(1999) 11 AP CK 0014

Andhra Pradesh High Court

Case No: Second Appeal No. 640 of 1999

Ganeshram Satyanarayana Pandya		APPELLANT
	Vs	
Ayaneshwar Bijoria		RESPONDENT

Date of Decision: Nov. 12, 1999

Acts Referred:

- Registration Act, 1908 - Section 17, 17(1), 2(7)
- Specific Relief Act, 1963 - Section 16, 5

Citation: (2000) 6 ALT 739

Hon'ble Judges: C.Y. Somayajulu, J

Bench: Single Bench

Advocate: Vilas V. Afzul Purkar, for the Appellant; P.M. Gopal Rao, for the Respondent

Final Decision: Allowed

Judgement

C.Y. Somayajula, J.
This appeal arises out of the judgment and decree dated 5-5-1999 in A.S. No. 45 of 1998 on the file of the Court of Additional Chief Judge, City Civil Court, Secunderabad, allowing the appeal and modifying the decree dated 24-4-1998 in O.S. No. 1144 of 1994 on the file of the Court of First Junior Civil Judge, City Civil Court, Secunderabad.

2. The averments in the plaint filed by the appellant, in brief, are: Respondent is the owner of the mulgi bearing No. 7-2-386 within the boundaries mentioned in the schedule appended to the plaint, which hereinafter is called the "Suit Property". The appellant took the suit property on lease from the respondent in 1978. When a dispute arose between the respondent and the appellant regarding the terms of tenancy, the appellant filed R.C. No. 341 of 1987 on the file of the II Additional Rent Controller, Secunderabad, and as per the order passed therein, he has been depositing the rents relating to the suit property in R.C. No. 341 of 1987. Since the

respondent wanted to demolish and reconstruct the entire building including the suit property, the appellant and respondent entered into an agreement on 25-2-1994, as per the terms of which the appellant deposited Rs. 70,000/- with the respondent, which the respondent has to repay without interest at the time of his vacating the suit property, the respondent should complete the reconstruction and deliver possession of the (shop room) suit property to the appellant within three months from 1-3-1994 i.e., the date of delivery of possession of the suit property to the respondent, for which period of three months also the appellant has to pay rent at the rate of Rs. 150/- per month to the respondent, and after the appellant is inducted into possession of the newly constructed suit property he has to pay Rs. 500/- per month as rent. Appellant deposited rent even after vacating the premises into Court, as per the Order of the Rent Controller in R.C. No. 341 of 1987. Since Respondent failed to deliver possession of the shop (suit property) as per the terms of the agreement, after reconstruction, appellant filed the suit for delivery of possession of the suit property. Respondent filed a written statement contending that the agreement relied on by the appellant is not true and is a forged document and that no amount was deposited with him by the appellant. The appellant filed R.C. No. 341 of 1987 in respect of the suit property though there is no relationship of landlord and tenant between them. Since Appellant is not in possession of the suit property from 1-3-1994 after he voluntarily surrendered possession thereof, respondent for his self-occupation, demolished the old structure and constructed a new building after obtaining permission from the Municipal Corporation of Hyderabad, appellant, who is a habitual litigant, is not entitled to any relief in the suit.

3. On the basis of the above pleadings, five issues were settled for trial by the trial Court. In support of his case, the appellant examined himself as P.W. 1 and marked Exs. A-1 to A-7. In support of his case, the respondent examined himself as D.W. 1 and marked Exs. B-1 to B-8. The trial Court held on issue No. 1, which relates to the question whether the appellant is entitled to specific performance of the agreement dated 25-2-1994, in favour of the appellant. On issue No. 2, which relates to the relief of permanent injunction restraining the respondent from letting out the suit property to third parties, the trial Court held in favour of the appellant. On issue No. 3 which relates to Court Fee, the trial Court held that though the Court fee paid is not proper and insufficient it is not a ground for dismissal of the suit, and directed payment of deficit Court fee within five days from the date of judgment. On issue No. 4 which relates to the question of limitation, the trial Court held that the suit is within the period of limitation. On issue No. 5, which relates to the relief, the trial Court passed a decree in favour of the appellant directing the respondent to put the appellant in possession of the suit property within two months from the date of Judgment, and that in case of default, the appellant is at liberty to take possession of the suit property by taking recourse to due process of law, subject to payment of Court fee as directed on issue No. 3.

