In the High Court at Calcutta

Civil Appellate Jurisdiction

Appellate Side

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Supratim Bhattacharya

F.A.T. No. 209 of 2022
IA No: CAN 3 of 2025

Burhanur Rahaman and Others

-Versus-

Nurul Islam and others

For the appellants	:	Mr. Gopal Chandra Ghosh, Sr. Adv., Mr. Arnab Roy, Mr. Satyam Mukherjee, ... Advs.
For the respondent nos.1 & 2	:	Mr. Pralay Kar, Ms. Debasree Dhamali, Ms. Riya Ghosh, Ms. Debolina Ghosh, ... Advs.
For the respondent nos.2(a) & 2(b)	:	Mr. Aniruddha Chatterjee, Sr. Adv., Mr. Abir Lal Chakraborty, ... Advs.
Heard on	:	02.07.2026
Reserved on	:	02.07.2026
Judgment on	:	08.07.2026

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been filed at the behest of the plaintiffs in a suit for specific performance of an unregistered agreement dated April 8, 2009, against the dismissal of the said suit.

2. Learned senior counsel appearing for the appellants contends that although the plaintiffs/appellants did not sign the agreement-in-question, such omission does not vitiate the agreement, since it was duly signed by the vendors/principal respondents and the appellants were all along ready and willing to perform their part of the contract. Moreover, the appellants, by filing the suit for specific performance, have also expressed their intention to have the agreement performed.

3. Learned senior counsel further argues that although it was stipulated in Clause (2) of the agreement that the purchase shall be completed within three months from the date of execution of the agreement, the said Clause was subject to the rider that a good and marketable title is made out and the vendors make the property free from all encumbrances, claims and demands. However, the vendors/principal respondents did not hand over to the purchasers the title deeds, municipal bills and other papers necessary to ascertain such marketable title. As such, the stipulated period of three months was not treated by the principal respondents themselves to be the outer limit of performing the agreement. By not performing their part of the contract, it is argued, the principal respondents/vendors diluted the time-limit and, as such, it cannot be said that time was the essence of the contract.

4. Moreover, in their letter dated May 4, 2010 (marked as Exhibit-2 in the suit) written to the vendors/principal respondents, the appellants asserted that although the appellants were always ready and willing to pay the balance consideration amount, the principal respondents did not perform their part of the contract by supplying the *parcha* of the present owner, existing sanction plan and related deeds. No reply was given to the said letter by the vendors/principal respondents, thereby admitting such allegations. As such, it should be construed to be an admitted position that only due to the principal respondents not performing their part of the contract, the deed could not be executed within the stipulated period of three months pursuant to the contract.

5. Learned senior counsel for the appellants next contends that Clause (2) of the agreement contemplated receipts to be issued upon the deeds and other documents, including municipal bills relating to the subject-property, being handed over to the appellants. The principal respondents could not produce any such receipt before the Trial Court. Rather, DW-1, in his cross-examination, admitted that he had no document to show that the original deed, *khajna* receipts, tax receipts and other connected papers relating to the subject property were delivered to the plaintiffs/appellants.

6. Learned senior counsel further argues that the principal respondents, in their written objection to the application filed by the plaintiffs/appellants for amendment of the plaint, admitted that a meeting was held on July, 2010 between the plaintiffs, the principal defendants and the proforma defendant, where the members of the said meeting requested the principal defendants/respondents to complete the registration of sale deed after payment of balance consideration, but the principal defendants refused to do so. Thus, it is evident from the records that an offer was made by the plaintiffs even after the expiry of the stipulated period of three months and that the principal defendants/respondents had agreed to a joint meeting to resolve the issue. Accordingly, it is contended that time was never the essence of the contract.

7. Learned senior counsel appearing for the appellants further argues that the plaintiffs/appellants were all along ready and willing to perform their part of the contract. It is argued that as per the amended Section 16(c) of the Specific Relief Act, 1963, there is no necessity to plead readiness and willingness in the plaint. Thus, the said requirement has been diluted by the Legislature.

8. Furthermore, from Exhibit-2, the notice issued by the plaintiffs on May 4, 2010, it would be evident that the plaintiffs/appellants were ready and willing to pay the balance consideration amount to have the agreement performed at all points of time. By choosing not to reply to the said letter, the principal defendants/respondents tacitly consented to such position.

