

KABR310005922023



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE & J.M.F.C.,
AT DEVANAHALLI.**

PRESENT

SRI. PRAVEEN NAYAK, LLM.,
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

Dated this day of 01st April , 2026

O.S.No.475/2023

BETWEEN:

Sri. G. Eshwar Rao Mahadic : **Plaintiff**
S/o Late D. Govinda Rao Mahadic

(Plt. - By Sri.S.H., Advocate)

AND:

M/s. Captela Ventures Private Limited : **Defendants**
and others

(Deft. 1 & 2 - By Sri.G.P. Advocate)

(Deft.3 – By Sri. V.A., Advocate)

(Deft.4- By Sri. P.V.R., Advocate)

(Deft.5- By Sri. T.M., Advocate)

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	Provision under which the application is filed	under Order XXXIX Rule 1 and 2 R/w. Section 151 of C.P.C
ii	Relief sought for	Temporary Injunction



iii	The date on which the application is filed	03-11-2025
iv	Number of the application	I.A.No.VIII
v	Date of filing objection	18-11-2025
vi	Date of Pronouncement of Order	01-04-2026

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli

ORDER ON I.A. No.VIII

The instant application has been filed by the counsel for plaintiff under Order XXXIX Rule 1 and 2 R/w. Section 151 of C.P.C, seeking grant of ad-interim order of Temporary Injunction to restrain the defendants No.1 to 13 from alienating or creating any charge over the suit property till disposal of the suit. The counsel for the plaintiff has later filed a memo by not pressing I.A.No.8 against defendants No.6 to 13 to whom the suit summons is not served. Hence, I.A.No. 8 is dismissed as not pressed against defendants No.6 to 13.

2. In the affidavit accompanying the application, the GPA holder of the plaintiff has stated that the plaintiff has never executed the GPA dated 30-09-2021 and registered Sale Deed dated 08-08-2022 in



favour of defendant No.1. The defendants approached the plaintiffs for purchase of suit property and on 30-09-2021 they took him to the office of Sub-Registrar on the pretext of entering into an agreement of sale. However, the defendants, with a fraudulent and dishonest intention got executed the GPA. They fraudulently obtained the signatures on GPA and other blank papers and created the Sale Deed dated 08-08-2022. Aggrieved by the fraudulent acts of the defendants, the plaintiff lodged police complaint on 12-04-2023. The plaintiff being a senior citizen was hospitalized in the month of August 2024. The plaintiff has got prima facie case and the balance of convenience tilts in his favour. Hence, prayed to allow the application.

3. The application is opposed by the counsel for defendant No.1 and 2 and 4 by stating that the same is not maintainable. It is stated that the present application is filed in respect of 02 acres 08 guntas of land out of the total extent of 05 acres 27 guntas in Sy.No.71 of Begur Village, Jala Hobli, Yalahanka Taluk. The plaintiff is a habitual fraudster. He is having the habit of selling the property and to lodge false complaints against the purchasers after receiving the consideration amount. The plaintiffs sold 03 acres 19 guntas in favour of one Vijendra Rao vide, sale deed 05-05-2021. Thereafter, he sold 05 acres 27 guntas to defendant No.1. The suit property is a portion of



the said land. Vijendra Rao has filed OS No.474/2021 on the file II Additional Civil Judge and JMFC, Devanahalli and the same came to be compromised and the confirmation deed was obtained from the said Vijendra Rao. As per Section 52 of Transfer of Property Act, the interest of the plaintiff is protected. The suit is only for declaration and injunction and not for possession. There is no relief sought against defendants No.4 to 13. The sale deed was kept pending for registration and released on 16-06-2021. The plaintiff has received an amount of Rs.10,00,00,000/- from the defendants No.1 and 4. There are other proceedings pending before civil and criminal courts. The plaintiff has set up a theory by stating that he intended to register a lease agreement, which is not true. The defendant No.4 is in possession and enjoyment of the suit property. Hence, prayed to reject the application.

4. Heard both sides.

5. The following points would arise for my consideration:

1. Whether the plaintiff proves that he has got prima-facie case and the balance of convenience tilts in his



favour to pass an order of ad-interim injunction on I.A. No.VIII?

2. Whether the plaintiff proves that he will suffer irreparable loss and hardship if temporary injunction order has not been passed on I.A. No.VIII?
3. What order ?