4. On appeal by the respondent against the judgment and decree of the trial Court, the learned Additional Chief Judge, City Civil Court, Secunderabad, framed two points for consideration. On point No. 1, which relates to the question whether the respondent received Rs. 70,000/- from the appellant and agreed to redeliver possession of the suit property after its reconstruction, held that there was an understanding between the parties that the appellant has to vacate the premises and hand over possession of the same to the respondent for reconstruction, and that after reconstruction the respondent should hand over the suit property to the appellant. On the second point, which relates to the question whether the agreement (Ex. A-1) even if true, cannot be enforced held that the Ex. A-1 agreement is inadmissible and unenforceable for want of registration and'' held that appellant is entitled to refund of Rs. 70,000/- and on the basis of the finding on the second point, allowed the appeal in part and modified the judgment and decree of the trial Court by directing the respondent to pay Rs. 70,000/-to the appellant. Aggrieved by the said judgment, this Second Appeal is preferred by the plaintiff.

5. The only point for consideration is whether Ex. A-1 requires registration and is not enforceable because of its not registered.

6. The main contention of Mr. Vilas Afzal Purkar, learned Counsel for the appellant, is that the lower appellant Court erred in interpreting Ex. A-1 as a lease for more than one year and contended that since the admissibility of Ex. A-1 was never questioned by the respondent at any stage, the first appellate Court was in error in holding that it requires registration. He relied on T.N. Habib Khan Vs. Arogya Mary Shanthi Lucien, . in support of his contention. The main contention of Sri P.M. Gopala Rao, learned Counsel for the respondent, is that a reading of Ex. A-1 shows that there is a present demise, inasmuch as Clause (4) of Ex. A-1 lays down that even during the period under which the proposed building is under construction, the appellant agreed to pay Rs. 150/- per month as rent to the respondent, and since a reading of Clause (13) of Ex. A-1 shows that the lease is of a permanent nature, the first appellant Court rightly held that Ex. A-1 requires registration; and contended that there are no grounds to interfere with the finding of the lower appellate Court. He relied on Tiruvenibai and Another Vs. Lilabai, . He contended that there are several unattested alterations in Ex. A-1, which shows that Ex. A-1 is materially altered and for that reason also Ex. A-1 is not enforceable. He relied on Vishram Arjun v. Irukulla Shankariah, 1958 (2) An.W.R. 259 = AIR 1957 A.P. 784. He contended that even assuming that the period of lease mentioned in Clause (1), which is materially altered by introducing the words "and the period of 11 months may be extended", is taken as 11 months period lease, since the said 11 months period expired long time back, appellant is not entitled to the relief sought in the suit. He contended that assuming that Ex. A-1 agreement is in fact an agreement to lease out the suit property to the appellant, since it would be a lease from month to month, and since as per the provisions of Section 106 of the Transfer of Property Act such lease is terminable by 15 days notice, as per Section 14(1)(c) of the Specific

Relief Act, such an agreement is not specifically enforceable. He relied on Ramchandra Tanwar v. Ram Lakmal Amichand, AIR 1971 Raj. 292. He contended that since the suit is for specific performance and since the appellant did not either allege in the plaint, or give evidence, that he is ready and willing to perform his part of contract, as contemplated by Form Nos. 47 and 48 in Appendix "A" C.P.C., the appellant is not/entitled to the relief of specific performance. He relied on Abdul Khader Rowther v. Sara Bai, 1989(43) ELT797(SC) . It is his contention that no enforceable decree can be passed because the term of lease is not mentioned in Ex. A-1, and also contended that without a lease deed being executed appellant cannot seek delivery of possession of the suit property. He relied on Babu Lal Vs. Hazari Lal Kishori Lal and Others, . in support of this contention. He also contended that even under the provisions of the A.P. Buildings (Lease, Rent and Eviction) Control Act, the appellant could not have asked for delivery of possession of the suit property before the expiry of 10 years from the date of construction, after he vacated the premises as held in Kondeti Suryanarayana and Others Vs. Pinninti Seshagiri Rao, .

