



2026:DHC:4130



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Reserved on: 11th February, 2026*
Pronounced on: 11th May, 2026

+ **RFA 678/2024, CM APPL. 59179/2024**

1. **SH. RAMESH CHAND GUPTA**
S/o Late Sh. Jyoti Prasad Gupta
R/o A-1, Vasant Kunj Enclave
New Delhi-110070
...Appellant No.1
2. **SMT. SUNITA GUPTA**
W/o Late Sh. Ram Kishan Gupta
R/o G-60, Second Floor, East of Kailash
New Delhi-110019
...Appellant No. 2
3. **SH. KAPIL GUPTA**
S/o Late Sh. Bhagwan Gupta
R/o Flat No. 208, Sec-22, Pocket-1,
Taj View Apartments, Dwarka,
New Delhi-110075
...Appellant No.3
4. **SH. DEEPAK GUPTA**
S/o Late Sh. Bhagwan Gupta
C/o Sh. Kapil Gupta (Brother & General Attorney)
R/o Flat No. 208, Sect-22, Pocket-I,
Taj View Apartments, Dwarka,
New Delhi-110075
...Appellant No. 4
5. **SMT. NAMITA GUPTA**
W/o Sh. Vineet Gupta
D/o Late Shree Bhagwan Gupta
R/o 6/7, Sarvpriya Vihar
New Delhi-110016
(Through her Brother & General Attorney
Sh. Kapil Gupta)
.....Appellant No. 5



Through: Mr. Sachin Gupta, Advocate.

versus

1. **SH RAMA KANT SAHU**
S/o Late Sh. Satya Narain
R/o 4570, Roshan Pura
Kuch Bibi Gohar
Delhi-110006
....Respondent No.1
2. **SMT. MINAKSHI**
W/o Sh. Mahesh Chand
(D/o Late Sh. Satya Narain)
R/o 3/190, Panama Road
Mt. Wellington, Auckland
New Zealand
.....Respondent No.2
3. **SMT. KAMASHI**
W/o Sh. Arun Kumar Rathore
(D/o Late Sh. Satya Narain)
R/o 1024, First Floor, Gali Teliyan
Tilaz Bazar
Delhi-110006
....Respondent No.3
4. **SH. CHANDRA KANT SAHU**
S/o Late Sh. Satya Narain
R/o G-53, Saurabh Vihar
Jaitpur
New Delhi-110044
.....Respondent No.4

Through: Mr. Anil K Khaware, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Order XLI Rule 1 read with Sections 96 and 151 of the Code of Civil Procedure, 1908 (*hereinafter referred to as*



‘CPC’) has been filed on behalf of the Appellants, to challenge the Order dated 17.08.2024, whereby the Plaint in the Suit for Specific Performance of Agreement to Sell dated 01.03.1993, ***was rejected under Order VII Rule 11 CPC, on the ground of limitation.***

2. The ***brief facts*** are that the Plaintiff filed a Suit for Specific Performance of the Agreement to Sell dated 01.03.1993. It was claimed that the Defendants are the sons and daughters, and legal representatives/successors-in-interest of Late Sh. Satya Narain, S/o Sh. Khairati Lal.

3. Sh. Satya Narain was the owner and in possession of a plot of land admeasuring 1938 sq. yds., bearing Municipal No. 31-A, Begumpur (situated in Khasra No. 67 of Patti Hamid Sarai, Mauza Hauz Rani, Begumpur), Malviya Nagar, New Delhi-110017 (*hereinafter referred to as the ‘Suit Property’*), by virtue of a registered Sale Deed dated 28.08.1988 executed in his favour by the erstwhile owners, namely, Sh. Abdul Shakur and Sh. Abdul Gafoor.

4. Late Mr. Satya Narain agreed to sell the Suit Property to Plaintiff No. 1, Mr. Ramesh Chand Gupta, and his two brothers, namely, Late Mr. Ram Kishan Gupta (*i.e., the predecessor-in-interest of the present Plaintiff No. 2*) and Late Mr. Bhagwan Gupta (*i.e., the predecessor-in-interest of the present Plaintiff Nos. 3 to 5*), *vide* Agreement to Sell dated 01.03.1993, which was duly witnessed by Defendant No. 1 and his mother, Smt. Meera Gulhana (since deceased).

