

**IN THE COURT OF THE CIVIL JUDGE, AT
BANAHAATTI**

PRESENT: **Sri. Mahesh Chandrakanth,**
B.A. LL.M.,
Civil Judge & J.M.F.C., Banahatti

ORIGINAL SUIT NO: 89/2018

DATED: THIS THE 19th DAY OF APRIL 2021

1. Sri. Ramajan Lalasab Malali & others
.....Plaintiffs/Applicants

- Vs -

1. Smt. Shantawwa W/o Mallappa Baragadagi
& others
.....Defendants/Opponents

ORDER ON I.A.NO.I

This application is filed by the plaintiffs U/o 39 rule 1 and 2 R/w 151 of CPC, seeking temporary injunction restraining the defendants from alienating or creating any charge on the suit property till disposal of this suit.

2. In the accompanying affidavit the plaintiff No.3 has stated that, the defendants are owners of the suit property and they agreed to sell the suit property to them and they executed agreement of sale on 22.05.2000 by receiving Rs. 2,50,000/- as earnest money. The plaintiffs are ready and willing to perform their part of contract, but the defendants are not ready to execute

sale deed. Hence, they filed the present suit. This being the fact, the defendants are trying to alienate the suit property and create charge to defeat their rights. Hence, he prayed to allow the application.

3. The defendants filed their written statement and adopted the same as objection to I.A.No.I. They contended in their written statement that the plaintiffs filed false suit and even they denied alleged sale agreement and they contended that they never agreed to sell the suit property to the plaintiffs. They further contended that the plaintiffs are residing in the suit property as tenant and they not executed the alleged sale agreements. Further they contended that the plaintiffs are in illegal possession with the support of political leaders. They contended that the suit of the plaintiffs is barred by limitation. Hence, on all these grounds they prayed to dismiss the application.

4. Heard the arguments for both side and perused the materials placed on record.

5. The following points arise for my consideration :-

- 1) Whether the plaintiffs prove that there is prima facie case in their favour ?

- 2) Whether the plaintiffs prove that balance of convenience lies in their favour?
- 3) Whether the plaintiffs prove that irreparable loss and hardship will cause to them, if temporary injunction is not granted?
- 4) What order?

6. My answers to the above points are as under :-

Point No.1 to 3 :-	In the affirmative
Point No.4 :-	As per final order, for the following,

:- REASONS :-

7. Point No.1 to 3 :-These points are inter connected to each other, hence, taken together for discussion.

The plaintiffs have filed the present suit for specific performance of contract. It is the case of the plaintiffs that the defendants and their grandmother Parvatewwa have executed sale agreements. This being the fact, now the defendants are trying to alienate and create charge on the suit property. Hence, if they done so it will cause irreparable loss and injury to them and their right will be defeated.

8. The plaintiffs have produced the sale agreements, photographs, tax paid receipts and other documents. On perusal of the said documents prima-facie it reveals that the plaintiffs are

agreement holders of the suit schedule properties and they are in possession and enjoyment of the same. The defendants have also admitted that the plaintiffs are in possession of the suit properties since 1985. The only contention of the defendants is that the alleged sale agreements are illegal and fabricated. But to decide validity of said agreements full fledged trial is necessary. At this stage as per the entire material placed on record prima-facie it is clear that the plaintiffs are the agreement holders and in possession and enjoyment of the suit properties. Hence, if the defendants alienates the suit properties it will defeat the right of the plaintiffs and cause irreparable loss and injury to them. Hence, to avoid the multiplicity of the proceedings and to keep the property intact it is just and proper to grant temporary injunction. If the temporary injunction is granted no hardship will cause to defendants. On the other hand, if the temporary injunction is not granted it will cause irreparable loss and injury to the plaintiffs. Hence, I answered point No.1 to 3 in the affirmative.

9. Point No.4 :- In view of the aforesaid reasons, I proceed to pass the following,

∴ ORDER ∴

I.A.No.I filed by the plaintiffs
U/o 39 rule 1 and 2 R/w 151 of
CPC is hereby allowed.

The defendants are hereby
restrained from alienating the suit
schedule property and creating any
charge on the suit property in any
manner till disposal of this suit.

(Dictated to the Stenographer, transcribed and typed by her corrected, signed and
pronounced by me in the open court on this the 19th day of April 2021)

Sd/-

(Mahesh Chandrakanth)
Civil Judge, Banahatti