7. It is significant to note that the respondent who took a plea that Ex. A-1 is a forged document, changed his version during trial and stated that Ex. A-1 was brought into existence on blank signed papers given by him to the appellant in connection with a loan (allegedly) taken by him for treatment to his son. Both the Courts below, and rightly, held that Ex. A-1 is executed by the respondent and that he received the amount of Rs. 70,000/-In fact the lower appellant Court ordered refund of the said amount to the appellant. Thus there is a concurrent finding of the two Courts below that Ex. A-1 is executed by the respondent. With this background I would first consider the contention of the learned Counsel for respondent, that there are material alterations in Ex.A-1. In my opinion the said contention cannot be countenanced at this stage of Second Appeal, more so when no plea is taken in the written statement, at least as an alternative plea, that Ex. A-1 is not valid or enforceable because there are alterations therein. If it is the case of the respondent that he executed Ex. A-1, and that the alterations found therein were not in existence at the time of its execution, and therefore they should be taken as material alterations, affecting its enforceability, only then the question whether the alterations therein are material alterations or not, affecting enforceability of Ex. A-1 can be considered. When the specific case of the respondent is that Ex. A-1 was never executed by him, and that it is a forged document, the question of alterations or material alterations in a document, which is allegedly forged, does not arise. Therefore, Vishram Arjun v. Irukulla Shankaraiah (3 supra) relied on by the learned Counsel for respondent relating to material alteration of a document has no application to the facts of this case. Since both the Courts concurrently held that Ex. A-1 was executed by the respondent, it should be taken that the alterations found in Ex. A-1 were there at the time of execution, and so it cannot be said that the alterations or additions made in Ex. A-1 are material alterations affecting the validity of Ex. A-1.

8. Now I would consider to contentions relating to construction of the terms Ex. A-1. In Triveni Bai v. Smt. Lilabai (2 supra) relied on by the learned Counsel for the respondent, the Supreme Court held in Para-15, at page 625, as follows:

"In construing this document it is necessary to remember that it has been executed by layman without legal assistance and so it must be liberally construed without recourse to technical considerations. The heading of the document, though relevant, would not determine its character. It is true that an agreement would operate as a present demise although its terms may commence at a future date. Similarly it may amount to a present demise even though parties may contemplate to execute a more formal document in future. In considering the effect of the document, we must enquire whether it contains unqualified and unconditional words of present demise and includes the essential terms of a lease. Generally if rent is made payable under the agreement from the date of its execution or other specified date; it may be said to create a present demise. Another relevant test is the intention to deliver possession. If possession is given under an agreement and other terms of tenancy have to be set out, then the agreement can be taken to be an agreement to lease. As in the construction of other documents, so in the construction of an agreement to lease, regard must be had to all the relevant and material terms; and an attempt must be made to reconcile the relevant terms if possible and not to treat any of them as idle surplus age."

In fact in T.N. Habib Khan v. Arogya Mary Shanti Lucien (1 supra) relied on by the learned Counsel for the appellant, the above decision of the Supreme Court and the decision of the Privy Council in Hemantha Kumari Debi v. Midnapur Zamindari Co. AIR 1919 P.C. 79 referred to and relied on in the said decision of the Supreme Court, were considered, and it was held that if the demise is to commence only on the happening of a contingent event of the tenant taking delivery of possession, at his option at future dates provided in the document and on the lessor handing over possession, the document does not create a present demise and does not require registration. Keeping in view the said decisions, Clauses 1, 3, 4 and 5 of Ex. A-1 have to be examined. They read as under:

"(1) The lessee has to deposit a sum of Rs. 70,000/- (Rupees Seventy Thousand) only deposit towards rent, and the same shall be refunded without any interest at the (time) of vacating the premises by the lessee or his successors in interest, and the period for 11 months may be extended.

(2) xx xx xx

(3) The lessee shall hand over the vacant possession(on) 1-3-1994 for the purpose of revocation of the mulgi and the lessor shall complete the building including the mulgi with all fittings and fixtures with flooring to roof height 13" and 7'' x 31/2'' x 8'' shall deliver the mulgi only to the lessee within three months from this date.

(4) During this three months period, the lessee shall pay the old rent at the rate of Rs. 150/- per month and the lessor shall pass the valid receipt to that effect.

(5) After delivery of possession of the mulgi after renovation, the lessee shall pay a monthly rent of Rs. 500/- on or before 5th of every calendar month and the Lessor shall pass a valid receipt to that effect."

9. As stated earlier, it is the case of the appellant that since the respondent wanted to demolish the entire building including the mulgi let out to the appellant, and construct a new building, and agreed to let out one mulgi, in the new structure constructed, to him, he vacated the premises. So, the payment of rent of Rs. 150/- per month during the three months period, when construction of the new building was in progress, cannot be said to be the rent for the mulgi which was either demolished or to be newly let out, and can, and should, be taken as the rent for the vacant land. From Clause (5) of Ex. A-1 it is clear that the rent at the rate of Rs. 500/- per month, becomes operational only after possession of the newly constructed mulgi is handed over to the appellant. Clause (3) of Ex. A-1 contemplates the respondent handing over possession of the mulgi within three months after he takes delivery of possession of the old mulgi from the appellant. Therefore, the lease in respect of the new premises, to be constructed by the respondent, comes into operation only after the new building is constructed and not before that. Therefore, the contention of the learned Counsel for respondent that there is a present demise cannot be accepted.