5. At the time of entering into the Agreement to Sell, Late Mr. Satya Narain was already in litigation with the Union of India, Delhi Development Authority and Delhi Administration in respect of the Suit Property, which formed the subject matter of the Agreement to Sell. It was expressly agreed



between the parties that all disputes and litigation concerning the land would be settled by Mr. Satya Narain, i.e., the proposed vendor, at his own responsibility.

6. It was well within the knowledge of the Defendants that Late Mr. Satya Narain had originally filed a *Civil Suit for Permanent and Mandatory Injunction* in respect of the Suit Property, against the defendants therein, *inter alia*, for restraining them and their agents from dispossessing him or his family members from the Suit Property and from demolishing the construction thereon, and for directing the defendants to repair the damaged portion of the property in question, which was pending before this Court, which was subsequently transferred to the learned District Courts at Tis Hazari, Delhi.

7. In view of the aforesaid understanding between the parties (predecessors-in-interest), *vide* Agreement to Sell dated 01.03.1993, the parties agreed to the terms of the Agreement to Sell.

8. The parties, being aware that the Suit Property was under litigation and that the same was pending before the Court, mutually agreed that only a sum of **Rs. 1,50,000/-** would be paid as part-payment, towards the sale consideration on the date of execution of the Agreement to Sell. This comprised of **Rs. 1,40,000/-** paid by cheque dated **01.03.1993** drawn on **Oriental Bank of Commerce, Sarva Priya Vihar, New Delhi**, and **Rs. 10,000/-** were paid in cash, as was evidenced by two separate Receipts. The aforesaid cheque was duly encashed by Late Mr. Satya Narain.

9. The **Civil Suit** filed by Late Mr. Satya Narain on **25.04.1991** before this Court, remained pending for a considerable period, and the parties mutually agreed that they shall await the outcome of the pending court case



and upon the same being disposed of/decided in favour of Late Mr. Satya Narain, the steps would be taken for completion of the transaction.

10. It is further the case that the Plaintiffs/their predecessors-in-interest, that at the request of Late Mr. Satya Narain, further payments were made in pursuance of the Agreement to Sell dated 01.03.1993, which reads as under:-

- i) *On 01.02.1996 the plaintiffs/their predecessors-in-interest made further part payment of **Rs.10,000/-** to Late Mr. Satya Narain, in cash, against receipt.*
- ii) *On 19.09.1996, the plaintiffs/their predecessors-in-interest made further part payment of **Rs.15,000/-** to Late Mr. Satya Narain, through cheque.*
- iii) *On 06.12.1997, the plaintiffs/their predecessors-in-interest made further part payment of Rs.15,000/- to Late Mr. Satya Narain, through cheque and also paid a further amount of Rs.10,000/- in cash, against receipt. Thus, a total amount of **Rs.25,000/-** was paid on 06.12.1997 by way of further part payments.*
- iv) *On 19.04.1999, the plaintiffs/their predecessors-in-interest made further part payment of **Rs.20,000/-** to Late Mr. Satya Narain, through cheque against receipt.*
- v) *On 20.04.1999, the Plaintiffs/their predecessors-in-interest made further part payment of **Rs.10,000/-** to Late Mr. Satya Narain, through cheque against receipt.*



vi) *On 13.05.1999, the plaintiffs/their predecessors-in-interest made further part payment of Rs.10,000/- to Late Mr. Satya Narain, through cheque against receipt.*

11. Thus, the Plaintiffs/their predecessors-in-interest *paid a total sum of Rs. 2,40,000/- to Late Mr. Satya Narain, from time to time, up to 13.05.1999*, after which it was mutually agreed that the further payments/balance sale consideration shall be paid once the pending court case was decided in favour of Late Mr. Satya Narain.

12. The parties so decided in view of the fact that during the pendency of the aforesaid litigation, the DDA carried out demolition of the property in question on 18.05.1999, and put up its signboard, thereby virtually dispossessing Late Mr. Satya Narain from the property in question, which *resulted in the filing of a Contempt Petition, by Late Mr. Satya Narain against the DDA and its officials.*

13. Further, the Plaintiffs, during the lifetime of Late Mr. Satya Narain, kept contacting him from time to time, for updates regarding the pending litigation. On each occasion, they were asked to await the final outcome of the said proceedings. Late Mr. Satya Narain passed away on **02.01.2010**, and his wife, Smt. Meera Gulhana, also passed away, thereafter. Both of them, therefore, departed without the pending litigation having been concluded or the Agreement to Sell having been performed.