6. My answer to the above points are as follows:

Points Nos.1 & 2 : **In the Affirmative**

Point No.3 : **As per final Order for the following**

REASONS

7. Point No.1: In order to prove his prima facie case, the plaintiff has to prove his prima facie right over the suit schedule property. The case of the plaintiff is that the GPA dated 30-09-2021 and the subsequent sale deed dated 08-08-2022 have never been executed by the plaintiff. It is alleged that the aforesaid sale deeds were fraudulently obtained on the pretext of obtaining lease agreement. The plaintiff has lodged police complaint in this regard. On the other hand, the defendants No.1 to 3 have contended that the plaintiff after receiving an amount of Rs.10,00,00,000/- as



consideration has filed a false suit against them. It is further contended that the plaintiff has filed a suit for declaration and injunction without seeking the possession of the same. It is also contended that the plaintiff has the habit of selling the suit property and to file false cases against the purchasers.

8. On going through the documents, the plaintiff has placed on record the copies of trust deed, conversion order gazette notifications to show that the suit property was intended to be used for a specific purpose by forming the trust. The copies of the Sale Deeds have been placed on record, wherein it is clearly appearing that the plaintiff was aged about 84 years at the time of execution of the same. It is the clear case of the plaintiff that he has been misrepresented and induced to execute the Sale Deed. It is settled law that fraud vitiates everything. Therefore, the plaintiff deserves to an opportunity to demonstrate the alleged fraud committed by the defendants in the present suit. The further alienation of the suit property will lead to multiplicity of proceedings.

9. The plaintiff is assailing the registered documents on the ground of fraud. The heavy burden is on the plaintiff to establish the same. The learned counsel for the plaintiff has relied upon the decision



reported in **AIR 2012 SC 206, Suraj Lamp & Industries (P) Ltd V/s State of Hariyana** and Others to contend that no valid title can be transferred through the General Power of Attorney. By considering the materials on record, the age of the plaintiff and the circumstances under which the registered instruments have been entered into, I am of the opinion that the plaintiff has made out a case which requires a trial. Therefore, the plaintiff has made out prima facie case and the balance of convenience tilts in his favour. **Hence, I answer Point No.1 in the Affirmative.**

10. Point No.2: While answering point No.1 it is held that there is prima facie case in favour of plaintiff. There is a serious allegation of fraud, misrepresentation and coercion against the defendants in the present suit. If the Temporary Injunction is granted for a limited period with a direction to the plaintiff to establish the same, no hardship will be caused to the defendants. The non granting of Temporary Injunction will result in multiplicity of proceedings.

11. The learned counsel for the defendants No.1 and 2 has relied upon the following decisions:

- 1) S.P. Chengalvaraya Naidu (Dead) By LRs V/s. Jagannath (1994) 1 SCC 1,



- 2) Prem Singh and others V/s. Birbal and others (2006) 5 SCC 353
- 3) Jamila Begum (Dead) Through Legal Representatives V/s. Shami Mohd (Dead) Through Legal Representatives (2019) 2 SCC 727
- 4) M.S. Anathnamurthy and another V/s. J. Manjula ETC, Civil Appeal Nos.3266-3267/2025
- 5) M/s Kachhi Properties V/s. Ganpatrao Shankarao Kadam and others 2010 5 BomCR 43
- 6) Thomson Press (India) Ltd. V/s. Nanak Builders and Investors Private Limited and others (2013) 5 SCC 397

I have gone through the above decisions with due respect. The decision speak that the fraud shall be specially pleaded as per Order 6 Rule 4 of C.P.C. It is also held that the limitation act is applicable when the suit is filed at belated stage. The decisions also speak regarding the circumstances which do not warrant grant of Temporary Injunction. However, the facts and circumstances of the present case are entirely different. The decisions are not applicable to the case on hand. Therefore, the plaintiff has made out grounds to grant Temporary Injunction as sought for. **Hence, I answer point No.2 in the Affirmative.**

12. Point No.3 : In view of the above findings, this court proceed to pass the following:



ORDER

I.A. No.VIII filed by the plaintiff under Order XXXIX Rule 1 and 2 R/w. Section 151 of C.P.C is allowed.

The defendants No.1 to 5, their agents or anybody claiming through them are hereby restrained from alienating or creating charge over the suit property for a period of one year from the date of this order.

The plaintiff is directed to complete the evidence as early as possible to establish his claim before this court within period of one year from the date of this order.

No order as to cost.

(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the 01st Day of April , 2026).

Sd/-

(PRAVEEN NAYAK)

Prl. Senior Civil Judge & J.M.F.C.,

Devanahalli.