



**IN THE COURT OF CIVIL JUDGE AND JMFC AT
HUKKERI**

Present: ADITYA R. KALAL., B.A.L. LL.B. LL.M (Symbiosis)
Civil Judge and JMFC., Hukkeri

Dated on this 27th day of June, 2026

ORIGINAL SUIT No.11/2020

Between:

Shivagouda Ramagouda Patil

... PLAINTIFF

-AND-

Tukaram Lagama Koli and others

... DEFENDANTS

PARTIES IN I.A. No.I to III

Between:

Shivagouda Ramagouda Patil

... Applicant/Plaintiff

-AND-

Tukaram Lagama Koli and others

....Opponents/Defendants

ORDER ON I.A. No. III

1. The Advocate for the plaintiff has filed IA No.III under Order XXXIX Rule 1 and 2 of CPC to restrain the defendants No.1 to 13 and the proposed defendant No.17 from alienating the suit property until the disposal of this suit.



2. In the affidavit annexed to the application, the plaintiff Shivagouda Ramagouda Patil has stated that he has filed this suit claiming possession, mandatory and permanent injunction against the defendants and he has been in use of the property bearing Sy No. 118A/2 of Jabapur Village, Tq: Hukkeri except the construction made by the defendants No.1 to 5 in the said suit property. He further states that, the Assistant Commissioner, Belagavi by his order dated 26.08.2022 under RA No. 129/2019 has cancelled the mutation of the suit property which was standing in the name of the plaintiff and entered the name of the proposed defendant No.17 by opining that the order of the Civil Court is binding upon all the parties in OS No. 26/2016. The plaintiff is the purchaser from the proposed defendant No.17.

3. On the other hand, the defendants have filed their objections to the said application stating that the application is not maintainable and they deny that the defendant No.17 has sold the property to the plaintiff. It is also stated by the defendants that the defendant No.17 has filed a suit in OS No. 26/2016 against the defendant No.1 to 5 seeking possession



and mandatory, permanent injunction and the suit is still pending before the Court. It is also stated that, the plaintiff and the defendant No.17 have colluded with each other and have created a document styled as sale deed dated 17.05.2018 and the said sale deed is not binding upon the defendants No.1 to 4, 7, 8 and 10 to 12. It is also stated that the plaintiff is not in possession of the suit property at any point of time. With all these contentions they prayed to dismiss the said application with costs.

4. Heard the learned advocates appearing for the plaintiff and the defendants. Perused the plaint, written statement and the documents submitted by both the parties and the IA and affidavit annexed to it.

5. The points that arises for my consideration is as under:

1. Whether the plaintiff has made out a prima facie case for grant of injunction ?



2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether irreparable loss will be caused to the plaintiff if the injunction is not granted?

4. What order?

6. This court answers the above **points No.1 to 3** in the **NEGATIVE** for the following:

REASONS

7. Point No.1: The plaintiff Shivagouda Ramagaouda Patil has filed the suit seeking the relief of possession, mandatory and permanent injunction against the defendants No.1 to 5. He has also made a prayer to direct the defendants No.1 to 5 to demolish the illegally constructed houses in the suit property and hand over the possession of the same to the plaintiff. He has further sought for a relief of permanent injunction to restrain the defendants No.6 to 17 from



disturbing the peaceful possession and enjoyment of the suit property by the plaintiff.

8. According to the plaintiff, the agricultural land bearing Sy No. 118A/2 of Jabapur Village was owned by one Mohammadshafi Nadaf. The said Mohammadshafi Nadaf is the husband of proposed defendant No.17 and the said defendant No.17 has been added by the order of the Court vide order dated 20.08.2025. The suit property is Sy No. 118A/2 and it is measuring 30Gs which is situated at Jabapur Village, Hukkeri. Out of the said land in Sy No. 118, the eastern 02Ac of land is converted to non-agricultural purpose for the formation of the residential sites and 46 sites are formed in it. And in the said 02 acres in Sy No. 118/B where sites were formed, the same is within the limits of Hukkeri CMC . The remaining land was in the possession of the Mohammad Shafi Nadaf and it was numbered as Sy No. 118/A in the land records. In other words, the 02 Acres which was sold was numbered as Sy No. 118/B. The said 02 Acres bearing Sy No. 118/B was brought within the limits of Hukkeri City Municipal Authority and a CTS No.4335 was given and 46



plots were laid in it. The said land comprising of 46 residential plots was sold out by the late Mohammad Shafi to various persons.