9. Furthermore, in the written objection to the application for amendment of plaint, the principal respondents themselves admitted having held a joint meeting with the plaintiffs for resolution of the dispute regarding performance of the agreement, where the plaintiffs offered to pay the balance consideration amount but the principal defendants/respondents refused to accept the same.

10. Thus, the fact that the plaintiffs/appellants were ready and willing to perform the agreement at all points of time cannot be disputed.

11. Learned senior counsel appearing for the appellants next submits that the principal defendants/respondents admittedly did not inform the plaintiffs/appellants about execution of the sale deed in favour of the added respondents/subsequent purchasers till after execution of the same. Moreover, in the deed executed by the principal respondents in favour of the subsequent purchasers, the principal respondents falsely gave out that there was no prior agreement in respect of the suit property, thereby suppressing the existence of the subject agreement to the subsequent purchasers. In the said deed, there is a clause which provides that the subsequent purchasers may resile from the deed in the event it is found that any material fact was suppressed or incorrectly stated therein. Thus, the said transaction is itself vitiated by the aforementioned suppression.

12. That apart, the appellants argue, the subsequent purchasers were fully aware of the prior agreement between the principal respondents and the appellants, to cover up which the deed deliberately included the clause of there being no prior agreement. Hence, by resorting to such falsehood, the principal respondents and the added respondents now seek to make out a case that the latter were unaware of the prior agreements, being thus *bona fide* purchasers for value without notice, which is contrary to facts.

Accordingly, it is submitted that the agreement is fully enforceable against the subsequent purchasers/added respondents as well.

13. Lastly, learned senior counsel argues that merely because the proforma respondent (one of the original intending purchasers) subsequently resiled from the agreement, the agreement cannot be said to have been vitiated on such count alone. The appellants submit that they had paid the share of the consideration amount of the proforma respondent to him, which tantamounts to the proforma respondent assigning his role as an intending purchaser to the plaintiffs/appellants. It is pointed out that in the description of parties in the subject agreement, "assigns" of the purchasers were also included within the definition of "purchasers". Hence, the learned Trial Judge ought to have directed specific performance of the agreement in favour of the appellants, both in their own capacity and in the capacity of assignees of the proforma respondent.

14. In reply, learned counsel for the principal respondent nos. 1 and 2 argues that the plaintiffs/appellants were not ready and willing to perform their part of the contract, which is a *sine qua non* for grant of a decree of specific performance, at any relevant point of time.

15. In his cross-examination, DW-1 admitted that he had no document to show that the plaintiffs/appellants had the balance consideration amount of Rs.25.50 lakh during the three months immediately following the execution of the agreement. Thus, even at the relevant juncture, the appellants could not have performed their part of the agreement by paying the balance consideration amount as per the agreement. Accordingly, it is argued that the lack of readiness and willingness on the part of the plaintiffs/appellants debarred them from claiming specific performance of the contract.

16. Secondly, learned counsel for the principal respondents argues that the agreement-in-question did not contain the signature of the intending purchasers/appellants, thus rendering the same invalid in the eye of law.

17. Thirdly, in view of the proforma respondent (one the original intending purchasers) having withdrawn from the agreement, the said agreement, in its original form, was rendered void and inexecutable. In the event specific performance was to be granted by the learned Trial Judge, the court would have to re-write the contract and direct performance of a new contract without the proforma respondent, which is not permissible in law.

18. That apart, the learned Trial Judge, in the impugned judgment and decree, directed the earnest money to be returned by the principal respondents to all the intending purchasers, including the proforma respondent, thus indicating that the alleged assignment of the rights of the proforma respondent to the appellants was never recognised by the learned Trial Judge.

19. In support of his contenting relating to readiness and willingness, learned counsel for the principal respondents cites *Mohammed Khaleel (D) Through LRs & Ors. Vs. Jayamma [Civil Appeal No. 2187 of 2011]*, where the Hon'ble Supreme Court reiterated the principle of readiness and willingness and observed that the relief of specific performance is one based on equity for enforcing contractual obligation undertaken by the parties and Section 16(c) of the Specific Relief Act required the person seeking specific performance to specifically aver and prove his continuous readiness and willingness to perform his obligations. A failure to satisfy these requirements would ultimately make him disentitled for the relief of specific performance. The term 'readiness', it was held, refers to the financial capacity, and the term 'willingness' reflects the conduct and intention of the party seeking the relief to perform the contract, and both these conditions cumulatively have to be seen for making out a case of specific performance. In the present case, since the appellants failed on both counts, the relief of specific performance could not be granted in their favour.

