

KABG300008102023



**IN THE COURT OF SENIOR CIVIL JUDGE,
BAILHONGAL, AT: BAILHONGAL**

PRESENT:

**Shri. Ravi Babu Chawan,
B.A.LL.B.
Senior Civil Judge, Bailhongal.**

R.A. No.30/2023

Dated this the 13th Day of March, 2026

Shri. Ramachandr S/o Basappa Neginhal,

.....Appellants

(By Sri. P.S.A., Advocate)

-Vs.-

1) Shri. Shivpujeppa S/o Dundappa Angadi
(since deceased through his LR's) & others,

.....Respondents

(R1 (a to d)-Exparte)

(By Sri. B.B.D., Advocate for R2(a to c) & R3)

(By Sri. S.B.L., Advocate for R4)

(R5- dead)

PARTIES TO IA NO.VII

Shri. Ramachandra S/o Basapa Nginhal,

Age: 63 years, Occ: Agriculture,
R/o: H.No.817/1, Kanbaragi,
Belagavi.

.....Applicant/Appellant

(By Sri. P.S.A., Advocate)

-Vs.-

1) Shri. Shivpujeppa S/o Dundappa Angadi,
(Since deceased through his LR's)

1a) Smt. Kamalawwa W/o Shivpujeppa Angadi,
Age: 65 years, Occ: Household work,
R/o: Near Laxmi Temple, Vannur,
Tq: Bailhongal, Dist: Belagavi.

1b) Shri. Prakash S/o Shivpujeppa Angadi,
Age: 50 years, Occ: Agriculture,
R/o: Near Laxmi Temple, Vannur,
Tq: Bailhongal, Dist: Belagavi.

1c) Shri. Nagappa S/o Shivpujeppa Angadi,
Age: 45 years, Occ: Agriculture,
R/o: Near Laxmi Temple, Vannur,
Tq: Bailhongal, Dist: Belagavi.

1d) Smt. Nagaveni W/o Basavaraj Mattikopp,
Age: 37 years, Occ: Household work,
R/o: Near Laxmi Temple, Vannur,
Tq: Bailhongal, Dist: Belagavi.

2) Shri. Shankar S/o Dundappa Angadi,
Age: 58 years, Occ: Business/Agriculture,
R/o: Near Jain Basti, Vannur,
Tq: Bailhongal, Dist: Belagavi.

3) Shri. Mahadev S/o Dundappa Angadi,
Age: 50 years, Occ: Agriculture,
R/o: Near Laxmi Temple, Vannur,
Tq: Bailhongal, Dist: Belagavi.

4) Smt. Leela W/o Murageppa Asundi,
Age: Major, Occ: Household work,
R/o: Near Channamma Circle, Bailhongal,
Tq: Bailhongal, Dist: Belagavi.

5) Smt. Anusuya W/o Mallikarjun Gidaveer,
Age: Major, Occ: Household work,
R/o: Rabkavi, Tq: Jamkhandi,
Dist: Bagalkot.

.....Opponents/respondents

(R1 (a to d)-Exparte)
(By Sri. B.B.D., Advocate for R2(a to c) &R3)
(By Sri. S.B.L., Advocate for R4)
(R5- dead)

i	Provision under which the application is filed	U/o XXXIX Rule-1 and 2 R/w Sec.151 of CPC
ii	Relief sought for	respondents restraining them, their agents, servants, or anybody acting on their behalf from disturbing his alleged possession over suit property pending disposal of the appeal.
iii	The date on which the application is filed	14-01-2026
iv	Number of the application	IA No.VII
v	The date on which the objections are filed by the opponent	23-02-2026
vi	The date on which the orders were passed on the said application	13-03-2026

ORDER ON IA No.VII

The appellant has filed the present application under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC praying to grant temporary injunction against the respondents restraining them, their agents, servants or anybody acting on their behalf from disturbing his alleged possession over the suit property pending disposal of the appeal.