10. Keeping in view the fact that Ex. A-1 was executed by the parties without legal assistance., Clause (1) of Ex. A-1 should be interpreted to mean that the agreed term of lease is for 11 months. In Syed Jaleel Zane Vs. P. Venkata Murlidhar and Others, . relied on by the learned Counsel for appellant a Division Bench of this Court held that clause of renewal in a lease deed has to be read as a whole and effort has to be made to ascertain the intention of parties while entering into the contract, and that no single clause or term should be read in isolation so as to defeat the other clauses. Merely because in Clause 13 of Ex. A-1 it is mentioned that the lessor has no right to evict the lessee from the mulgi as long as the lessee continues to pay rents regularly, it cannot be said that the period of lease under Ex. A-1 is in perpetuity. In fact in Syed Jaleel Zane''s case9 the Division Bench of this Court held that clear and unambiguous language is required to infer a perpetual lease, and if the language is ambiguous, the Court would opt for an interpretation negativing the plea of perpetual lease. As per Section 106 of the Transfer of Property Act, if the lease is not for agricultural or manufacturing purpose, the tenancy would be deemed to be from month to month, terminable by 15 days notice expiring with the end of a month of tenancy. Clause (1) of Ex. A-1 should be interpreted to mean that the initial period of lease is for 11 months, with an option to seek extension after expiry of the said period. No doubt, as per Section 2(7) of the Registration Act, lease, inter alia, includes an agreement to lease. Since I held that the period of lease stipulated, or

contemplated, under Ex. A-1 is only for 11 months, even assuming that Ex. A-1 is a lease deed, and not an agreement to lease, it I does not require registration, because as per Section 17(l)(d) of the Registration Act only leases of immovable property from year to year, or for any term exceeding one year or reserving a yearly rent require compulsory registration. Para-8 of the decision Rajendra Pratap Singh Vs. Rameshwar Prasad, . relied on by the learned Counsel for respondent at page 606 reading "The wording in the first paragraph (of Section 107 of Transfer of Property Act, 1882) shows that it is mandatory that if a lease is to be created for any term exceeding one year, it can be made "only by a registered instrument". If the instrument is not registered the corollary is that no lease exceeding one year is created at all", has no application to the facts of this case. In Triveni Bai''s case (2 supra) relied on by the learned Counsel for respondent, the Supreme Court at the end of para 26 at page 635 held that the High Court was right in holding that the document (in question in that case) was not an agreement to lease u/s 2(7) of the Registration Act and so did not require registration and ultimately dismissed the appeal. For the above reasons and for the reasons that the agreed period of lease was only 11 months. I hold that Ex. A-1 does not require registration and therefore the lower appellate Court was in error in holding that Ex. A-1 requires registration. The point is answered accordingly.

11. The other contention of the learned Counsel for the respondent is that in as much as the stipulated period of 11 months, after three months from 1-3-1994, as contemplated in Ex. A-1 expired, appellant is not entitled to any relief. The lower appellate Court accepted the said contention, and held as under in Page 14 of its judgment:

"In the present case even if the averments of Ex. A-1 deed are admitted to be true, in view of the circumstances referred, the document cannot create lease for more than one year.....In view of the peculiar circumstances of this case, no lease beyond the period of one year can be said to be created under this document. That one year period would start from something like 1-6-1994 i.e., within three months from 1-3-1994. Thus, the period one year is over long back. It is possible that it can be interpreted that one year period starts from the date the possession is given and as no possession is given to the plaintiff the one year period has not commenced. But I feel that the benefit of such an interpretation cannot be given on the basis of this unregistered document."