20. Learned senior counsel for the added respondents/subsequent purchasers, while adopting the arguments of the principal respondents, adds that Section 19(b) of the Specific Relief Act specifically excludes *bona fide* purchasers for value without notice from the purview of specific performance of contracts. It would be evident from the purchase deed of the added respondents that the principal respondents (vendors therein) clearly stated in the deed that there was no prior agreement in respect of the subject-property. Not a single document has been produced by the appellants to prove that the added respondents had any knowledge of the prior agreement between the parties. Thus, the relief of specific performance cannot be granted against the subsequent purchasers. Any prior knowledge of the agreement on the part of the added respondents has also been denied in Paragraph No. 9 of the written statement of the added respondent nos.2(a) and 2(b), it is submitted.

21. In support of his contentions, learned senior counsel appearing for the added respondents cites *Maharaj Singh and others v. Karan Singh (dead) Through Legal Representatives and others*, reported at *(2024) 8 SCC 83*, where the principle embodied in Section 19(b) was reiterated.

22. Upon hearing learned counsel for the parties, the following issues come up for consideration in the present appeal:

(i) *Whether the subject-agreement was vitiated due to absence of the signatures of the intending purchasers/appellants;*

(ii) *Whether time was the essence of the contract; if so, whether the same debars the claim for specific performance;*

(iii) *Whether the appellants could prove their readiness and willingness to perform their part of the contract;*

(iv) *Whether the unwillingness of the proforma respondent to act in terms of the agreement operates as a bar to specific performance of the agreement;*

(v) *Whether the relief of specific performance can be granted in view of subsequent sale of the subject-property to the added respondents/subsequent purchasers.*

23. The above issues are decided as follows:

(i) ***<u>Whether the subject-agreement was vitiated due to absence of the signatures of the intending purchasers/appellants</u>***

24. From the Agreement dated April 8, 2009 (Exhibit-9), it is evident that the same contains only the signatures of the intending vendors/principal respondents; the signatures of the intending purchasers/appellants are conspicuous by their absence. However, such fact, *per se*, does not vitiate the agreement. No law mandates that an agreement, to be binding on one of the parties thereto, has to mandatorily contain the signature of the other party. It would suffice that the execution of the agreement is not disputed by any of the parties and is duly proved by evidence. The question which arises in the present case is whether the agreement was enforceable against the intending vendors. Since the same contained the signatures of the principal respondents/vendors, the agreement is binding on the principal respondents and, as such, they cannot raise any objection to the binding effect of the same merely due to absence of the appellants' signature. In any event, since the appellants have, although at a belated stage, written to the principal respondents on May 4, 2010 (Exhibit-2) indicating their intention to purchase the property and have also filed the suit for specific performance of the same, by their conduct they have relied on the agreement. Thus, mere absence of the signature of the appellants on the agreement does not render the same *void*, nor vitiated in any manner.

25. Accordingly, this issue is decided in favour of the appellants.

(ii) ***<u>Whether time was the essence of the contract; if so, whether the same debars the claim for specific performance</u>***

26. Clause (2) of the agreement for sale dated April 8, 2009, clearly stipulates that the purchase shall be completed within months from the date of execution of the agreement, provided a good marketing title is made out and the vendors and the vendors make the property free from all encumbrances, claims and demands whatsoever.

27. The appellants have not been able to establish, nor have pleaded that the principal respondents/intending vendors did not have a good and marketable title and that the property was not free from encumbrances, claims and demands. Thus, the stipulation of three months cannot be diluted on such count. In Clause (3) of the agreement, it is specifically stipulated that time for the said performance would be deemed to be the essence of the contract. Hence, the parties intended the stipulated period of three months to be the essence of the contract.

28. The appellants argue that due to the non-handing over of the deeds and other papers, including municipal bills, relating to the property by the respondent nos.1 and 2 to the appellants, which was to be done simultaneously with the execution of the agreement, the period of three months stood extended, as the appellants could not ascertain the marketable title within such period.

29. However, it is to be noted that during the said three months, not a single communication made by the appellants to the principal respondents has been brought on record to indicate that the appellants ever raised such objection or intimated the same to the principal respondents during the stipulated period of three months.

