

## **Damacherla Anjaneyulu And Anr. vs Damcherla Venkata Sessaiah And Anr. on 19 February, 1987**

**Equivalent citations:** AIR1987SC1641, JT1987(1)SC748, 1987SUPP(1)SCC75, AIR 1987 SUPREME COURT 1641, (1987) 1 LS 47.1, 1987 SCC (SUPP) 75, (1987) 1 JT 748.2 (SC), 1987 2 JT 748 (2), (1987) 2 GUJ LH 182, (1987) 2 LANDLR 570

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**Bench:** B.C. Ray, M.P. Thakkar

### JUDGMENT

M.P. Thakkar, J.

1. Whether or not the High Court was justified in passing a decree for specific performance in favour of the respondents-plaintiffs is the point at issue.

2. Having been taken through the records and the judgment under appeal, and having considered the submissions urged by counsel, we are of the view that whilst the High Court was right in upholding the finding that the plaintiffs were ready and willing to perform the contract whereas the defendant was guilty of the breach thereof, the High Court might well have invoked Section 20 of the Specific Relief Act, 1963 in order to do complete justice between the parties. Inasmuch as godowns and other costly structures have already been built on the land in question by the appellants (defendants) it would result in special hardship to grant specific performance. This is accordingly a fit case where the problems can be resolved by directing that instead of executing a sale deed of the land in favour of the plaintiffs, the defendant shall pay to the plaintiffs Rs. 1,25,000/- being the approximate present value of 10 kunthas of land. We, therefore, substitute an order in the following terms in place of the decree passed by the High Court. The appellants-defendants shall pay to the respondents-plaintiffs a sum of Rs. 1,25,000/- (Rupees One lakh twenty five thousand only). This amount of Rs. 1,25,000/- shall be paid to the plaintiffs within six months from today in two equal instalments of Rs. 62,500/- each. The first instalment of Rs. 62,500/- will be paid on or before 31st May, 1987 and the second instalment of Rs. 62,500/- will be paid on or before 31st August, 1987. In case of failure to pay any instalment within time, the aforesaid amount will carry interest at 12% from today and will be recoverable by executing this decree. If payment is made in accordance within the aforesaid time limit, it will not carry any interest and this decree will stand satisfied upon the aforesaid amount being paid in the aforesaid manner. The appeal will stand disposed of in these terms with no order as to costs.