vendors, the Purchaser shall within 30 days from this day pay the balance of Rs. 24,84,375/- and get the Deed of Sale Registered.

(Emphasis supplied)

From the reading of the entire Ex.P1, it is not; mentioned that the Defendant was required to furnish any document as alleged by the Plaintiffs. In their pleadings and in their evidence what was required to be done by the Plaintiffs were to pay the balance sale consideration of Rs. 24,84,375/- within 30 days from 27.12.2003 and get the sale deed registered at their costs, provided their legal advisors clearing the marketable title to the vendors. From the above clause, it is clear that it is for the Plaintiffs to get the clearance from their legal advisors with regard to marketable title from the Defendant. But, the Defendant was not required to do anything in furtherance of Ex.P1. In Ex.P1, there is no recital to the effect that the Defendant was required to furnish any document in order to show the same to the advocates of the Plaintiffs. It is one-sided agreement drafted by the Plaintiffs'' manager - Srinivas and his agent - Ajit Tandoor, who was looking after the real estate business.

19. When the document has been prepared by the Plaintiffs'' manager and agent and when no conditions are stipulated on the Defendant to furnish any other document or to do anything in furtherance of Ex.P1, it is difficult for any Court to accept the arguments of the learned Counsel for the Respondents that the Defendant was not ready and willing to execute the sale deed and the Defendant was required to furnish the documents of title and it was for the Defendant to make out a marketable title to the property in question. In the cross-examination of P.W. 1, he has categorically admitted after satisfying the title, Plaintiffs'' manager - Srinivas and the real estate agent - Ajit Tandoor have prepared Ex.P1. Even if the documents furnished by the Defendant were not sufficient to get clearance in regard to marketable title of the Defendant from their legal advisors, it was for the Plaintiffs to approach the Defendant addressing in writing, the documents which were really in need by the Plaintiffs for the purpose of completing the sale transaction. P.W.1 has further admitted that he has not personally contacted the Defendant and it is his manager - Srinivas and real estate agent - Ajit Tandoor, who were incharge of the transaction. According to him, he was in touch with the Defendant''s husband, which has been denied by the Defendant. If the Defendant had to do anything in furtherance of Ex.P1 and if she has failed to do so, we could have appreciated the arguments advanced by the learned Counsel for the Respondents-Plaintiffs. But by looking into the entire pith and substance of Ex.P1, no Court can hold that Defendant was required to do anything in furtherance of Ex.P1 to execute the sale deed, except to execute the sale deed by receiving the balance sale consideration within 30 days from 27.12.2003. It is also not in dispute that within 30 days the Plaintiffs have never approached the Defendant to execute the sale deed. When the Defendant has taken a specific contention that she was ready and willing to perform her part of the contract and she was ready to execute the sale deed within 30 days, the burden has been shifted to the Plaintiffs to show that she did not: execute the sale deed within 30 days, even when balance sale consideration was tendered. On the contrary, after the expiry of 30 days, Ex.P2 - legal notice has been issued by the advocates of the Plaintiffs on 21.02.2004 making allegations against the Defendant. It is relevant to note in page-2 of Ex.P2, wherein it is stated as under:

You have, however, not produced the original title deeds for the scrutiny of our clients

20. This allegation is contrary to Ex.P1. Ex.P2 further reads that the Plaintiffs have fixed the registration on 27.02.2004, but the notice was issued on 21.02.2004 and the same has been served upon the Defendant on 26.02.2004. There is nothing on record to show that on 27.02.2004 as fixed by the Plaintiffs for registration of the document, the Plaintiffs really went to the Sub-Registrar office to get the sale deed registered. The conduct of the Plaintiffs would only

disclose that the Plaintiffs were never ready and willing to perform their part of the contract.

21. It was also argued by the learned Counsel for the Appellant that the Plaintiffs who have relied upon the bank extract as per Ex.P6 would only disclose the amount available to the credit of the Plaintiffs as on 31.12.2003, but in spite of suggesting to P.W.1 that the Plaintiffs had no money to purchase the property, they have not produced the bank extract from 31.12.2003 onwards. Relying upon Ex.P6, learned Counsel for the Appellant submits that the Plaintiffs being businessmen might have used the amount available in their bank account as on 31.12.2003 for any other purpose and since the Plaintiffs were required to purchase the property on or before 26.01.2004, they were required to produce the document to show that they were ready with the cash as on 26.01.2004. He mainly stress this point because the Defendant was not required to do anything in furtherance to Ex.P1, except to execute the registered sale deed by receiving the balance sale consideration. The Plaintiffs, who kept quiet all the time, have made accusation as if the Defendant was required to produce the title deed and failed to produce the title deed as stated in Ex.P2, which has been issued subsequently to show that as if the Defendant had failed and not the Plaintiffs. Therefore, counsel for the Appellant contends that the Plaintiffs have not approached the Court with clean hands and mere assertion in the pleadings that they were ready and willing to perform their part of the contract, cannot be looked into or considered in the background of the conduct and character of the Plaintiffs in making allegations against the Defendant contrary to the terms and conditions of Ex.P1. Therefore, he requests the Court to allow the appeal.