30. In his cross-examination, DW-1 merely admitted that he had no document to show that the title deeds and other papers relating to the property were handed over to the appellants. Undoubtedly, Clause (2) of the agreement envisages accountable receipts for delivery of the deeds and other related papers, and the principal respondents have failed to produce any such receipts. However, mere absence of receipts cannot automatically give rise to the conclusion that the documents were not handed over in reality. In fact, by their own conduct, the appellants have belied their objection on such score, since no such objection was raised contemporaneously in that regard at all. It remains unexplained as to what prevented the appellants from demanding such documents in the event those were not handed over, during the stipulated three months from the execution of the agreement.

31. Although Clause (2) of the agreement stipulates that such deeds and other papers relating to the property were to be delivered by the vendors to the appellants simultaneously with the execution of the agreement, there was no default clause, diluting the mandatory period of three months for the execution of the deed in pursuance of the agreement in the event such documents were not handed over.

32. The appellants further argue that since the principal respondents did not reply to the notice dated May 4, 2010 (Exhibit-2), issued by the plaintiffs alleging that the principal respondents were silent during the relevant period as to the performance of their part of the agreement, it cannot be overlooked that such *post facto* notice, issued one year after the expiry of the stipulated three months from the execution of the agreement dated April 8, 2009, cannot *ipso facto* validate the inaction of the appellants during such period.

33. Mere absence of any reply to the said notice by the principal respondents cannot automatically imply any admission on the part of the principal respondents as to the contents of the same. The said letter was neither any affidavit nor any pleadings in a litigation, that the doctrine of non-traverse would be applicable thereto.

34. The contents of the written objection of the respondent nos. 1 and 2 to the application for amendment of plaint filed by the appellants do not indicate in any manner that time was not the essence of the contract. As per the averments made therein, much subsequent to the stipulated mandatory period of three months and even after execution of the sale deed in respect of the property in favour of the added respondents, a meeting was convened by well-wishers of the parties. However, such averments do not amount to an admission that the stipulated time limit for performance of the agreement was extended; rather, it is categorically averred in the said written objection that the earnest money was sought to be returned by the principal respondents after such period, which was refused by the appellants, and that the principal respondents denied to perform the agreement between the parties at that juncture. Such *post facto* developments cannot be construed to have diluted or extended the mandatory period of three months from the date of execution of the agreement.

35. Hence, this Court comes to the conclusion that as per the terms of the agreement, time was the essence of the contract and there is nothing on record to indicate that the parties resiled from such position.

36. Accordingly, the claim for specific performance of the agreement is debarred on such count alone.

(iii) ***Whether the appellants could prove their readiness and willingness to perform their part of the contract***

37. The argument of the appellants that post-amendment of Section 16 (c) of the Specific Relief Act, 1963, no averment is required to be made in respect of readiness and willingness, does not come to the aid of the appellants. We say so because even the amended Section 16(c) mandates that the plaintiffs in a suit for specific performance have to prove their readiness and willingness. Only the requirement of an averment being made to that effect in the plaint has been deleted from the statute, but not the necessity to prove such fact.

38. Coming to the facts of the instant case, PW-1, in his cross-examination, categorically admitted that he did not have any document to prove that the appellants were in possession of the balance consideration amount of Rs.2.50 lakh within the three months following the execution of the agreement. Thus, the readiness and willingness of the plaintiffs/appellants at the relevant juncture, when it was most required, was not only not proved by the appellants, but disproved by such admission of PW-1 in his cross-examination.

39. Learned senior counsel appearing for the appellants submits that the balance consideration was deposited by the appellants. However, admittedly, such deposit was made much later, only pursuant to the direction of this court in connection with the appeal, and nowhere near the relevant period when it was to be paid.

40. The so-called readiness and willingness of the appellants cannot be said to be vindicated by the notice dated May 4, 2010 (Exhibit-2), issued about more than one year after execution of the agreement, and/or the subsequent attempts at reconciliation under the intervention of common well-wishers of the parties. Such *post facto* attempts cannot justify the appellants' plea that they have established their readiness and willingness at all material points of time.