14. Thereafter, the aforesaid Defendants, being the sons and daughters of Late Mr. Satya Narain, were substituted as plaintiffs in the Suit for Permanent and Mandatory Injunction instituted by Late Mr. Satya Narain



against the DDA. Even thereafter, the Plaintiffs remained in touch with the Defendants, enquiring about the progress of the said proceedings. However, despite the said litigation i.e. Suit No. **94582/2016** (Old Suit No. **66/2014**) having been finally decided in favour of the Defendants/Respondents herein *vide* judgment and decree dated **11.01.2019** by the learned Civil Judge, Tis Hazari Courts, New Delhi, the Defendants did not inform the Plaintiffs of the said outcome.

15. The Plaintiffs came to know about the decision of the Suit for Permanent and Mandatory Injunction filed by Late Mr. Satya Narain, sometime in the month of December, 2020. The conduct of the Defendants raised a *bona fide* suspicion in the minds of the Plaintiffs that they intended to wriggle out of the deal entered into with the Plaintiffs, *vide* Agreement to Sell dated 01.03.1993.

16. The Plaintiffs claimed that they were always ready and willing to perform their obligations under the Agreement to Sell and were ready to pay the balance sale consideration to the Defendants, as agreed therein. The Plaintiffs approached Defendant No.1, however, he did not entertain them. A Legal Notice dated 15.02.2021, was duly served upon the Defendants calling upon them to execute the requisite Sale Deed, but they failed to do so.

17. *Consequently, the suit for Specific Performance of the Agreement to Sell dated 01.03.1993 in respect of the Suit Property, was filed.*

18. The **Defendants filed an Application under Order VII Rule 11 CPC for rejection of the Plaint.** It was asserted that the suit was *prima facie*, barred by limitation. Admittedly, the Agreement to Sell is dated 01.03.1993, in respect of which payments were made till 13.05.1999. As per



Article 54 of the Limitation Act, 1963, the time limit for instituting a Suit for Specific Performance, is three years. The present Suit was preferred after about 28 years, from the date of the Agreement to Sell.

19. The Defendants/Respondents further asserted that the Suit for Permanent and Mandatory Injunction filed in 1991, was not a Suit for declaration of ownership. The Defendants always remained the owners and in possession of the property by virtue of a duly registered Sale Deed, up to May, 1999, when they were allegedly dispossessed by the DDA. A Contempt Petition was accordingly filed, which came to be decided in favour of the Defendants.

20. The issues framed in the year 2009 in the Suit for Injunction, pertained only to the status of the plaintiff regarding the ownership of the Suit Property; however, no suit for Declaration of ownership was ever filed, the relief being confined to injunction.

21. The Plaintiffs, *in their reply, reiterated the averments made in the plaint and contended that there was no merit in the Application.*

22. The learned District Judge, upon consideration of the contentions of the parties, observed that although no specific time limit was mentioned in the Agreement to Sell, the Agreement had to be performed within a reasonable time. A period of 28 years cannot, by any stretch of imagination, be said to constitute a reasonable period for performance.

23. The Agreement to Sell clearly recorded that Late Mr. Satya Narain was the owner of the property. The Plaintiffs, as per their own admission, had knowledge of the Suit between the Defendants and the DDA. However, the averment of the Plaintiffs that they had such knowledge, is not supported by the terms of the Agreement, which is completely silent in this regard. The



Suit was held to be a desperate attempt by the Plaintiffs, to resuscitate a time-barred claim by way of clever drafting.

24. The cause of action, as per the plaint, arose on 18.05.1999 when the DDA put up its signboard on the property, thereby virtually dispossessing Late Mr. Satya Narain, from the property in question. The date on which Late Mr. Narain was so dispossessed from the premises by the DDA, was held to be the date when performance of the Agreement to Sell became impossible, being in violation of its terms.

25. The learned District Judge, on a plain reading of the Plaint, concluded that Para 21 thereof, specifically pleads that the cause of action arose on 18.05.1999, when the DDA carried out demolition and put up its signboard on the Suit Property, thereby dispossessing the predecessor-in-interest of the Respondents, Late Mr. Satya Narain, being the date on which performance of the Agreement to Sell, became impossible.

