

**IN THE COURT OF THE ADDL CIVIL JUDGE AND JMFC
DEVANAHALLI**

Dated this the 28th day of January 2026

PRESENT

Smt. Chandrika. K. T. BCA, LL.B.,
Addl. Civil Judge and JMFC,
Devanahalli.

O.S No. 335/2023

Plaintiff : 1. Sri. A. Ananda,
S/o Late Anjinappa,
Aged about 44 years,
R/at: Doddasanne village,
Kasaba Hobli,
Devanahalli Taluk.

(By Sri. N.K.G- Advocate)

- Vs -

Defendant : 1. Sri. Muninarayanappa @ Thayappa,
S/o Late Nyathappa,
Aged about 79 years.

2. Sri. N. Krishnappa,
S/o Late Nyathappa,
Aged about 72 years.

3. Smt. Aswathamma,
D/o Late Nythappa,
Aged about 63 years.

4. Sri. Narasimhappa,
S/o Late Nyathappa,
Aged about 58 years,

All are R/at: Doddasanne village,
Kasaba Hobli,
Devanahalli Taluk.

**(By Sri. V.R for D2, Sri. M.M.K For D3–
Advocate)**

PARTIES IN IA I

Applicant/ Plaintiff : Sri. A. Ananda,

V/s

Opponent/Defendant : Sri. Muninarayanappa @ Thayappa
& others

ORDER ON IA NO. 1

This is an application filed by the plaintiff U/o 39 Rule 1 and 2 of CPC by the plaintiff with a prayer to grant the temporary injunction restraining the defendants from alienating the suit schedule property either by themselves or through their agents or any other person claiming under them pending disposal of the suit.

2. It is stated in the affidavit enclosed with the application that the plaintiff herein has filed suit against the defendants seeking for the relief of specific performance of the contract in respect of the suit schedule property. It is stated that the defendants and plaintiffs had entered into registered agreement of sale and in the said agreement of sale, the plaintiff has paid a huge advance sale consideration amount to the defendants. Since then, he has been requesting the defendants to receive the balance sale consideration amount and to execute the valid sale deed conveying the right, title and interest pertaining to the suit schedule property to him. But the said request made by the plaintiff was rejected by postponing to execute the sale deed in favour of the plaintiff by giving one or the other reasons by the defendants. Later the plaintiff learnt that the defendants are trying to alienate the suit schedule property suppressing the fact about the existence of the sale agreement pertaining to the suit schedule property in favour of plaintiff to the third parties. It is stated that if the defendants are allowed to alienate the suit property, then plaintiff will suffer injustice and

hardship and no prejudice would be caused to the defendants in the event if the application is allowed. As such prays this court to allow the application.

3. In pursuance of the summons issued to the defendants, defendant No. 2 and 3 have appeared before the court. Defendant No. 2 has filed written statement and memo to adopt the contents of the written statement as objections to this application. It is stated in the objections that, the plaintiff has approach this court with an uncleaned hand suppressing the material facts. Defendant No. 2 has specifically denied all the averments made by the plaintiff in the plaint. He has also put forth his case stating that the the second defendant is the absolute owner of an agricultural land bearing Sy. No. 40 to an extent of 8 guntas out of 14 guntas situated at Doddasanne village, Kasaba Hobli, Devanahalli Taluk. The said property is the ancestral property of this defendant and his family members. The defendant No. 3 by name Ashwathamma has filed a partition suit in respect of the joint family properties before the Hon'ble Senior Civil Judge and JMFC, Devanahalli in O.S No.