Enforceability or validity of an unregistered document, which requires registration u/s 17 of the Registration Act, is entirely different from construction of the terms of the said document. Registration or non-registration of a document, is not, and cannot be, the basis for construction or interpretation of a document. If I may say so first the terms contained in the document should be interpreted, and on that basis the question whether that document requires registration or not has to be determined, because sometimes, as in this case, the question whether the

document requires registration or not depends on the interpretation of the terms of the said . document. In these circumstances I am not able to agree with the contention of the learned Counsel for respondent, and that of the lower appellate Court, that appellant is not entitled to relief because one year period from 1-6-1994 expired. A reading of the judgment of the trial Court shows that the respondent himself took several adjournments to cross-examine the appellant, i.e., P.W. 1 on several grounds, even on the ground that he undertakes to deliver possession of the suit property. So, it is clear that the respondent also contributed to the delay of disposal of the case before the trial Court. Delay in disposal of cases by Courts is not and cannot be a ground to negate the rights of parties to the suit. Similarly a party to a suit cannot take his own laches as a ground of defence to non-suit the other side. The Privy Council in Hemantha Kumari Debi v. Midnapur Zamindari Co. (8 supra) observed "an agreement that, upon the happening of a contingent event at a date which was indeterminate and, having regard to the slow progress of Indian litigation, might be far distant....."(Underlinying mine). The phenomenon of "slow progress of litigation" in India has not improved since 1919, and if I may say so the same has become a matter of concern, and is engaging the attention of the High Courts and Supreme Court and steps are being taken to reduce the pendency and for early disposal of cases by Courts. It is settled law that acts of Courts shall prejudice none. Since Courts also have a role to play in the pendency of cases, pendency of cases for a long time in Court, is not and cannot be a ground for refusing relief to a party if he is otherwise entitled to it. Therefore appellant cannot be found fault with, and non-suited, for the pendency of the suit for more than one year in the trial Court when he filed the suit on 20-10-1994. As per the terms of Ex. A-1 he became entitled to get possession of the suit property on or before 1-6-1994. Admittedly respondent did not deliver possession of the suit property to the appellant even by the date of suit. Therefore, the agreed period of lease of 11 months should be taken to commence only from the date when the appellant is put in possession of the property and the time taken for disposal of the suit cannot be taken into consideration for computing the period of lease, or its commencement. Therefore, I hold that the lower appellate Court was in error in negativing the claim of the appellant on the ground that the period of one year stipulated in Ex. A-1 expired long prior to the disposal of the suit by the trial Court.

12. I am unable to agree with the contention of the learned Counsel for the respondent that since the appellant did not allege in the plaint that he is ready and willing to perform his part of contract, he (the appellant) should be non-suited. Though as per the plaint the suit is one for specific performance, in fact and in effect the suit is one for recovery of possession of specific immovable property. Section 5 of the Specific Relief Act reads:

"A person entitled to the possession of specific immovable property , may recover it in the manner provided by the Code of Civil Procedure, 1908 (5 of 1908)".

In view thereof, the provisions in Section 16(c) of the Specific Relief Act cannot strictly be made applicable to this case, more so because, the appellant has done what all he has to do as per the agreement. The appellant making an averment regarding his readiness and willingness to perform his part of the contract a mere, and if I may say so, empty formality in this case, because he already performed all that he has to do as per the contract and nothing remains to be done by him. The respondent alone has to perform his part of the contract, i.e., he has to complete the construction of the building and deliver possession of the suit property to the appellant by 1-6-1994. The respondent, who received Rs. 70,000/-under Ex. A-1, came up with a false story that Ex. A-1 is a forged document and that he did not receive any amount from the appellant. Both the Courts below concurrently held against the respondent on that point. In the circumstances of the case absence of the averment that the appellant is ready and willing to perform his part of contract, is not and cannot be a ground to negative the claim of the appellant in this case. Abdul Khader Rowther v. P.K. Sara Bai (5 supra) relied on by the learned Counsel for respondent has no application to the facts of this case. That is a case when the plaintiff filed a suit for specific performance of an agreement to reconvey, contending that Ex. B-l (mortgage bond) and Ex. A-1 [illegible] (assignment) in that case were sham and were intended to protect the suit property from the creditors. The defendant contended that these documents were supported by consideration and that the plaintiff as per the agreement is entitled to repurchase the suit property for Rs. 35,000/- within a stipulated time. The trial Court held that both Exs. A-1 and B-1 are supported by consideration and that plaintiff is entitled to recover possession of the suit property on payment of Rs. 35,000/- and the value of improvements and decreed the suit. On appeal by defendants, the High Court held that plaintiff is not entitled to seek specific relief of reconveyance of the suit property. The Supreme Court dismissed the appeal by the plaintiff on the basis of evidence on record in that case (where he has to pay Rs. 35,000/- for seeking reconveyance) because of absence of plea of his readiness and willingness to perform his part of the contract and held that he is not entitled to seek specific performance of the agreement.The facts in this case are entirely different from the facts in that case. Appellant in this case performed his part of the contract in its entirety. Since respondent did not perform his part of the contract he filed the suit. So, mere absence of averment of readiness and willingness to perform his part of the contract per se is not a ground to non suit the appellant.