2. In the affidavit filed in support of the application, the appellant has contended that the respondents, being the owners of the suit property, had executed an agreement of sale dated 13-03-2018 in his favour after receiving advance consideration of Rs.50,000/- out of the total sale consideration of Rs.1, 87,450/-. According to him, on the date of execution of the agreement of sale the respondents had delivered possession of the suit property to him and since then he has been in actual possession and enjoyment of the same. It is further stated that he has cultivated crops such as Jowar and Kadali over the suit property and has developed the land by investing his hard-earned money. He has also contended that though he was always ready and willing to perform his part of the contract, the respondents failed to execute the sale deed which constrained him to file O.S. No.107/2021 for specific

performance. The trial Court partly decreed the suit granting alternative relief of refund of earnest money. Being aggrieved by the said judgment and decree dated 13-06-2023, he has preferred the present appeal. According to him, the respondents are now attempting to dispossess him from the suit property by illegal means and therefore he seeks protection of his possession by way of temporary injunction.

3. On the other hand, the respondent No.4 has filed objections denying the averments made in the application as well as supporting affidavit. It is contended that the suit property is the ancestral joint family property of the respondents and they are in joint possession and enjoyment of the same. It is further contended that the respondent Nos.1 to 3 had no authority to execute the alleged agreement of sale. The execution of the agreement of sale as well as deliver of possession is specifically denied. It is also contended that the agreement relied upon by the appellant is not a registered document and respondent Nos.4 and 5 have not executed the same. Further it is contended that the trial Court as already recorded a finding that the appellant is not in possession of the suit property. Therefore, the appellant has not made out any case for grant of injunction and hence prayed to dismiss the application.

4. Herd the learned counsel for both sides and perused the material available on record.

5. In view of the above rival contention and submissions, the following points arise for consideration:

POINTS

1) Whether the appellant has made out a prima facie case for grant of temporary injunction ?

2) Whether the appellant proves that the balance of convenience lies in his favour and that he will suffer irreparable loss or injury if the injunction is not granted ?

3) What order?

6. My findings to the above points are as under:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: As per final order for the following:

REASONS

7. **Point Nos.1 & 2:-** The Trial Court records are secured and careful perused. The agreement of sale

dated 13-03-2018, which was marked as Ex.P1, disclose that the possession of the suit property was not handed over to the appellant as on the date of execution of the agreement of sale. On the contrary, the recitals in the said agreement clearly disclose that the vendors had agreed to hand over possession of the suit property at the time of execution of the absolute registered sale deed. Therefore, the claim of the appellant that possession was delivered to him on the date of the agreement appears to be contrary to the recitals of the document relied upon by him.

8. Further, the Trial Court while deciding O.S. No.107/2021 as recorded a categorical finding on point No.3, particularly at paragraph No.11, holding that the appellant has failed to prove his possession over the suit property. When such a specific findings has already been record by the Trial Court, the appellant cannot prima faice claim protection of possession unless the said finding is displaced in the appeal.

9. At the stage of the proceedings, the appellant has not produced any convincing material to establish his actual physical possession over the suit property. Therefore, the essential ingredients required for granting temporary injunction, namely prima facie case, balance of convenience and irreparable injury, are not

satisfactorily established by the appellant. When the appellant has already been granted alternative relief of refund of earnest money by the Trial Court and when his possession over the suit property is not prima faice establish, granting injunction as prayed for would virtually amount to granting relief which is not supported by the material available on record. Hence, this Court is of the considered opinion that the appellant has failed to make out the sufficient grounds for grant of temporary injunction. Accordingly, point Nos. 1 and 2 are answered in the **Negative**.

10. **Point No.3:-** In view of the above findings and discussion made on point Nos.1 and 2, this court deems it fit to pass the following:

ORDER

IA.No.VII filed by the appellant
under Order XXXIX Rule 1 and 2 R/w
Section 151 of C.P.C. is hereby
dismissed.

No order as to cost.

(Dictated to the stenographer, transcribed by him, corrected by me,
signed and pronounced in the open Court on this 13th Day of March, 2026)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

