



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 1411 OF 2025 (F)

Mr. Abdul Karim Noor Mohammed, Son of
Noor Mohammed, 63 years old, Businessman,
married, R/o. Karma Express, Second Floor, Flat
No. s/3, Opp. Roys Petrol Pump, Vasco da ...Petitioner
Gama.

Versus

1. Hotel Sultan Plaza, A Partnership Firm under
the Indian Partnership Act 1932, Duly
registered under no. 22, Datged 07.02.1997
with the Registrar of Firms of Salcete at
Margao, Goa, Having its registered Office at
Sultan Building, Opp. Municipal Market, Vasco
Da Gama, Goa, Represented by its partners
Respondent no. 2 to 6 herein.

2. Mr. Shaikh Maksood, s/o Shaikh Hussain
Shaikh Moosa, aged 52 years, resident of Flat
no. 102, 1st Floor Murgao Avenue, near
Desterro Chapel, Vasco-da-Gama, Goa.

3. Shri Riyaz Shaik, s/o. Shaikh Hussain Shaikh
Moosa, age 51 years, married, resident of flat
no. 202, 1st floor Murgao Avenue, near
Desterro Chapel, Vasco da Gama.

4. Mr. Rafat Shaikh, s/o. Shaikh Hussain Shaikh
Moosa, age 49 years, resident of Flat no. 203,
2nd Floor, Murgao Avenue, near Desterro
Chapel, Vasco da Gama, Goa.

5. Mr. Shaikh Zain, s/o. Shaikh Hussain Shaikh
Moosa, age 48 years, resident of Flat no. 202,
2nd floor, Murgao Avenue, near Desterro
Chapel, Vasco da Gama, Goa.

6. Mr. Rizwan Shaikh, s/o Shaikh Hussain Shaikh Moosa, age 39 years, resident of Flat no. 203, 2^{ns} floor, Murgao, Avenue, near Desterro Chapel, Vasco da Gama.

7. Mrs. Shaik Rizwana, w/o Shikh Riyaz, age 55 years, resident of Flat no. 202, 2nd Floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

8. Mrs. Shaikh Nazneen, w/o Shaik Rafat, age 45 years, resident of Flat no. 203, 2nd Floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

9. Mrs. Shaik Zahira, w/o Shaikh Maksood, age 48 years, resident of Flat no. 102, 1st floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

10. Mrs. Shaik Anisah, w/o Shaikh Rizwan, age 40 years, resident of Flat no. 203, 2nd Floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

11. Mrs. Shaik Alia, w/o Shaik Zain, age 45 years, resident of Flat no 203, 2nd Floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

12. Mr. Shaik Hussain Shaik Moosa, s/o Shaikh Moosa Shaikh Hussain, age 64 years, resident of Flat no. 103, 1st floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

13. Smt. Zahida Hussain, d/o Shaik Mohidin, age 67 years, resident of Flat no. 103, 1st floor, Murgao Avenue, near Desterro Chapel, Vasco da Gama, Goa.

...Respondents

Mr. Prathamesh Kamat, Advocate with Mr. Nakul Jain and Ms. Apurva Mehta, Advocates (through VC) and with Mr. Vibhav

Amonkar and Mr. Raj Chodankar, Advocates for the Petitioner.

Mr. E. O. Mendes, Advocate for Respondent nos. 1, 2, 4, 6, 8 to 11.

Mr. Dharmanand Vernekar, Advocate for Respondent no. 13.

CORAM: DR. NEELA GOKHALE, J.

Reserved on: 16th APRIL 2026

Pronounced on: 29th APRIL 2026

JUDGMENT:-

1. Rule. Rule made returnable forthwith. By consent of the parties, the Petition was taken up for final hearing.
2. By the present Petition, the Petitioner seeks to quash and set aside the impugned Judgment and Decree dated 15th February 2023, passed by the Hon'ble Civil Judge Senior Division, Vasco da Gama, in Commercial Suit No. 14/2020(A)(New) / Special Civil Suit No. 09/2013(Old). The Commercial Court declared the Agreement for Sale dated 17th October 2008 and all MOUs following the said Agreement as null and void and not binding on Respondent No. 1 (hereinafter 'Impugned Decree'). The Petitioner also assails the Judgment and Decree dated 31st December 2023, passed by the District Court, dismissing Appeal No. 1/2023 preferred by the Petitioner herein (hereinafter 'Impugned Appellate Decree').
3. The Respondents No. 12 (Mr Moosa) and 13, husband and wife, were the original owners of all that piece and parcel of property

lying, being and situated at Chalta No. 230, admeasuring an area of 274 square metres; and Chalta Nos. 226, 227, 228, 229 and 231 totally admeasuring an area of 359 square metres, of PT Sheet No. 103 of City Survey of Vasco da Gama.