41. As reiterated in *Mohammed Khaleel (D) Through LRs (supra)*[1], proof of readiness and willingness has to be continuous, from the execution of the agreement till the suit for specific performance is disposed of. 'Readiness', as explained in the said decision, refers primarily to the financial capacity of the intending purchasers, which was disproved by the evidence of PW 1 and not established by any cogent evidence whatsoever by the appellants. Even on 'willingness', during the stipulated three months, or even much thereafter, not a single correspondence or other material evidence has been brought on record to indicate that the plaintiffs/appellants were even willing to perform their part of the agreement during the relevant period, when it

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[1] ***Mohammed Khaleel (D) Through LRs & Ors. Vs. Jayamma [Civil Appeal No. 2187 of 2011]***

mattered most. Exhibit A-series in the suit indicates that the principal defendants/respondents cancelled the agreement by their letter to the appellants dated April 15, 2009, after waiting for the stipulated three months' period, which was proved to have been served on the appellants. Even thereafter, the appellants waited till as late as May 4, 2010 to give a notice to the principal respondents as to their intention to honour the agreement.

42. Thus, in absence of any contemporaneous proof to show the readiness and willingness of the appellants at all points of time, the suit for specific performance was rightly dismissed on such ground as well by the learned Trial Judge.

43. This issue, thus, is decided against the appellants.

(iv) ***Whether the unwillingness of the proforma respondent to act in terms of the agreement operates as a bar to specific performance of the agreement***

44. The proforma respondent, one of the original intending purchasers, subsequently resiled from the said agreement. Thus, the principal respondents are justified in arguing that the agreement, in its present form, could not be performed, since a decree for a deed to be executed after the abstention of the proforma respondent would necessarily mean that the court would have to re-write the agreement, by directing a sale deed to be executed by the principal respondents only in respect of the plaintiffs/appellants, without the proforma respondent being a party thereto.

45. The appellants vociferously argue that the proforma respondent assigned his part of the agreement to the plaintiffs/appellants, thus bringing the appellants within the purview of "assigns" which is included in the definition of "purchasers" in the agreement.

46. However, no material evidence has been brought on record to establish the fact that the appellants have actually paid the proforma respondent's share of the consideration amount/earnest money to him and/or any agreement between the appellants and the proforma respondent regarding assignment. In the absence of any proof as to such assignment, fact remains that the agreement, as it originally stood, could not be performed after the proforma respondent backed out from the same. Hence, the unwillingness of the proforma respondents, one of the intending purchasers, to act on the agreement debars the relief of specific performance of such agreement as it originally stood.

(v) Whether the relief of specific performance can be granted in view of subsequent sale of the subject-property to the added respondents/subsequent purchasers

47. Section 19(b) of the Specific Relief Act, 1963 provides that specific performance of a contract may be enforced against any other person (than a party to the agreement) claiming under the parties to the agreement by a title arising subsequently to the contract. However, the said provision carves out an exception to the same in respect of a transferee for value who has paid his money in good faith and without notice of the original contract.

48. In the present case, not an iota of evidence has been brought on record by the appellants to establish that the added respondents/subsequent purchasers had any knowledge of the prior agreement between the appellants and the principal respondents at the time of purchase. On the contrary, in the sale deeds executed in favour of the subsequent purchasers on September 8, 2010, which has been brought in evidence by the principal defendants/respondents (Exhibits-C and D), it would be evident that it was stated in the sale deeds that the subject-property of the sale was not encumbered by any prior agreement for sale in favour of any third party and it was denied therein that any earnest money was received by the vendors (principal respondents) from any third party. Thus, from the very contents of the transfer deed executed in favour of the added respondents, it is clinched that the subsequent purchasers/added respondent nos.2(a) and 2(b) did not have any knowledge of the prior agreement between the plaintiffs/appellants and the principal defendants/respondents.

49. The agreement-in-question dated April 8, 2009 is admittedly an unregistered agreement. Thus, it cannot also be said that the subsequent purchasers had deemed notice of the same in view of its registration.

50. Accordingly, not only have the appellants failed to prove any prior knowledge of the subsequent purchasers in respect of the subject-agreement dated April 8, 2009, such prior knowledge has been disproved by the contents of the deed executed in favour of the subsequent purchasers.

51. As reiterated in *Maharaj Singh (supra)*[2], Section 19(b) specifically excludes the enforcement of contracts by specific performance against *bona fide* purchasers for value paid in good faith and without notice of the original contract. Since the subsequent purchasers/added respondents squarely fall within such exempted category, the subject-agreement is not specifically enforceable against them. As the subsequent purchasers are the current owners of the property, no effective decree can thus be passed in the appellants' suit for specific performance of the agreement dated April 8, 2009.

