

IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC.,

AT: HUNAGUND

Present:

**Sri. Hanamantarao R.Kulkarni,
B.Com., LL.B.,**

Senior Civil Judge & JMFC., Hunagund.

O.S. No.12/2023

Dated this the 1st day of July, 2025.

1. Sri. Shankarananda S/o Channabasappa Kochi.

...Plaintiff

-Versus-

1. Sri. Prema @ Premu @ Premanatha S/o Basappa Kiragi and another.

... Defendants

I.A. No.IV

1. Shankarananda S/o Channabasappa Kochi.

**...Applicant/
Plaintiff**

-Versus-

1. Sri.Manjunath S/o Basavaraj Angadi.

**...Opponent/
Defendant no.2**

(By Sri.M.R.M., Advocate for the Plaintiff)
(By Sri.S.B.S, Advocate for the defendant no.2)

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ORDER ON I.A. NO. IV

1. I.A.No.IV is filed by the plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, seeking to restrain the defendant no.2 from alienating or transferring the suit schedule A properties till the disposal of the suit.

2. The learned Counsel for the defendant no.2 has filed his statement of objections to the said application.
3. I have heard the learned Counsel for the plaintiff on I.A.No.IV. I have also heard the learned Counsel for the defendant no.2 on I.A.No.IV. The learned Counsel for the defendant no.2 has submitted his written submissions and I have perused the same.
4. On perusal of the records of the case, the following points would emerge for my consideration:
 1. Whether the plaintiff has made out a prima-facie case?
 2. Whether the balance of convenience tilts in favour of the plaintiff?
 3. Whether the plaintiff would be put to irreparable loss if the temporary injunction is not granted?
 4. To what order?
5. My findings on the above points are as under:
 1. in the negative
 2. in the negative
 3. in the negative
 4. As per final order for the following:

REASONS

6. **Point Nos.1 to 3:** I have taken these three points together for my common discussion as they are inter-linked with each other.

7. In an affidavit appended to I.A.No.I, it is stated by the plaintiff that the suit schedule A properties are the are the ancestral properties of the defendant no.1 and he has further submitted that the plaintiff and the defendant no.2 are residing in the same colony and they are relatives also. He has further stated that if the defendant no.1 sells the suit schedule properties he has agreed to sell those properties to the plaintiff and he has executed a consent agreement on 16/08/2006 and the plaintiff has got the preference of purchasing the suit schedule A properties. He has submitted that the defendant no.2 is not having any rights to sell the suit schedule A properties and the defendant no.2 is in hurry to sell the suit schedule A properties and if this application is not allowed, the plaintiff will be put to untold hardship which cannot be compensated in terms of money. Hence, the instant application.
8. The defendant no.2 has filed his statement of objections. He has contended that he is the bonafide purchaser of the suit properties from its erstwhile owner i.e., the defendant no.1 under a registered sale deed dated 29/08/2022 executed on 24/08/2022 duly registered for consideration amount of Rs.8,60,000/- and now he is the absolute owner of the suit properties. He has further contended that the balance of convenience does not tilt in favour of the plaintiff and if this

application is allowed, he will be put to untold hardship and further contended that the plaintiff has relied upon unregistered, inadequately stamped, forged and concocted document and accordingly, among other grounds prays to reject the application.

9. In view of the contentions put forth by the plaintiff, now, let me see as to whether the plaintiff has made out a prima facie case in his favour. It is pertinent to note that the plaintiff has stated that the suit schedule properties are the ancestral properties of the defendant no.1 and the defendant no.1 has agreed to sell the properties to the plaintiff and executed consent agreement in favour of the plaintiff and he has got the preferential rights to purchase the suit properties. On the other hand, the defendant no.2 has contended that he is the bonafide purchaser of the suit properties. It is pertinent to note that the consent agreement has been taken place on 16/08/2006 between the plaintiff and the defendant no.1. Further, the defendant no.1 has sold the suit properties in favour of the defendant no.2 on 29/08/2022. It is pertinent to note that after execution of the sale deed by the defendant no.1 in favour of the defendant no.2 the plaintiff has approached this court to restrain the defendant no.2 from selling the suit properties. It is pertinent to note that the consent agreement is between the plaintiff and the defendant no.1 and not against the defendant no.2. There is no nexus between the

plaintiff and the defendant no.2 in relation to the consent agreement and he is not the party to the consent agreement. If the defendant no.2 restrained from alienating the suit properties it will abuse the process of law and the defendant no.2 will be put to untold hardship which cannot be compensated in terms of money. Further, the plaintiff has come to the court after the execution of the sale deed between the defendant no.1 and the defendant no.2 and if the plaintiff has come to the court during the sale of the suit schedule properties the court can look into it and now, at this stage the court cannot grant any injunction order to restrain the defendant no.2 from alienating the suit properties. The plaintiff has not got any prima facie case and balance of convenience does not tilt in his favour.

10. From the above discussion, it becomes clear that the plaintiff has not established any prima-facie case and the plaintiff is not entitled to the equitable relief of temporary injunction and as such, the balance of convenience does not tilt in his favour in respect of the suit schedule properties. Therefore, I have arrived at the conclusion of answering points No.1 to 3 in the negative.
11. **Point No.4:** In view of my discussion made supra, I proceed to pass the following:

ORDER

I.A.No.IV filed by the plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, is hereby rejected.

Under the facts and circumstances of the case,
no order as to costs.

(Directly I have typed on my laptop, corrected and then pronounced by me in the open Court on this the **1st** day of **July, 2025**.)

(Sri. Hanamantarao R.Kulkarni)
Senior Civil Judge & JMFC.,
Hunagund.