26. In arriving at the said conclusion, the learned District Judge placed reliance on Article 54 of the Schedule to the Limitation Act, 1963, which prescribes a period of three years for a suit for specific performance, commencing either from the date fixed for performance or, where no such date is fixed, from the date when the plaintiff has notice that performance is refused.

27. Since no specific date for performance was fixed under the Agreement to Sell, the second limb of Article 54. It was held that the cause of action arose on 18.05.1999, when the DDA carried out demolition, of which the Appellants had notice of the impossibility of performance.



28. The suit, having been instituted on 12.08.2021 more than 22 years *thereafter*, was accordingly **held to be hopelessly time-barred**, and the *Plaint was rejected under Order VII Rule 11(d) CPC.*

29. Aggrieved by the Order dated 17.08.2024, the Appellants have preferred the **present Appeal**, inter alia, **on the grounds** that the learned Trial Court erred in *rejecting the plaint under Order VII Rule 11 CPC, on the ground of limitation.*

30. The learned Trial Court has failed to appreciate that no specific date was fixed for performance under the Agreement to Sell and that the case would fall within the second limb of Article 54 of the Limitation Act, 1963. It is further urged that the parties had agreed to await the outcome of the pending litigation in respect of the Suit Property and, therefore, the cause of action arose only upon the alleged refusal on the part of the Defendants to perform their obligations, after the conclusion of the said litigation.

Submissions heard and record perused.

31. The present Appeal arises from an Order rejecting the plaint, under Order VII Rule 11 CPC. *The essential question for consideration in the present case is, whether the plaint was liable to be rejected as time-barred under Order VII Rule 11(d) CPC.*

32. The scope of examination in such proceedings is well settled. While adjudicating an application under Order VII Rule 11 CPC, the Court is required to confine its examination to the averments contained in the Plaint and the documents relied upon therein; the defence and the averments taken in the Written Statement are wholly irrelevant at this stage.

33. It is equally well settled that rejection of a plaint on the ground of limitation, is permissible only where the suit is, *ex facie*, barred by limitation



upon a meaningful reading of the plaint, as held in the case of *Hardesh Ores Pvt. Ltd. v. Hede & Co.*, (2007) 5 SCC 614. This principle equally contemplates that where the Plaintiff's own averments, either expressly or by necessary implication, establish that the suit is hopelessly time-barred, ***the Court is not only entitled, but duty-bound to reject the plaint at the threshold, so as to prevent an abuse of the process of court.***

34. The Appellants assert that since no date was fixed for performance, the second limb of Article 54 is attracted and limitation ran only from the date of refusal of performance, which they place at 2021.

35. In this respect, it is important to refer to Article 54 of the Schedule to the Limitation Act, 1963, which reads as under:

	Description of suit	Period of limitation	Time from which period begins to run
54.	<i>For specific performance of a contract.</i>	<i>Three years</i>	<i>The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.</i>

36. Since the Agreement to Sell does not stipulate a fixed calendar date for performance, the second limb of Article 54 is attracted, and the determinative question is when the Appellant first had notice of refusal of performance.

37. In view of the understanding between the parties (predecessors-in-interest), *vide* Agreement to Sell dated 01.03.1993, the parties agreed to the terms of the Agreement to Sell, which are as under:

(i) *“That the Second party has paid the part payment of Rs. 1,40,000 (Rupees one lac forty thousand only) through cheque dated 1.03.1993 drawn on Oriental Bank of Commerce*



Serve Priya Vihar, New Delhi and Rs. 10,000/- (Rupees ten thousand only) in cash. The First party acknowledged the receipt of said payments and also executed separate receipt of the same.

(ii) That all disputes, and litigation etc., concerning the land would be got settled by the First party at his own responsibilities.

(iii) That the requisite no objection from acquisition department and Income tax department shall be obtained by the First party and be informed to the second party accordingly so that the second party can take steps to make full and final payment of the sale consideration and other formalities for execution and registration of the sale deed.

(iv) That it is understood that the First party would bonafidely attempt to handover the possession of the land to the second party and thereafter receive the full and final payment of the sale consideration within 8 (eight) months. The parties are also agreed that they will adjust reasonable period for complying with their respective Obligations under the agreement.