4. The Petitioner is the purchaser of one of the plots owned by the Respondents No. 12 and 13 herein. The Respondent No. 12 is deceased, and his legal heirs are already on record. The Respondent No.1 is a Partnership Firm registered under the Indian Partnership Act, 1932 ('Partnership Act'), with the Registrar of Firms of Salcete, at Margao, Goa. The Respondents No. 2 to 6 are the sons of Respondents No. 12 and 13. Respondents No. 7 to 11 are the respective wives of Respondents No. 2 to 6.

5. The facts of the Petitioner's case in brief are as follows:

5.1. The Petitioner is a businessman in the textile and garment business. He claims to have purchased property comprising Chalta Nos. 226, 227, 228, 229 and 231 of PT Sheet No. 103 of City Survey of Vasco da Gama, from the Respondents No. 12 and 13. (Hereinafter called and referred to as the 'suit property'). He claims to occupy a part of the suit property, i.e.

Chalta Nos. 226, 227 and 228.

- 5.2.** By a registered Deed of Partnership dated 10th January 1997, the Respondent No. 12 and his four children, namely the Respondents No. 2 to 6, entered into a partnership under the name and style of M/s Hotel Sultan Plaza, i.e., the Respondent No. 1 herein.
- 5.3.** By an application dated 17th February 1997, Respondent No. 1 applied to the Maharashtra State Financial Corporation (MSFC) for a loan of Rs. 90 lakhs to install and erect a building for a hotel business. The MSFC sanctioned a loan of Rs. 82 lakhs against the said plots, and in pursuance thereof, a mortgage deed dated 1st January 1998 was executed.
- 5.4.** By an Addendum dated 17th July 1997, to the Deed of Partnership dated 10th January 1997, Mr. Moosa assigned the suit property in favour of the Respondent No. 1-Partnership Firm, and the Respondent No. 13 was a consenting party to the said Addendum.
- 5.5.** By a Deed of Reconstitution dated 26th October 1998, the original partnership firm was reconstituted. Respondent No. 13 and Respondent No. 6, i.e., the minor son of Respondents

No. 12 and 13, were added as partners.

5.6. An Agreement for Sale dated 17th October 2008 (hereinafter 'said Agreement') was executed between Respondents No. 12 and 13, as Vendors, and the Petitioner, as Purchaser, for the sale of the suit property for a consideration of Rs. 83 lakhs. Clause 7 of the said Agreement stipulated that the Petitioner shall pay the dues of the Economic Development Corporation ('EDC') loan, amounting to Rs. 50 lakhs, on behalf of Respondents No. 12 and 13, and any excess amount shall be paid by Respondents No. 12 and 13. This was the loan previously advanced by the MSFC, which the EDC has taken over.

5.7. The Petitioner paid a total of Rs. 72,02,356/- in several instalments as purchase consideration, including Rs. 50 lakhs towards the full and final settlement of the EDC loan. Accordingly, the balance amount due is Rs. 10,97,644/-.

5.8. By a Memorandum of Understanding ('1st MOU') dated 17th October 2008, the Petitioner agreed to pay Rs. 96 lakhs to Respondents Nos. 12 and 13 towards the goodwill of the business conducted at the suit property. The Petitioner stated

that he has paid the total consideration of Rs. 96 lakhs towards the goodwill. Accordingly, he has so far paid Rs. 1,68,02,356/- to Respondents Nos. 12 and 13. By an Addendum dated 4th December 2008 to the 1st MOU, the parties set out additional terms for the manner of payment.

5.9. By another Memorandum of Understanding dated 25th August 2009 ('2nd MOU'), the Petitioner and the Respondents No. 12 and 13 agreed to extend the validity and performance of the said Agreement up to 28th February 2010. According to the 2nd MOU, the Respondents No. 12 and 13 handed over possession of the suit property, including the first-floor structure existing thereon. The Petitioner handed back the first-floor structure to the Respondents No. 12 and 13 on a leave and license basis w.e.f. 1st September 2009 for a period of 6 months, at a consideration of Rs. 25,000/- per month, with the understanding that it would be terminated on the date of conveyance of the suit property.