52. Hence, this issue is also held in favour of the respondents and against the appellants.

CONCLUSION

53. In view of the above findings, this Court does not find any error of law or fact in the impugned judgment and decree, whereby the learned Trial Judge refused to grant specific performance of the Agreement dated April 8, 2009, in favour of the plaintiffs/appellants. For the sake of completeness, we also take note of the fact that, at best, the remedy of the plaintiffs/appellants might have lay in damages against the principal respondents for the latter having transferred the subject-property in favour of the third parties/added respondents by suppressing the existence of the prior agreement for sale. However, the said relief is a non-starter, since, in the plaint, the

[2] ***Maharaj Singh and others v. Karan Singh (dead) Through Legal Representatives and others*, reported at *(2024) 8 SCC 83***

plaintiffs/appellants have only claimed made an alternative claim of refund of their earnest money. Neither any prayer nor any pleading or basis of claim regarding damages finds place in the plaint. Thus, no relief can be granted to the plaintiffs/appellants which has not been prayed for by them in the suit.

54. Even otherwise, it is doubtful as to whether, after expiry of the stipulated period of three months from the execution of the Agreement dated April 8, 2009, the plaintiffs could have a claim even of damages against the defendants/respondents as the said agreement no longer operated as an encumbrance/actionable claim on the subject-property or as a fetter to the transfer of the same in favour of third parties.

55. Insofar as the suppression of the existence of the prior agreement by the principal respondents to the subsequent purchasers in the latter's deed is concerned, the same, at best, gives rise to a cause of action *inter se* the parties to such deed. The appellants cannot, in any manner, claim any benefit in that regard. The terms of the sale deed in favour of the subsequent purchasers included an option of the said purchasers to cancel the deed in the event any suppression by their vendors (the principal respondents) was discovered. As the subsequent purchasers/added respondents chose to waive such right and went ahead with the transfer in their favour, it is not for the appellants to claim any advantage on the basis of the said terms. Also, the appellants would be hit by the doctrine of privity of contract, not being a party to the transfer deed executed by the principal respondents in favour of the subsequent purchasers.

56. Thus, the only relief which could be granted to the appellants is the refund of earnest money, as already granted in the impugned judgment and decree.

57. Although not argued by the appellants, we make it abundantly clear that the appellants could not even claim any interest on the earnest money, from the initial date of payment of the same, since the appellants have not claimed any such interest, nor is there any justification to saddle the principal defendants/respondents with the liability to pay interest for the period from expiry of three months from the agreement till payment, as they were not at fault in any manner in refusing to execute the deed in terms of the subject-agreement after expiry of the stipulated period of three months. The subsequent purchasers/principal respondents, in any event, cannot be held liable at all in that regard.

58. The learned Trial Judge, rightly in our opinion, refused the decree of specific performance and directed refund of the earnest money of Rs.5,00,000/- simpliciter, within the period stipulated in the said decree; if not paid within such period, the same would carry interest at the rate of 7% per annum.

59. However, since the matter was sub-judice in the present appeal, the date of such refund, if not already paid, is required to be extended.

60. Accordingly, F.A.T. No.209 of 2022 is dismissed on contest, thereby affirming the impugned judgment and decree dated July 22, 2022 passed by the learned Civil Judge (Senior Division), First Court at Barasat, District – North 24 Parganas in Title Suit No.619 of 2010.

61. However, in view of the pendency of the appeal till date, the time for refund of the earnest money of Rs.5,00,000/- by the principal defendants/respondents to the plaintiffs/appellants and proforma defendant/proforma respondent is extended for a period of 60 days from date, if not already paid.

62. In the event of non-payment of such amount within the said period, the principal defendants/respondents shall be liable to pay interest at the rate of 7% per annum on the earnest money to the plaintiffs/appellants and proforma defendants/proforma respondents, calculated on such amount from the first day after expiry of 60 days from this date till the date of such payment.

63. There will be no order as to costs.

64. Accordingly, IA No: CAN 3 of 2025 is also disposed of.

65. Interim orders, if any, stand vacated.

66. A formal decree be drawn up accordingly.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)

Later:

After the above judgment is passed, it is pointed out by learned counsel appearing for the appellants that pursuant to an interim order of this Court, the balance consideration amount had been deposited by the appellants.

The appellants are permitted to withdraw such amount, subject to deduction of statutory expenses.

(Supratim Bhattacharya, J.) **(Sabyasachi Bhattacharyya, J.)**