9. The said Mohammad Shafi Nadaf has again converted another 02Ac-10Gs in Sy No. 118/A by leaving 30Gs of the agricultural land of the eastern side of Sy No. 118/A in the year 2003-04. The said land comes on the western side of Sy No. 118/B. It is said that another 46 plots were laid out in the 02Ac-10Gs of the converted land, which is numbered in the land records as Sy No. 118A/1.

10. The remaining land in Sy No. 118A measuring 03Ac-11Gs has been kept in the name of the Mohammad Shafi. According to the plaintiff 04Ac-10Gs of the land is converted for non-agricultural purpose in Sy No. 118 and the land records are changed as Sy No. 118A, 118/A/1, 118/B in the revenue office. Out of Sy No. 118A measuring 03Ac-11Gs, 2Acre 11 guntas was sold by the family of the Mohammad Shafi to one Mahadev Basavant Kankanawadi in the year 2009. After the execution of the sale deed , the said land was



renumbered as Sy No. 118/B and the remaining 30Gs in Sy No. 118A was numbered as Sy No. 118A/2. It is stated that Mohammadshafi died leaving behind his wife Sharifa and daughters by name Jabunabi and Shahin and sons by name Sameer, Mohammad, Ameer. The said children of Mohammad Shafi Nadaf along with their mother Sharifa sold 13Gs in Sy No. 118A/2 to the present plaintiff on 17.05.2018 for Rs.1,17,000/-. It is also stated that, after the said sale deed the plaintiff came to know that the wife of Mohammadshafi filed a suit for mandatory injunction in OS No.16/2016 against the present defendants No.1 to 5 stating that they have illegally constructed the houses in suit property. The said fact was suppressed by the wife of Mohammad Shafi at the time of the sale deed. Therefore the plaintiff filed an application to implead the present defendant No.17 Sharifa and her sons and daughter. The said application was dismissed in OS No. 26/2016. Aggrieved by the said order the plaintiff filed a writ petition in W.P No.113558/2019 before the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka opined that in a bare suit for injunction and



mandatory injunction, the relief of the plaintiff cannot be decided and he cannot step into the shoes of the original plaintiff. But the Court gave the liberty to the plaintiff to institute a separate proceedings against the defendants in the OS No.26/2016. When the present plaintiff applied for the mutation of his name in the land records, the defendants No. 6 to 13 have objected to the said application stating that the said land is already converted for non-agricultural purpose and the Mohammadshafi had already sold the lands under various sale deeds.

11. It is alleged that a RTS case was registered in RTS SR No. 40/2018-19 in respect of MRH-35. It is said that even though the Tahasildar didn't have the powers to order for Survey, he ordered for the survey of suit property stating that the said land is not converted for non-agricultural purpose. It is also stated that, the Surveyor submitted a report stating that the suit property is converted into non-agricultural purpose and in the said property, layout and plots are already laid out and that the defendants No.1 to 5 have already constructed the houses therein.



12. Now the plaintiff has come up with this application restraining the defendants No.1 to 13 and proposed defendant No.17 from further alienating the suit property until the disposal of the suit.

13. The plaintiff is the purchaser of 30Gs in Sy No. 118A/2 through registered sale deed from the earlier owner. Earlier the said land was totally measuring 07Ac-10Gs in Sy No. 118 of Jabapur Village. Out of that, the land to the extent 02Ac of land is converted by the erstwhile owner Mohammad shafi Nadaf for non-agricultural purpose and the said converted land is numbered as Sy No. 118/B and remaining land was numbered as Sy No. 118/A. In 02Ac of land, 46 sites were formed. Again in another 02Ac-10Gs by leaving 30Gs of agricultural land on the eastern side of Sy No. 118A, Mohammad Shafi formed one more layout in the year 2003-04 and 46 plots were laid down in 02Ac-10Gs of land. Therefore in total 04Ac-10Gs land was converted for non-agricultural purpose in Sy No. 118 and the land records are changed as Sy No. 118/A, 118A/1, 118/B in the revenue records.