5.10. By a third Memorandum of Understanding dated 22nd February 2010 ('3rd MOU'), the Petitioner and the Respondents No. 12 and 13 agreed to further extend the

validity and performance of the said Agreement and the 1st MOU until 31st March 2010. It was further agreed that the Respondents No. 12 and 13 shall facilitate the construction plans and the development permissions from the Planning and Development Authority, duly approved and renewed, and ensure that all necessary taxes are fully paid.

5.11. Since Respondents No. 12 and 13 failed to convey the suit property to the Petitioner within the stipulated time, on 6th April 2010, the Petitioner instituted Special Civil Suit No. 7/2010 before the Civil Judge, Senior Division, at Vasco da Gama, against Respondents No. 12 and 13, seeking specific performance of the said Agreement. Respondents No. 12 and 13 filed their written statements in the said suit on 16th June 2010.

5.12. On 1st July 2013, Respondents Nos. 1 to 6 instituted Special Civil Suit No. 09/2013/B before the Civil Judge, Senior Division, at Vasco da Gama, against the Petitioner and Respondents Nos. 12 and 13, seeking to have all the Agreements, including the Agreement for Sale and the three MOUs, declared null and void, contending that Respondents Nos. 12 and 13 were not the exclusive owners of the suit

property and had no right to sell the same to the Petitioner. It was alleged that the Partnership firm is the exclusive owner of the suit property. (hereinafter 'said Suit')

5.13. The Petitioner filed his written statement in the said Suit. In his written statement, the Petitioner contended that the Respondents No. 2 and 4 were witnesses to the said Agreement for Sale dated 17th October 2008 before the Sub Registrar; that the Respondents No. 4 and 6 were witnesses to the 1st MOU as well as the Addendum dated 4th December 2008; that the Respondents No. 2 and 4 were witnesses to the 2nd MOU. The Petitioner further contended that the said Suit was barred by the law of limitation. According to the Petitioner, the cause of action first accrued on 17th October 2008; consequently, the last day for instituting the suit was 31st March 2013, but the said Suit was instituted on 1st July 2013.

5.14. The Petitioner sent a notice dated 12th August 2014 to the Respondents No. 12 and 13, alleging that they failed to pay license fees for the said first-floor structure from 1st September 2009, and calling upon them to hand over vacant and empty possession of the said first floor.

5.15. In pursuance of the notice dated 12th August 2014, the Petitioner instituted a Regular Civil Suit No. 88/2014 before the Civil Judge Senior Division at Vasco da Gama against the Respondents herein, seeking eviction from the first floor of the suit property and recovery of money.

5.16. By the Judgment and Decree dated 15th February 2023 (Impugned Decree), the Trial Court decreed Special Civil Suit No. 09/2013/B filed by the Respondents No. 1 to 6, declaring the said Agreement for Sale and the subsequent MOUs null and void.

5.17. The Petitioner, being aggrieved by the said Impugned Decree, preferred a Civil Appeal before the District Judge-2, South Goa, at Margao bearing Commercial Appeal no. 1 of 2023.

5.18. By Judgment and Decree dated 31st December 2023 (Impugned Appellate Decree), the Appellate Court rejected the Appeal No. 1 of 2023 preferred by the Petitioner. Both the Impugned Decree and the Impugned Appellate Decree are assailed in this petition.

6. Mr. Prathamesh Kamat learned counsel, appeared for the Petitioner. Mr E. O. Mendes, learned counsel, appeared for the Respondents No. 1, 2, 4, 6, 8, 9, and 11, and Mr Dharmanand Vernekar, learned counsel, represented the Respondent No. 13.

7. Submissions of the Petitioner:

7.1. Mr. Kamat submitted that the said Suit is an abuse of the process of law. It is a collusive suit filed by the Moosa family with the intention of defrauding the Petitioner. In fact, two sons of Mr. Moosa were witnesses to the said Agreement for Sale, as well as the addendum and MOU dated 25th August 2009. All the partners of the Respondent No. 1-Firm were well aware of the said Agreement. Hence, the Moosa family are estopped from avoiding the Agreement for Sale.

7.2. One partner's knowledge is the firm's knowledge. All partners are deemed to be agents of each other, and hence all of them are deemed to have knowledge of the said Agreement.

7.3. The suit property is owned exclusively by Mr Moosa, and there is no registered document transferring the suit property

to the Partnership Firm. The survey records are manipulated by the Moosa family in collusion with Mr Moosa and his wife.