(v) That the first party shall executed a proper power of Attorney in favour of the second party for the purpose of development and sale of the land.

(vi) That after getting the requisite permissions the First party shall execute the proper sale deed in favour of the second party or their nominee(s) and get the same register with the appropriate registering authorities and prepare all deeds in this respect in favor of the Second party.

(vii) That the First party will not create any charge on the said property after signing this agreement in favour of the second party.



(viii) *That the First party has assured the Second party that the property is free from all kinds of litigations the private parties, prior sale, gift, will, surety, mortgage and there is no Bar on the said property and if it is found otherwise, then the First party is liable and responsible for all the consequences and shall make good the loss then suffered by the second party in this regard.*

(ix) *That if the First party evades to execute the sale Deed in Favour of the Second party or their nominee(s), as the second party can complete all the sale documents through court of law at the costs and risk of the First party by specific preference of the contract.*

(x) *That the all pending bills against water and electricity shall be paid by the First party up to the date of handing over the possession of the second party.”*

38. A reading of the Agreement to Sell dated 01.03.1993 shows that the preamble itself records that *“the First Party is the owner and in possession of the plot of land”*. The Suit instituted by the predecessor-in-interest in the year 1991 against the DDA, was for *Permanent and Mandatory Injunction, and not for declaration of title or ownership*. The said litigation was confined to protection of possession and did not affect the title of the predecessor-in-interest. Ownership, therefore, was never in dispute. Consequently, there was no legal bar to the predecessor-in-interest, in executing the Sale Deed, at any point of time.

39. The Agreement to Sell dated 01.03.1993 contains no reference to the DDA litigation pending since 1991. *Clause 2, while imposing a general obligation on the First Party to settle "all disputes and litigation concerning the land", makes no specific mention of the 1991 suit*. More significantly,



Clause 8 contains an express warranty that *"the property is free from all kinds of litigations...and there is no Bar on the said property"*, a warranty given by the predecessor-in-interest with full knowledge of the pending DDA proceedings.

40. The coexistence of a general litigation-settlement clause and an express no-litigation warranty, with complete silence on the 1991 suit specifically, is wholly inconsistent with alleged mutual understanding to defer performance, pending the outcome of that litigation.

41. The judgment dated **11.01.2019** in Suit No. 94582/2016, is itself instructive. Issue No. 1 whether the plaintiff was the owner of the suit property was **struck off** under Order 14 Rule 5 CPC, and the court specifically recorded that *"since the present suit is simplicitor for injunction, this Court does not find it appropriate to decide as to who is the actual owner."* Title was never in question; the entire litigation concerned protection of possession. There was, therefore, no legal bar on the predecessor-in-interest to execute the Sale Deed at any point between 1993 and 1999. The failure to perform the Agreement during this period, was entirely on account of the parties' own omissions, and not any legal impediment.

42. *Clause 4 of the Agreement* provided that the First Party would *"bona fide attempt to hand over possession of the land to the Second Party and thereafter, receive the full and final payment of the sale consideration within eight months"*.

43. In R. Kandasamy v. T.R.K. Sarawathy, 2024 INSC 884 the Hon'ble Supreme Court, relying upon Saradamani Kandappan v. S. Rajalakshmi, (2011) 12 SCC 18 and other earlier decisions, reiterated that though time



may ordinarily not be of the essence in contracts relating to immovable property, the Court may infer performance within a reasonable period having regard to the terms of the contract, nature of the property and surrounding circumstances. It was further held that in transactions involving valuable urban properties, *Courts must apply greater scrutiny while examining the readiness and willingness of the purchaser and cannot ignore prolonged inaction and steep escalation in property prices while granting the equitable relief of specific performance.*

44. Applying the said principle to the facts of the present case, the Suit Property admeasures **1938 sq. yds.** situated in Malviya Nagar, New Delhi prime urban immovable property agreed to be sold in **1993** at Rs. 3,000/- per sq. yd. for a total consideration of **Rs. 58,14,000/-**. Against this, only **Rs. 2,40,000/-** was paid over six years. **Thereafter, no step whatsoever** was taken for over **22 years**. The express terms of the Agreement, itself contemplated performance within **eight months**, with only a reasonable extension for foreseeable delays. Having regard to the nature and value of the property, the timelines stipulated by the parties, and the complete absence of any timely assertion of rights for over two decades, it is clear that the Agreement was not performed within a period, that could be characterised as reasonable. The Appellants cannot be heard to contend that contractual obligations arising from a 1993 Agreement, remained alive and enforceable in 2021.

