

Specific Relief Act 1963, S. 16 – Conduct of buyer – Delay of about three years from the date fixed for performance of the [contract](#) in filing a suit – Buyer instituted a suit for mandatory injunction for restraining the seller from alienating the suit property in 1991 (balance consideration was to be paid by 7 August 1990) – Did not however, institute a suit for specific performance of the contract until 17 June 1993 – Plea that he was waiting for the appellants to discharge the mortgage to file a suit for specific performance – We are unable to accept this submission – By extending the respondent’s argument, if the appellants had failed to discharge the mortgage, the buyer would not have filed a suit for specific performance of the contract at all – Buyer has withdrawn the balance consideration deposited by him before the trial court in 2001 – The inconsistency in the respondent’s conduct, the lack of communication with the appellants urging them to discharge the mortgage and showing his willingness to pay the balance consideration, and the delay of about three years from the date fixed for performance of the contract in filing a suit, are all indicative of the respondent’s lack of will to perform the contract.

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