7.4. The suit is time-barred as the cause of action to the suit first arose on 2nd July 2010, when the Respondent No. 3 acquired knowledge of the Agreements impugned in the said Suit. The Trial Court has not framed any issue regarding the limitation aspect, although the Petitioner had pleaded that the suit was time-barred. Thereafter, the First Appellate Court framed an issue pertaining to the said Suit being time-barred; however, it failed to answer the same fully.

7.5. It is also the Petitioner's case that the Respondent No. 3, claiming to have acquired knowledge of the said Agreement for Sale on 2nd July 2010, never entered the witness box to prove his claim. Instead, the Respondent No. 4 gave evidence regarding the knowledge of Respondent No. 3. This evidence ought not to have been relied upon by the Trial Court, as the same was hearsay. In these circumstances, the suit ought to have been dismissed.

7.6. Mr Kamat also argued that the Respondents have not sought cancellation of the said Agreement for Sale. Without

seeking such cancellation, a mere suit for declaration simpliciter could not have been granted by the trial Court. Moreover, the Respondents have not sought recovery of possession either. This precludes the trial Court from granting any declaration of nullity of the Agreements.

7.7. Mr Kamat placed reliance on the following decisions of the Supreme Court and this Court to canvass his plea in respect of the inadmissibility of hearsay evidence:

- i. *Kalyan Kumar Gogoi v. Ashutosh Agnihotri*.¹
- ii. *Iswar Bhai C. Patel v. Harihar Behera*.²
- iii. *Union of India v. Ibrahim Uddin*.³
- iv. *Chowdamma v. Vekatappa*.⁴
- v. *Giridhar Natthu Deshbhratar v. Union of India*.⁵

7.8. Mr Kamat also relied on the decision of the Supreme Court in *Satthyath & Anr. v. Sarojamani*⁶ pertaining to the failure of the trial Court to frame relevant issues.

8. Submissions of the Respondent No. 13:

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- 1** (2011) 2 SCC 532.
 - 2** (1999) 3 SCC 457.
 - 3** (2012) 8 SCC 148.
 - 4** 2025 SCC OnLine SC 1814.
 - 5** 2020 SCC OnLine Bom 253.
 - 6** (2022) 7 SCC 644.

- 8.1.** In the case of Respondent No. 13, the Petitioner was well aware of the existence of the Partnership Firm and had assured her that he would obtain the signatures of all the partners as well as the firm.
- 8.2.** The findings of the trial Court and the First Appellate Court being concurrent, this Court ought to be slow to exercise its Article 227 jurisdiction. Evidence cannot be reappreciated in the present Writ, as the scope of interference is very limited.
- 8.3.** The issues in the present matter stand conclusively determined by the Courts below. The argument of the Petitioner that there is a legal bar to the Partnership between husband, wife and children is wholly misconceived.
- 8.4.** The new defence that the Partnership Firm itself is non-existent and hence, invalid in law is impermissible as no such plea was ever raised before the trial Court.
- 8.5.** In view of the finding of the trial Court that the other partners of the firm had no knowledge of the Agreement for Sale and other transactions, there is no question of framing and deciding the limitation separately.

8.6. Mr Vernekar placed reliance on the following decisions of the Supreme Court:

- i. Surya Dev Rai v. Ram Chander Rai.*⁷
- ii. Radhey Shyam v. Chhabi Nath.*⁸
- iii. Shalini Shyam Shetty v. Rajendra Shankar Patil.*⁹
- iv. Bacchaj Nahar v. Nilima Mandal.*¹⁰
- v. Addanki Narayanappa v. Bhaskara Krishnappa.*¹¹
- vi. Khardevali Saheb v. N. Gudu Sahib.*¹²
- vii. Estralla Rubber v. Dass Estate (P) Ltd.*¹³

9. Submissions of the Respondents No. 1, 2, 4, 6, 8, to 11:

9.1. Although a specific issue on the limitation aspect was not framed by the trial Court. All the parties have led their evidence on the point of limitation; the trial Court has considered the same; hence, there is no perversity in the impugned Decrees.

9.2. The trial Court has held that the signatures on the documents were not those of the partners and, thus, disbelieved the Petitioner's theory that the partners were

7 (2003) 6 SCC 675.

8 (2015) 8 SCC 423.

9 (2010) 8 SCC 329.

10 (2008) 17 SCC 491.

11 1966 SCC OnLine SC 6.

12 (2003) 3 SCC 229.

13 (2001) 8 SCC 97.

aware of the transaction.