45. The Plaint unambiguously concedes that after 18.05.1999, when the DDA dispossessed the predecessor-in-interest, *both parties had full awareness that the transaction could not proceed; indeed, it is the Appellants' own case that after that date the parties mutually agreed to defer*



all further payments and completion of the transaction, until the litigation concluded.

46. This mutual acknowledgment of the impossibility of performance is itself notice, within the meaning of the second limb of Article 54, that performance could not be carried out. Limitation, therefore, commenced at the latest in May 1999, and the Suit was filed on 12.08.2021, after over 22 years later, is hopelessly time-barred even on the Appellants' own legal framework.

47. Even if the averment in Para 21 of the Complaint is taken as referring to only one part of the cause of action and not its complete accrual, the position does not improve for the Appellants. The dispossession by the DDA in May, 1999 materially affected the performance of the Agreement, particularly in respect of handing over possession and execution of the Sale Deed.

48. The Plaintiffs themselves state that after 18.05.1999 it was “mutually agreed” that further payments would be made only after the conclusion of the pending litigation, which indicates that the parties were aware that the transaction could not be completed, in terms of the Agreement at that stage.

49. The Appellants’ attempt to justify the delay of over 22 years on the basis of an alleged “*mutual oral agreement*,” to defer the transaction pending the DDA litigation, is unpersuasive. No material has been placed on record to indicate that the Agreement to Sell continued beyond 13.05.1999. There is no document, correspondence, acknowledgment, or any other record during the period from 13.05.1999 till 15.02.2021, evidencing subsistence of the Agreement or any obligation thereunder.

50. The position is further reinforced by the subsequent conduct of the parties. The predecessor-in-interest, Late Mr. Satya Narain, expired on



02.01.2010, and his wife, Smt. Meera Gulhana, also expired thereafter. Despite this, the Appellants made their last documented payment on 13.05.1999 and thereafter, took no steps whatsoever - no letter, no demand, no Legal Notice, no filing of any proceeding - for over 21 years and 9 months, until the issuance of the Legal Notice dated 15.02.2021.

51. This prolonged silence is inordinate, unexplained, and finds no support in any material placed on record. Not a single document, letter, receipt, written communication of any kind has been placed on record to evidence that the Agreement remained alive after 13.05.1999. There is no acknowledgment in writing by the Respondents of any subsisting obligation, and the plea that the Respondents had "assured" the Appellants is a bald and unsupported assertion, which cannot furnish any legally cognisable basis to keep the Agreement dated 01.03.1993 alive till 2021.

52. The Limitation Act, 1963 provides specific mechanisms for extension or saving of limitation. Section 18 provides that where, before the expiration of the prescribed period, an acknowledgment of liability in respect of the right claimed is made in writing and signed by the party against whom such right is claimed, a fresh period of limitation shall commence from the date of such acknowledgment. No such written acknowledgment, whether of the original Agreement or any renewal thereof, is disclosed in or placed on record with the plaint. Oral assurances, alleged to have been given over a period of time, cannot substitute the clear statutory requirement of a written and signed acknowledgment.

53. The Appellants have further contended that the Respondents deliberately concealed the Judgment dated 11.01.2019, from them and that they came to know of it only in December, 2020. Even if this averment is



accepted as true, it does not constitute "*notice of refusal of performance*" within the meaning of Article 54 of the Limitation Act, 1963. The Judgment dated 11.01.2019, is entirely silent on the Agreement to Sell and concerns only the civil rights of the Respondents in the proceedings against the DDA; it does not, by itself, amount to a refusal to perform the obligations arising under the Agreement.

54. Moreover, a judgment and decree passed by a Civil Court in the Suit pending since 1991, is a matter of record. The Appellants claim to have remained in regular contact with the predecessor-in-interest/ Respondents throughout this period, seeking updates on the DDA litigation. If such claim of regular contact is accepted, their unawareness of a favourable decree in the very proceedings forming the basis of the alleged deferral, is inherently improbable. ***The plea of "concealment" thus, is an afterthought, advanced only to explain the inordinate delay and bring the suit within limitation.***

55. The Appellants have also urged that it would have been "futile" to institute a Suit for Specific Performance, while the predecessor-in-interest was dispossessed in 1999. However, when performance of a contract becomes temporarily impeded by the act of a third party, the purchaser is not absolved of the obligation to pursue available remedies, within the prescribed period of limitation.

