

Suit for specific performance of the contract – Readiness and Willingness – Trial Court held the issue of readiness in favour of the plaintiff – However, refused to pass the decree for specific performance of the [contract](#) on the ground that the plaintiff was not willing to purchase the property with tenants – As per the case of the original plaintiff, the defendant was required to evict the tenants and hand over the physical and vacant possession at the time of execution of the sale deed on payment of full sale consideration – Suit notice issued by the plaintiff, called upon the defendant to evict the tenants and thereafter execute the sale deed on payment of full consideration from the plaintiff – Even when we consider the pleadings and the averments in the plaint, it appears that the plaintiff was never willing to get the sale deed executed with tenants and/or as it is – It was the insistence on the part of the plaintiff to deliver the vacant possession after evicting the tenants – There were no pleadings in the plaint that he is ready and willing to purchase the property and get the sale deed executed of the property with tenants and the specific pleadings were to hand over the peaceful and vacant possession after getting the tenants evicted and to execute the sale deed – Trial Court rightly held the issue of willingness against the plaintiff.

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Suit for specific performance of the contract – Readiness and Willingness – Handing over of possession of property without tenants – Submission on behalf of the plaintiff that in the agreement a duty was cast upon the defendant to evict the tenants and to handover the vacant and peaceful possession, which the defendant failed and, therefore, in such a situation, not to pass a decree for specific performance in favour of the plaintiff would be giving a premium to the defendant despite he having failed to perform his part of the contract – The aforesaid seems to be attractive but for the purpose of passing a decree for specific performance, readiness and willingness has to be established and proved and that is the relevant consideration for the purpose of passing a decree for specific performance – Trial Court rightly held the issue of willingness against the plaintiff.

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