9.3. The argument raised by the Petitioner pertaining to hearsay evidence is misconceived. The Respondent No. 3, who found the documents in the cupboard on 2nd July 2010, followed up with the other partners on the same day and immediately brought to their attention the Agreements. On the very next day, i.e. on 3rd July 2010, the Partnership Firm filed an intervention application in the specific performance suit instituted by the Petitioner. The same was dismissed, leading the Respondents to institute their own Suit assailing the transaction.

9.4. An agreement for sale does not create any rights in the property, and as such, it is not necessary to seek cancellation of the said Agreement. A simple declaration of nullity is sufficient.

9.5. In reference to the contention of the Petitioner that he has cleared the EDC loan and the Mortgage, and the Respondents are now taking advantage of the same and running away from their obligation of executing a sale deed. It is submitted that the Petitioner's Suit for specific performance is pending, and

he has exercised his right to sue, accruing from the said Agreement for Sale. In any case, if the Petitioner is successful in the specific performance suit, he will be entitled to quantified damages.

9.6. The Petitioner's plea that he had no knowledge of the suit property being owned by the Partnership Firm is unbelievable since the property card extract, which is a public document, was available for his viewing. In this regard, the doctrine of *caveat emptor* shall come into play.

ANALYSIS

10. Before proceeding to analyse the merits of the parties' contentions, it is necessary to discuss the powers of the High Court in exercising jurisdiction under Article 227 of the Constitution of India. It is well settled that the supervisory jurisdiction conferred on the High Court under Article 227 is confined only to see whether an inferior Court or Tribunal has proceeded within the parameters of its jurisdiction. In the exercise of its jurisdiction under Article 227, the High Court does not act as an appellate court or tribunal, and it is not open to it to review or reassess the evidence upon which the inferior court or tribunal has passed an

order.

11. In *Surya Dev Rai* (supra at pg. no. 15), the Supreme Court has clearly held that the power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates that it act lest a gross failure of justice should occur. The High Court, in its jurisdiction under Article 227, will not convert itself into a court of appeal and will not indulge in reappraisal or evaluation of evidence or in correcting errors in drawing inferences or errors of mere formal or technical character.

12. Against this backdrop, I shall now proceed to examine the impugned Judgment, Order and Decree. The trial Court raised a question as to whether there was any evidence showing that the suit property was brought into the Partnership Firm by the Respondent No. 12. The trial Court examined the Deed of Partnership and the relevant clauses. The Partnership Deed was proved. Relying on clause 7 of the Deed, the Deed of Reconstitution of Partnership, and the survey records of the property mutated pursuant thereto, the trial Court concluded that all the documents unmistakably demonstrate that the suit property was assigned and brought into the common stock of the

Respondent No. 1 - Firm.

13. The trial Court then proceeded to determine whether a mere assignment of the property in the firm's name would make the property an asset of the firm, *without* a registered document. Relying upon the decision of the Supreme Court in *Addanki Narayanappa v Bhaskara Krishnappa* (supra at pg. no. 15), the trial Court held that irrespective of the character of the property brought in by the partners when the partnership is formed, or which may be acquired in the course of the partnership's business, it becomes the property of the firm. Thus, the trial Court correctly held that there is no requirement of a registered document for the firm to acquire ownership of any property contributed by its partner. There is no jurisdictional error on the part of the trial court.

14. Insofar as the second question raised by the trial Court regarding the nullity of the document, the trial Court has relied on various decisions of the Supreme Court and other High Courts. The provisions of the Partnership Act itself prohibit any partner from transferring immovable property belonging to the partnership firm to a third person. The trial Court further held that, to bind the firm for the acts done by Respondent No. 12, he was required to act in

accordance with Section 22 of the Partnership Act, which provides that an act or instrument done or executed by a partner shall be done or executed in the name of the firm or in any other manner expressing or implying an intention to bind the firm. The evidence on record indicates that all the contracts are executed by Respondents Nos. 12 and 13 in their individual capacity and not in the Firm's name. There is even no reference to the Partnership Firm. Hence, the trial Court has correctly held that the so-called Agreement for Sale cannot bind the Partnership Firm or the other partners. Moreover, the Agreements also include the transfer of the goodwill of the business. The goodwill of the business is exclusively an asset of the Firm, and no partner is entitled to transfer the same unilaterally.

