



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 18<sup>TH</sup> DAY OF MARCH, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE N S SANJAY GOWDA**

**CIVIL REVISION PETITION NO. 501 OF 2023 (IO)**

**BETWEEN:**

1. SRI.H.GOPAL RAO,  
S/O SRI.HEROJI RAO,  
AGED ABOUT 59 YEARS,
2. SMT.SOWBHAGYA,  
W/O SRI.H.GOPAL RAO,  
AGED ABOUT 51 YEARS,

PETITIONERS 1 AND 2 ARE  
R/AT FLAT NO.F-06, "SKANDA NILAYA",  
NAYANA RESIDENCY,  
NEXT TO MALLATHAHALLI CLUB,  
MALLATHAHALLI, BENGALURU - 560 056.

...PETITIONERS

(BY SRI. R.B. SADASIVAPPA.,ADVOCATE)

**AND:**

SRI.B.V.RAMEGOWDA,  
S/O LATE SRI.K.VENKATAPPA,  
AGED ABOUT 62 YEARS,  
R/AT NO.236, 3<sup>RD</sup> BLOCK,  
4<sup>TH</sup> STAGE, BASAVESHWARANAGAR,  
BENGALURU - 560 079.





...RESPONDENT

(BY SRI.VIJAYA KUMAR K., ADVOCATE)

THIS CRP IS FILED UNDER SEC.115 OF CPC., AGAINST THE ORDER DATED 06.04.2023 PASSED ON IA NO.4 IN OS NO.6160/2019 ON THE FILE OF XLII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, REJECTING THE IA NO.4 FILED UNDER ORDER 7 RULE 11 OF CPC., FOR REJECTION OF PLAINT.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The suit was filed seeking enforcement of an agreement of sale dated 16.11.2011 whereby it was stated that the defendants had agreed to sell a suit property for a sum of Rs.42,00,000/- and the time fixed for performance of the contract was two years.

2. In the plaint, there is an averment that the defendants approached the plaintiff for further payment and accordingly, a sum of Rs.1,00,000/- was paid on 05.10.2016 and, in all the 1<sup>st</sup> defendant had received a sum of Rs.41,00,000/- from the plaintiff. There is also an averment in the plaint that the plaintiff issued a legal



notice on 31.03.2018 and thereafter, the suit has been filed on 22.08.2019.

3. The defendant had filed an application to reject the plaint on the ground that the suit was barred by limitation in as much as the agreement of sale was dated 16.11.2011 and the suit had been instituted 8 years thereafter, i.e., on 22.08.2019, and as a consequence, the suit was clearly barred by time. It was also contended that in this period of 8 years, there had been no transactions or even a demand and therefore, the plaint was liable to be rejected. It was also contended by the defendants that they had not received any amount and thus, the entire case was a false case.

4. It is settled law that in order to reject a plaint, the Court is only required to examine the contents of the plaint and if the plaint averments do not disclose the cause of action and/or if the plaint averments by themselves establish that the suit claim was barred by time, only then



the power under Order 7 Rule 11 of the CPC can be invoked for the plaint to be rejected.

5. In this case, the plaint does contain an averment that a sum of Rs.1,00,000/- was paid on 05.10.2016 and thereafter, a demand was made on 31.03.2018. It is therefore, clear that from the plaint averments, the plaintiff seeks to contend that the acceptance of a further sum of Rs.1,00,000/- rendered the earlier limitation fixed invalid.

6. Learned counsel for the respondent also points out that a specific issue has been framed by the Trial Court as to whether this further advance of Rs.1,00,000/- was paid and whether the suit was barred by time.

7. In my view, since the plaint contains an averment of a further payment and the suit has been filed within three years from the date of the demand made by the plaintiff under the legal notice dated 31.03.2018, the Trial Court was justified passing the impugned order dated



06.04.2023. Hence, I find no reasons to interfere with the impugned order, the revision petition is therefore ***dismissed.***

**Sd/-**  
**JUDGE**

RMS  
List No.: 1 Sl No.: 23