56. The Appellants were aware, as early as 18.05.1999, that the predecessor-in-interest had been dispossessed and that the transaction could not be completed in the manner contemplated. They could have instituted a suit for specific performance with an alternative claim for damages; sought protection against alienation of the Suit Property, or otherwise taken steps to



safeguard their alleged rights under the Agreement. No such steps were taken for over two decades.

57. The decisions relied upon by the Appellants do not advance their case. In *Urvashiben v. Krishnakant Manuprasad Trivedi*, (2019) 13 SCC 372, it was held that the issue of when the plaintiff had notice of refusal may require trial; however, this principle applies where the accrual of the cause of action is genuinely ambiguous and dependent on contested facts. In the present case, there is no such ambiguity. The Plaintiff itself concedes that as of May 1999, both parties were aware that performance could not proceed.

58. Similarly, in *Shakti Bhog Food Industries Ltd. v. Central Bank of India*, (2020) 17 SCC 260, it was observed that limitation may, in certain cases, involve a mixed question of fact and law; however, such principle applies where the foundational facts are in dispute. Here, the material facts that performance became impossible in May 1999, that both parties acknowledged this, and that no written acknowledgment of any subsisting obligation exists all stand admitted from the Plaintiff itself, leaving nothing genuinely in dispute.

59. As regards *Eldeco Housing & Industries Ltd. v. Ashok Vidyarthi*, 2023 SCC OnLine SC 1612, the said decision reiterates that the plaintiff must be read as it stands, without addition or subtraction. A plain reading of the present Plaintiff, including the Appellants' own contention that both parties acknowledged in May 1999 that the transaction could not proceed, supports the rejection of the plaintiff rather than its restoration.

60. The only basis on which the Appellants seeks to defer the commencement of limitation to 2021, is an alleged oral agreement to defer and an alleged concealment of the 2019 Judgment, neither of which is



supported by a single written document, and neither of which constitutes a valid basis for suspending the running of limitation in the absence of a written acknowledgment under Section 18 of the Limitation Act, 1963.

61. In view of the foregoing, it is held that the learned District Judge was justified in rejecting the plaint under Order VII Rule 11(d) CPC.

62. The suit is *ex facie* barred by limitation under Article 54 of the Limitation Act, 1963. The Appellants' own pleading fixes 18.05.1999 as the date of the cause of action; the suit instituted on 12.08.2021, more than 22 years thereafter, is clearly barred by limitation.

63. Specific performance is a discretionary and equitable remedy. In *Saradamani Kandappan v. S. Rajalakshmi & Ors.*, (2011) 12 SCC 18 the Hon'ble Supreme Court reiterated that the Plaintiff seeking specific performance must establish continuous readiness and willingness to perform his part of the contract and further observed that, in cases involving long delay coupled with substantial escalation in property prices, grant of specific performance may become inequitable.

64. In the present case, the claim remained dormant for over 22 years and there is no material on record to demonstrate continuous readiness and willingness on the part of the Plaintiff or availability of funds for completion of the transaction. To direct the Respondents to part with 1938 sq. yds. of urban property situated at Malviya Nagar at 1993 prices, on the basis of payment of merely Rs. 2,40,000/- against the alleged total sale consideration of Rs. 58,14,000/-, would be manifestly inequitable and constitutes an additional ground to decline the relief of specific performance.

65. The narrative of a prolonged "mutual deferral", "regular contact" and alleged "concealment of a public court decree", unsupported by any written



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document and devoid of any acknowledgment within the meaning of Section 18 of the Limitation Act, 1963, cannot furnish a legally cognisable basis to keep the Agreement dated 01.03.1993 alive till the year 2021. The present case falls squarely within the principle enunciated in T. Arivandandam v. T.V. Satyapal & anr, AIR 1977 SC 2421, that where clever drafting creates an illusion of a cause of action, the Court must nip it in the bud.

66. Accordingly, there is no merit in the present Appeal, *which is hereby, dismissed.*

67. Pending applications, if any, stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 11, 2026/RS