15. Insofar as the Petitioner's contention regarding the other partners signing as witnesses to the Agreements is concerned, the trial Court has analysed the evidence on record, including the depositions of the witnesses, and has concluded that the partners have denied affixing their signatures to any documents. In the absence of anything to the contrary elicited during cross-examination, the trial Court held that the person who signed the document as witness No. 1 is not identified by name, and the

second witness is Mr Vibhav B. P. Dessai. None of the signatures is that of the partners. Thus, relying on the evidence on record, the trial Court further noted that the Petitioner has not even attempted to prove that the signatures are those of the partners by examining any expert. As such, the trial Court has refused to accept that the partners had knowledge of the transaction entered into by the Respondents No. 12 and 13.

16. Furthermore, the name of the Partnership Firm appeared in the mutation entry in the survey records of the suit property. The Petitioner, therefore, is estopped from saying that he had no knowledge that the suit property belonged to the Partnership Firm. The trial Court further analysed the evidence led by the parties and observed that the Petitioner made contradictory statements on oath, and even if his version was accepted, there was no justification for overlooking the survey records. Contrary to the oral evidence, the Petitioner pleaded in his written statement that the survey records were false and manipulated, without giving any explanation for the said statement.

17. Thus, the trial Court, relying on various provisions of the Partnership Act, concluded that the impugned Agreements were invalid and not binding on the Respondents herein.

18. On the Petitioner's contention that the trial Court failed to frame the issue of limitation and did not record any finding on the same, the First Appellate Court observed that the issue of limitation is a mixed question of fact and law raised by the Petitioner in his written statement to the Respondents' plaint. Evidence was led on that aspect. The trial Court addressed the issue of limitation based on the cause of action. The trial Court held that the Respondents-partners, having no knowledge of the transaction, could not have filed the suit prior to acquiring that knowledge. Furthermore, the Appellate Court noted paragraphs 49 to 52 and 56 of the original impugned Decree, in which the trial Court concluded that the Respondents had not signed as witnesses and were unaware of the execution of the documents, and hence, there was no question of the said Suit being time-barred prior to their knowledge. The Appellate Court rightly held that, having discussed the issue relating to the cause of action, the trial Court covered the issue of limitation, and as such, there was no requirement to remand the proceeding to the trial Court for the determination of limitation.

19. The Appellate Court has also appreciated the Petitioner's contention that the suit property was never transferred to the Partnership Firm. The Appellate Court went further and relied

upon the Petitioner's own arguments regarding the mortgage of the suit property to the EDC. The fact that the Partnership Firm itself mortgaged the suit property indicates that the property belonged to the Partnership Firm. Hence, it is clear that the Petitioner has stumbled on his own contentions, especially when, on the one hand, he claims to have cleared the Partnership Firm's loan, for which the suit property was mortgaged as security, and, on the other, he claims to be oblivious of the Partnership Firm's ownership of the suit property.

20. The Appellate Court has also considered the finding of the trial Court regarding statutory prohibition by the provisions of the Partnership Act, debarring a partner from selling immovable property belonging to a partnership firm, in the absence of any usage or custom or trade to the contrary, the implied authority of the partner does not empower him to transfer the immovable property.

21. I have gone through the precedents relied upon by the Petitioner. The facts in the cases referred to by the Petitioner are quite distinct from those in the present case and do not assist the Petitioner. Insofar as the Petitioner's contention that the trial Court ought not have declared the Agreement for Sale and the other

documents as null and void, in the absence of any prayer seeking cancellation of the Agreement for Sale and other documents and recovery of possession of the property, it is settled law that an agreement for sale does not create any interest in the property of the purchaser. There is only a right to sue that accrues to an aggrieved party to the agreement. Thus, there is no requirement on the part of the Respondents to seek cancellation of the said Agreement for Sale. Section 34 of the Specific Relief Act, 1963, provides for a declaration of status or right. All that the Respondents had sought in the said Suit was a declaration of nullity of the Agreement for Sale. No declaration of title was sought. Hence, the trial Court has exercised its jurisdiction by declaring the Agreement for Sale a nullity, primarily on the ground of the statutory bar to an individual partner alienating property belonging to a partnership firm. In any case, the Petitioner has instituted a suit for specific performance of the said Agreement and has exercised his right to sue. If he is successful in the said suit for specific performance, he may be entitled to damages and the return of the purchase consideration that he may have paid to the Respondents No. 12 and 13.

22. In view of the aforesaid, there is no infirmity nor any perversity in the impugned Decrees. There is no jurisdictional error committed by the trial Court or the First Appellate Court. Interference of this Court in the impugned judgment, Order and Decree is neither warranted nor will be justified. Hence, the Petition stands dismissed.

23. The rule is accordingly discharged.

DR. NEELA GOKHALE, J