

KABD200021302025



IN THE COURT OF THE CIVIL JUDGE AND JMFC-AURAD-B

Presented by: Sri. VINAYAK VANKHANDE,

B.A. L.L.B. (Spl)

Civil Judge & J.M.F.C., Aurad-B.

Dated this the 3rd day of September - 2026

O.S. No.71/2025

BETWEEN:

Syed Subhani S/o Syed Pasha

Aged about 37 years,

R/at Moghal Nagar, Karwan, Hyderabad (TS)

..... PLAINTIFF

(Plaintiff By Sri.JBS/MBS., Adv.)

V/S

1) Rakesh S/o Babshetty Patil

Age 18 years, Occ. Agri.,

R/at village Jeerga (B), Tq. Aurad, Dist. Bidar.

2) Mohammad Mehraj S/o Mohammad Moinuddin

Aged 33 years, Occu. Agri & Business,

R/at Hyderabad (TS).

..... DEFENDANTS

(D1 Ex-Parte), (D2 by Sri.S.A.M., Adv.)

PARTIES IN I.A No. IV

Syed Subhani

.....APPLICANT/ PLAINTIFF

(Plaintiff By Sri.JBS/MBS., Adv.)

V/s

Mohammad Mehraj

...OPPONENT/DEFENDANT NO.2

(By Sri.S.A.M., Adv.)

I	Provision under which the application is filed	U/Order XXXIX Rule 1 & 2 of CPC.
II	Relief sought for	Interim temporary injunction.
III	The date on which the application is filed	09-06-2026
IV	Number of application	I.A. No. IV
V	The date on which the objections are filed by different opponents.	17-06-2026
VI	The date on which the order is passed on the said application	03-09-2026

ORDER ON I.A. NO. IV

The applicant/plaintiff has filed I.A.No.IV under order XXXIX Rule 1 and 2 of C.P.C., praying this court to grant interim temporary injunction order against the defendant No.2 restraining him, his agents, attorney holders etc., from not changing the nature of the suit property by construction, development, let out, lease out in favour of anybody else, directly or indirectly in any manner whatsoever during the pendency of the suit and the same be made absolute till the disposal of suit to meet the ends of justice.

2) In the support of the application the plaintiff has sworn to an

affidavit and submitted that, the defendant No.2 was restrained from alienating the suit property in favour of anybody. After fraudulent and collusive, impugned sale deed between the defendants, the defendant No.2 has mutated his name in the RTC and by taking disadvantage of the same, he is trying to change the nature of the suit property by developing the said and trying to take construction of shops over the suit property illegally and let out the same to others. In case he succeeded in his endeavor and developed the suit property and took construction over the road side portion i.e., eastern portion wherein the highway road, Bidar to Aurad is situated, the plaintiff will be caused with great injury and loss and it will be difficult for him dispossess the prospective possessors over the prospective shops in the suit property and cause multiplicity of litigation and law and order situation.

3) The plaintiff further submitted that, the defendant No.2 is trying to develop the suit property by putting the Murrum, sand and other construction materials has established prima-facie case and balance of convenience lies in his favour, and if no any temporary injunction has passed, it will cause multiplicity of litigation. Therefore, prays to allow the application.

4) The defendant No.2 has filed his objections to IA No.4 the defendant No.2 and denied the averments made in the application

and contended that, he has purchased the suit land from defendant No.1 vide registered sale deed and since then he is in possession of the same and enjoying the suit land by cultivating and harvesting the same and enjoying its usufruct. The defendant No.2 has taken up development of his suit land like fencing, laying water pipe by investing money and the by this the nature of suit property will not change. But the plaintiff with intention to cause loss to the defendant No.2 has filed this IA with intention to restrain him from taking development work in the suit property. Therefore prays to dismiss the IA with heavy cost.

5) Heard the arguments of plaintiff side. Despite of granting sufficient opportunity the defendant No.2 has not canvassed argument on IA No.IV therefore, liberty was granted to defendant No.2 to file notes of arguments. Perused the materials available on record.

6) And the points would arise for my consideration are as follows:

- 1. Whether the Applicant/Plaintiff has made out a prima-facie case?***
- 2. Whether the balance of convenience lies in favour of the plaintiff?***
- 3. Whether the Applicant/plaintiff would suffer irreparable loss or injury if the temporary injunction is not granted?***

4. What order?

7) The findings of this court to the above points are as under:

Point No.1 to 3 : In the Affirmative.

Point No.4 : As per the final order, for the following:

:: REASONS ::

8) Point No.1 to 3 :- As these points are inter-connected with each other therefore, in order to avoid the repetition of the facts are take for common discussion.

9) This suit is filed by the plaintiff against the defendants for claiming the relief of specific performance of contract in respect of suit property, declaration that the alleged sale deed dt.16-04-2025 is sham, bogus and not binding on the plaintiff and perpetual injunction against the defendant No.2.

10) At the outset it is noted that, the defendant No.2 in his written statement has admitted the execution of registered agreement of sale dt.16-4-2024 by the defendant No.1 in favour of plaintiff and himself, but contended that the plaintiff at the time of execution of the agreement of sale has requested him to pay the entire agreed sale consideration amount and he will shortly pay the same to him. Therefore, believing his words the defendant No.2 has paid the entire sale consideration amount of Rs.4,00,000/- to the defendant No.1 vide

cheque bearing No.000528 of ICICI Bank, Branch Tolichowk, Hyderabad (TS).

