



A.S.No.106 of 2014

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**S.S. SUNDAR, J.**  
**and**  
**A.A.NAKKIRAN, J.**

[Order of the Court was made by **S.S. SUNDAR, J.**]

After hearing the arguments for some time, this Court is convinced that the suit for specific performance is barred by Order 2 Rule 2 of CPC. From the plaint averments, we could see that the plaintiff has filed a suit for permanent injunction and he has also stated the reasons why he had to file the suit for permanent injunction. This Court is of the view that, on the date when the suit for permanent injunction was filed, the cause of action for filing the specific performance has arisen and the present suit is barred on account of the previous suit for permanent injunction.

2.However, since the learned Senior Counsel appearing for the appellant was more serious in canvassing other issues, this Court finds that the matter can be settled, if the respondent is willing to get back the amount which he had paid as advance under the agreement of sale. Since the truth and genuineness of the agreement itself is an issue, the observations of this Court are without prejudice to the contentions and issues that may be canvassed by learned counsel on either side at the time of arguing the appeal.



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3.Post the appeal for reporting settlement on 06.02.2023.

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(S.S.S.R., J.) (A.A.N., J.)  
25.01.2023

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(Next Hg. Date : 06.02.2023)