13. Babulal v. Hazarilal Kishori Lal (6 supra) relied on by the learned Counsel for respondent, has no application to the facts of this case. In that case the Supreme Court was considering the scope of Section 22 of the Specific Relief Act, and the question before the Supreme Court was whether a plaintiff decreeholder in a suit for specific performance of an agreement to purchase property can seek delivery of possession of the property when the plaint does not contain such a prayer and the decree does not grant such a relief. The Supreme Court held that the term "at any

stage in the proceeding" used in the proviso to Section 22 of the Specific Relief Act includes execution proceeding also. In the circumstances the Supreme Court held in Para 21 at Page 825.

"If once we accept the legal position that neither a contract for sale nor a decree passed on that basis for specific performance of the contract gives any right or title to the decreeholder and the right and the title passes to him only on the execution of the deed of sale either by the judgment-debtor himself or by the Court itself in case he fails to execute the sale deed, it is idle to contend that a valuable right had accrued to the petitioner merely because a decree has been passed for specific performance of contract."

Basing on the said observations, the learned Counsel for the respondent contended that mere passing of a decree for specific performance in this case does not entitle the appellant to get the relief of possession, till a lease deed is executed and registered. Since I already held that Ex. A-1 does not require registration, and that the suit, in fact should be taken to be one for possession and since the trial Court also passed a decree for possession only, the ratio in the said decision has no application to the facts of this case, which in fact and substance is a suit for recovery of possession of the suit property on the basis of Ex. A-1.

14. K. Suryanarayana v. P. Seshagiri Rao (7 supra) relied on by the learned Counsel for the respondent also has no application to the facts of this case, because this is not a case where the respondent invoked the provisions of Section 12 of the A.P. Buildings (Lease, Rent and Eviction) Control Act to obtain possession of the property for demolition and reconstruction of the demised premises.

15. I am unable to agree with the contention of the learned Counsel for respondent that because u/s 106 of the Transfer of Property Act, the lease can be determined by giving 15 days notice, as per Section 14(c) of the Specific Relief Act, the appellant is not entitled to the relief sought. Ramchandra Tanwar v. Ram Lakmal Amichand (4 supra)., relied on by the learned Counsel for respondent in support of that proposition is not of help to the respondent. That is a case of licence to vend cool drinks on railway platform; which as per the terms of the agreement can be terminated by three months notice. In that case the Rajasthan High Court was considering the question whether the trial Court was justified in granting an injunction during the pendency of the suit under Order 39 Rules 1 and 2 CPC in favour of the plaintiff. Licence to vend cool drinks on railway platform is different from lease of immovable property. As stated earlier, as per Ex. A-1, the period of lease stipulated is 11 months, and an extension of 11 months is also contemplated as per Clause (1) of Ex. A-1. So, as long as the appellant pays rent regularly during that total period of 22 months, appellant cannot be evicted from the suit property by giving 15 days notice u/s 106 of the Transfer of Property Act. Hence, the said decision has no application to the facts of this case.

16. As discussed above the contention of the learned Counsel for respondent that unless a document of lease is executed, the appellant cannot be put in possession of the suit property, has no force or substance. Under Ex. A-1, the respondent specifically undertook to put the appellant in possession of the suit property immediately after constructing a new building. As per Section 5 of the Specific Relief Act, the appellant is entitled to seek the relief of possession of the suit property even without taking recourse to the provisions of the Specific Relief Act. In fact Ex. A-1 does not contemplate execution of a further document before putting the appellant in possession of the suit property. Therefore, . the appellant has a right to enforce the agreement to redeliver possession of the suit property to him, after reconstruction of the building.

17. Since I held that Ex. A-1 does not require registration and is enforceable, the appellant is entitled to seek possession of the suit property. The point is answered accordingly.

18. In the result, the appeal is allowed with costs throughout. The judgment and decree dated 5-5-1999 in A.S. No. 45 of 1998 on the file of the Court of First Additional Chief Judge, City Civil Court, Secunderabad, is set aside and the decree of the trial Court is restored. The respondent is directed to put the appellant in possession of the property mentioned in the schedule to the plaint within one month from to-day.