14. Therefore the 03Ac-01Gs was the land which was remaining with the family of Mohammad shafi. And out of 3a=01g , 02Ac-22Gs was sold to Mahadev Basavant Kankanawadi, by retaining 30Gs. It is seen that the out of 7a=10g , 2a=0g was sold , another 2a=10g was sold, and 2a=22g was sold. Therefore 6a=32g was sold out of 7a=10g. Then the remaining land was only 22 guntas and not 30 guntas as claimed by the plaintiff. It is alleged that out of the said 30Gs in Sy No. 118A, the said land was renumbered as Sy No. 118A/2, 02Ac-10Gs was renumbered as Sy No. 118A/1.

15. As could be seen from the pleadings of the plaintiff, it is seen that the said land as claimed by the plaintiff is no more in existence and the said lands have already been converted for non-agricultural purposes and the defendants have already constructed the houses in the said property in the various plots formed by the family of the late Mohammadshafi. The plaintiff has come up with this suit in the year 2020 and as such the plaintiff states that he has purchased 30Gs of land. The said 30Gs has not been described properly in the sale



deed. Further the southern boundary is shown as the border of Hukkeri Village. It is seen that the plaintiff has not got his land measured before the purchase of the land. The maxim Caveat Emptor , which means the purchaser be aware applies in this case. The plaintiff has to prove with cogent evidence before the court that he has purchased the said 30 guntas as claimed and the same is also in existence in reality. As it is seen that layout is formed, the much of the land is used for formation of the road and other amenities . The plaintiff by taking a sale deed, on the basis of the RTC cannot succeed. There has to be land of 30 guntas in existence to be sold by the family of the Mohammedshafi. Therefore by looking to the facts of this case, at this stage, I am of the opinion that the plaintiff has not made out a prima-facie case for grant of injunction, since the nature of the lands have already been changed by way of various mutations and also by the erstwhile owner in the year 1992 by formation of the sites. The said lands have to be again remeasured and of there is something remaining, after measurement , the said portion can be claimed by the plaintiff Shivagouda. It is also seen that



the said plaintiff has not got his land measured before the purchase of the property. As could be seen from the plaintiff's averments when the OS No. 26/2016 was still pending before the Court, the plaintiff has entered into a sale deed with the wife and children of Mohammadshafi Nadaf, so the said sale deed itself has come up during the pendency of the suit. Therefore the said sale deed of the plaintiff is subject to the outcome of that suit. Therefore the plaintiff has not made any prima facie case for grant of injunction. Hence, for all these reasons I answer the above point No.1 in the Negative.

16. POINT No.2 and 3: Since these two points are interlinked with each other and as they form part of same transaction, they are taken up together for common discussion in order to avoid the repetition of facts.

17. Since the point No.1 has been answered in the Negative in respect of the prima facie case, there survives nothing for consideration with respect to the hardship and balance of convenience. The plaintiff is a purchaser pendente-lite when the suit in OS No. 26/2016 is pending before the



Court. The plaintiff is fully aware that some of the lands have been converted for non-agricultural purpose. He should have made an enquiry with the erstwhile owner and he should have got the land measured before purchase of the said lands. The purchaser had to be aware before the purchase of the lands. The 30Gs of land, as claimed by the plaintiff, has to be first found out and it has to be asserted and proved by the plaintiff that the said 30 guntas is in existence and that he is in possession of the said land. If the injunction is granted, it would cause hardship to the defendants and not to the plaintiff. The plaintiff by making an upper hand, may indulge in black-mailing the defendants and coercing them to enter into compromise by undue influence or use other such tactics. Hence at this stage, the plaintiff would not be put to irreparable loss or legal injury and it would be the defendants who would be put to hardship and irreparable loss. Hence the said points No.2 and 3 are answered in the Negative.

18. POINT No.4:- In view of the above discussions made herein above and also for the reasons given to the point No.1 to 3, this court proceeds to pass the following:



ORDER

The I.A.No.III filed by the plaintiff U/o
XXXIX Rule 1 of CPC is hereby dismissed
with costs.

(Dictated to the Stenographer, typed by her and the transcript revised and corrected by me and pronounced in the open Court, on this 27th day of June, 2026)

(ADITYA R. KALAL)
Civil Judge & JMFC,
Hukkeri.



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(Order pronounced in open court,
vide separate order)

ORDER

**Civil Judge & JMFC
Hukkeri**