

Order Sheet
In the Court Of: PRL. CIVIL JUDGE AND JMFC BELAGAVI
AT BELGAUM
F.R.No:O.S./650/2017
Case Reg.No: O.S./643/2017

Plaintiff

V E R S U S

Defendent

**1)Shri. Manohar S/o. Shankar
Hukkerikar Age 61 R/o. Tanaji Galli,
At Kalkhamb Post Muchandi,
Belagavi**

**1)Shri. Hulyappa S/o. Nagappa Astagi
Age 76 R/o. H.No.176/1, Walmiki galli, At
Kalkhamb,Muchandi, Bgm**

Orders on I.A.No.1 to 3

The plaintiff filed I.A.No.1 U/O 39 Rule 1 and 2 with a prayer to not to alienate the suit property till the disposal of the suit. He also filed I.a.No.2 with a prayer to restraining the defendant or anybody acting on his behalf to interfere in his peaceful possession, enjoyment and cultivation of the suit property. The plaintiff also filed application U/s 151 CPC with a prayer to keep the documents i.e. original agreement of sale and order copy of the District Registrar in the safe custody of the Court.

Heard the learned counsel for plaintiff and perused the applications and affidavit and entire materials on record. Plaintiff is stated to be intending purchaser and possession is with the plaintiff. The suit property is undivided property of the defendant along with his coowners. I have also perused the translation copy of the agreement of sale. The said agreement is unregistered one. It is stated by the plaintiff that he is/was in the possession of the suit property since

from the agreement of sale. So the possession hand over to the plaintiff as per the agreement itself is contrary to settled position of law. It is settled position of law that when the conveyance of the property shall be through registerable document.

It is the apprehension of the plaintiff that since the documents are in the name of the plaintiff and sale transaction not yet completed, there is every chance of alienation of the suit property by the defendant. So if the defendant is restrained from alienation of the suit property till his appearance, then justice will be subserved. Hence, to preserve the property and protect the rights of the plaintiff I.A.No.1 deserves to be allowed.

The possession of the plaintiff is contrary to law, hence, I hold that plaintiff not all made out prima facie. Before passing order on the said I.A. i.e. I.A.No.2 other side must be heard.

Plaintiff filed I.A.No.3 to kept the said documents mentioned above in the safe custody is not at all harmful to defendant or anybody. Hence, I proceed to pass the following:

ORDER

I.A.No.1 filed by the plaintiff U/O 39 Rule 1 and 2 is hereby allowed.

The defendant or anybody acting on his behalf is hereby restrained to alienate the suit property till the appearance of the defendant.

I.A.No.2 filed by the plaintiff U/O 39 Rule 1 and 2 is hereby rejected.

I.A.No.3 filed by the plaintiff U/s 151 CPC is hereby allowed.

The plaintiff is hereby directed to comply the provisions of Order 39 Rule 3A and B.

Issue emergent notices along with all the I.As. and all the documents to the defendant r/by 20/7/2017.

**I/c IV Addl.CJ & JMFC,
Belagavi**