11) In this suit it is the specific defence of the defendant No.2 that, the plaintiff has not paid him the amount which he has paid for plaintiff to defendant No.1 and also not made himself available for execution of cancellation of agreement of sale. Therefore, the defendant No.1 has executed the registered sale deed in his favour. Hence, the plaintiff is having no right and interest over the suit property. Now the defendant No.2 contended that, he has taken up development of his suit land like fencing, laying water pipe by investing money and the by this the nature of suit property will not change. But the plaintiff with intention to cause loss to the defendant No.2 has filed this IA with intention to restrain him from taking development work in the suit property.

12) It is noted that, in order to establish his case the plaintiff has produced the certified copy of registered agreement of sale without possession dt.16-04-2024 executed by defendant No.1 in favour of plaintiff and defendant No.2 for agreed sale consideration amount of Rs.4,50,000/- in respect of suit property. In the agreement it is also recited that, prior to execution of this agreement of sale the seller has received earnest consideration amount of Rs.4,00,000/- through cheque No.000528 of ICICI Bank, Branch Tolichowki,

Hyderabad (TS) from the said purchasers and for the token of the receipt, of the said money, this agreement of sale has been executed, in favour of the said purchaser. It is further recited that, the defendant No.1 has undertaken to execute the final sale deed by receiving balance consideration of Rs.50,000/- from the said purchaser at the time of final sale deed and agreed to deliver the possession of the said land at the time of final sale deed. In the said agreement the final date for performance of contract is not shown.

13) The plaintiff has produced the office copy of legal notice dt. 2-6-2025 issued by him through his counsel to defendants. The plaintiff also produced the postal receipts and reply notice sent by the counsel for defendant No.1 dt. 9-6-2025. On perusal of the reply notice, the defendant No.1 has admitted his ownership over the suit property, but denied the execution of agreement of sale in favor of plaintiff and defendant No.2 and contended that, the defendant No.1 was in need of money therefore, he has received the hand loan from them and executed security document. The plaintiff has also produced the unopened postal cover which is sent to the defendant No.2 on the address as mentioned in the agreement of sale and it was returned as "insufficient address". However, at this stage, the defendant No.2 has not produced any documents in support of his defence.

14) On careful perusal of the records, at this stage it seems that, the defendant No.1 has executed registered agreement of sale dt.16-4-2024 in favour of plaintiff and defendant No.2 in respect of suit property for total consideration amount of Rs.4,50,000/- and the defendant No.1 has received earnest amount of Rs.4,00,000/- through cheque No.000528 of ICICI Bank, Branch Tolichowki, Hyderabad (TS). Although the defendant No.2 has contended that, this entire amount of Rs.4,00,000/- was paid by him alone and the plaintiff has not paid any amount. But, in the said agreement it is recited that, the amount was paid by the purchasers.

15) Now it is noted that, the question that, whether the said amount was belonging to the defendant No.2 alone or not and that the plaintiff has not paid any amount to the defendant No.2 is a matter of trial and that cannot be decided at this stage while disposing this application. The said agreement of sale was executed between the plaintiff and defendants and it is not yet canceled by the parties to it as per law. Therefore, the said agreement is still in force. As the defendant No.2 was also the party to the said agreement and he is having knowledge of the same, therefore, at this stage it cannot be said that he is a bonafide purchaser without notice.

16) The plaintiff has produced photographs of suit property which shows the digging work is taken place in the suit property. The

defendant No.2 has not denied these photographs, neither he has produced documents to show that he has not taken up any construction work as alleged by the plaintiff. No doubt, the defendant No.2 has contended that, he has taken up the fencing and laying water pipe work, but, on perusal of photographs it seems that, the defendant No. 2 has taken up the construction work over the entire suit property. If the defendant No.2 is permitted to take up the construction work it will definitely change the nature of suit and it will create multiplicity of proceedings. Therefore, the plaintiff has made out prima-facie case, and balance of convenience lies in favour of plaintiff and if no order of temporary injunction is passed then the plaintiff will be put to great hardship than the defendant No.2, which cannot be compensated in terms of money and it will create multiplicity of proceedings. Therefore, I answer **Point No.1 to 3 in the Affirmative.**

17) POINT NO.4:- In view of the above findings, I proceed to pass the following:

ORDER

The I.A.No.IV filed by the applicant/plaintiff under order XXXIX Rule 1 and 2 of C.P.C., is hereby allowed.

The defendant No.2, his agents and attorney holders etc., are hereby restrained from changing the nature of the suit property bearing Sy.No.64/*/2 measuring 1 acre 3 guntas, situated at Jeerga village of Aurad Taluka, Dist. Bidar as mentioned in the plaint, by construction, development, let out, lease out in favour of anybody else, whether directly or indirectly, in any manner whatsoever till the disposal of suit.

(Dictated to Stenographer and typed by him, corrected by me and then, pronounced in the open Court this the **3rd day of September, 2026**).

(Vinayak Vankhande)
Civil Judge and JMFC, Aurad-B