22. It is no doubt true that the Apex Court in the case of Smt. Chand Rani (dead) by LRs. Vs. Smt. Kamal Rani (dead) by LRs., in paragraph-24 has observed as hereunder:

From an analysis of the above case law, it is clear that in the case of sale of immovable property there is no presumption as to time being the essence of the contract. Even if it is not of the essence of the contract the Court may infer that it is to be performed in a reasonable time if the conditions are:

1. from the express terms of the contract.

2. from the nature of the property and

3. from the surrounding circumstances, for example the object of making the contract.

23. by reading paragraph-24 of the above judgment, it is clear to us that in respect of sale of an immovable property, there cannot be any presumption as to time being the essence of contract, but in this case as Ex.P1 has been prepared by the Plaintiffs with a specific understanding that the transaction shall be completed within 30 days from the date of the agreement, the Defendant was not required to do anything in furtherance of Ex.P1, except to execute the sale

deed. Considering the nature of property, and that there was a boom in the real estate value at Bangalore at relevant point of time, and that the value of the land was increasing every day and that the property is situated in the I.T. Park area and considering that it is for the Plaintiffs to pay the balance sale consideration within 30 days as the Defendant was not required to do anything except to receive the consideration and execute the sale deed, we are of the opinion that time is the essence of contract in the present case. Therefore, to get the sale deed registered within 30 days was rests upon the Plaintiffs. In view of Head Note-A to the said judgment, we are of the opinion that the Plaintiffs were not ready and willing to perform their part of the contract since the Defendant was not required to do anything in furtherance to Ex.P1. The decision of the Apex Court in Smt. Chand Rani (dead) by LRs. Vs. Smt. Kamal Rani (dead) by LRs., has been followed in the other two judgments relied upon by the counsel for the Appellant.

24. Learned Counsel for the Respondents relying upon the judgment of the Apex Court in the case of Sukhbir Singh and others Vs. Brij Pal Singh and others, contends that it was not required for the Plaintiffs to carry balance sale consideration. But, the facts of the said case and the facts of the present case are entirely different. In the aforesaid case, Plaintiffs were ready to take the sale deed. They appeared before the Sub-Registrar and obtained an endorsement to the effect that they appeared before the Sub-Registrar to get the sale deed registered. In the said circumstances, the Apex Court held that it was not required for the Plaintiffs to prove that they had been to the Sub-Registrar with the balance sale consideration. But, in the present case, the scenario is altogether different. In the instant case, it was for the Plaintiffs to pay the balance sale consideration within 30 days and within 30 days the Plaintiffs have not shown their bonafides. Though they have issued Ex.P2 - legal notice dated 21.02.2004, the same is after the expiry of 30 days. In the said notice, false allegations are made against the Defendant contrary to the terms and conditions of Ex.P1. Even under Ex.P2, they have fixed the date for registration as 27.02.2004, but there is nothing on record to show that on 27.02.2004, Plaintiffs had been to Sub-Registrar Office to get the sale deed registered. Therefore, the conduct of the Plaintiffs would only show that the Plaintiffs were not ready and willing to perform their part of the contract by paying balance sale consideration. In the circumstances, we are of the opinion that the Trial Court, without considering the terms and conditions of Ex.P1 and without appreciating certain categorical admissions made by P.W.1 in his cross-examination, has wrongly held that the Plaintiffs were ready and willing to perform their part of the contract and similarly the Court has further held that the Defendant had committed breach of contract even though the Defendant was not required to do anything in furtherance of Ex.P1. In the circumstances, we are of the opinion that the findings of the Trial Court on this issue is perverse and not based on proper appreciation of oral and documentary evidence let in by the parties. Accordingly, we answer the points raised for consideration in this appeal in favour of the

Appellant and against the Respondents.

25. In the result, the appeal is allowed. The judgment and decree dated 14.12.2009 passed by the XI Additional City Civil Judge, Bangalore City, in O.S. No. 1979/2004 is hereby set aside and the suit instituted by the Respondents-Plaintiffs is dismissed.

26. At this stage, it is relevant to note that the Appellant/Defendant had volunteered to pay sum of Rs. 25.00.000/- to the Plaintiffs in addition to Rs. 3,00,000/- which was received by her as advance from the Plaintiffs as per Ex.P1 in order to settle the dispute amicably. Admittedly. Rs. 3,00,000/- has been deposited by the Appellant during the pendency of the suit before the Trial Court on 14.07.2008. In view of the escalation in the price of the property, by many folds as the Appellant had made an offer to pay Rs. 25,00,000/-, we direct the Appellant to pay a sum of Rs. 25,00,000/- to the Respondents-Plaintiffs within a period of six months from today. If the amount of Rs. 25,00,000/- is not deposited within three months from today, the Appellant is also liable to pay interest at 6% p.a. after the completion of the period of six months. In view of the deposit made by the Respondents before the Trial Court pursuant to the decree, the Respondents are permitted to withdraw the amount deposited by them before the Court below and they are also permitted to withdraw a sum of Rs. 3,00,000/-deposited by the Appellant being the advance sale consideration.

Parties to bear their respective costs.