819/2008. Thereafter, with an intervention of family members and the villagers, the above suit has been settled with the compromise before the Hon'ble Senior Civil Judge and JMFC, Devanahalli. As per the compromise, the said property was allotted to the share of defendant No. 2 and based on the compromise decree, all the revenue documents pertaining to the above said land got transferred into the name of defendant No. 2. Defendant No. 2 is in peaceful possession and enjoyment of the same. It is stated that the defendant has never executed any kind of deed or conveyed the suit schedule property at any point of time in favour of the defendant. The plaintiff intentionally colluded with the other defendants has created the sale agreement and filed the above suit against the defendant No. 2 with an intention to grab the valuable property. The defendant No. 2 further stated that he has not executed any sale agreement in favour of the plaintiff. The other defendants along with the defendant No. 2 borrowed a loan from the plaintiff and the plaintiff taking undue advantage of innocence of the defendants, got executed a sale agreement in his favour. It is stated that the

plaintiff filed the above suit after lapse of 10 years. As such the suit of the plaintiff is barred by limitation. Hence prays this court to dismiss this application.

4. Heard both sides. Learned counsel for plaintiff address argument on I.A No. 1. After hearing the argument and on perusal of the documents the points that arise for consideration are as hereunder:

POINTS

- 1. Whether the Plaintiff has made out a prima-facie case?**
- 2. Whether balance convenience lies in favour of the Plaintiff?**
- 3. *Whether the Plaintiff will be put to irreparable loss and hardship if I.A.No.1 is rejected?***
- 4. What order?**
- 5. *My answer to the above Points are as under:-***
 - Point No.1 : In the Affirmative***
 - Point No.2 : In the Affirmative***
 - Point No.3 : In the Affirmative***

***Point No.4 : As per final order,
for the following:-***

REASONS

6. **POINT NO. 1 : Establishment of Prima facie case:** This is the suit filed by the plaintiff seeking for the relief of specific performance of the agreement dated: 10-03-2010 against this defendants. It is the case of the plaintiff that the plaintiff and the defendants have entered into an sale agreement dated: 10-03-2010 wherein a contract was made between the plaintiff and the defendants with respect to suit schedule property. The defendants have intended to sell the suit schedule property as such they have executed the sale agreement in favour of plaintiff for consideration of Rs. 2,10,000/-. On the date of agreement the plaintiff has paid Rs. 2,00,000/- as an advance at the time of the execution of the agreement and the remaining Rs.10,000/- was pending. The plaintiff was ever ready and willing to perform his part of the contract by paying the balance sale consideration and demanded the defendants to execute the sale deed in his favour, after obtaining

the balance sale consideration amount. However, the defendants have postponed the execution of the sale deed for one or the other reasons. When the plaintiff found that the defendants are avoiding to execute the sale deed in favour of plaintiff he got issued a legal notice dated: 16-05-2023 and the same was duly served to the defendants, wherein the defendant failed to execute the sale deed in his favour even after receiving the said notices. As such he has filed the present suit.

7. It is the contention raised by the plaintiff through this application is that, the defendants pending disposal of this suit, are trying to sell the suit schedule property to the third parties, thereby creating the third party interest in the suit schedule property by suppressing the fact that there is a sale agreement in favour of the plaintiff pertaining to the suit property. As such he has prays this court to grant a temporary injunction restraining the defendants from alienating the suit property pending disposal of the suit. In order to prima facie establish his case before the court, the plaintiff has produced the certified copy of the sale agreement dated: 10-03-

2010. A perusal of the same at this stage prima facie shows that there is a contract of sale agreement between the plaintiff and the defendants wherein the recital shows that the plaintiff has paid the substantial amount of sale consideration of Rs. 2,00,000/- to the defendants and the defendants have received the same. The other documents furnished by the plaintiff is that the RTC pertaining to the suit schedule property which is in the name of the defendant No. 2. He has also furnished the copy of notice dated: 16-05-2023 to the defendants and the postal receipts and acknowledgments to show that the above said notice was served to the defendants.

8. On the other hand the defendant No. 2 has not furnished any document in this case. But he has furnish a copy of compromise decree in O.S No. 819/2008. A perusal of this shows that a compromise was held between among the defendants wherein the defendant No. 3 herein has relinquished her right in the joint family properties by receiving Rs. 50,000/-. Apart from this there are no materials brought on record. A perusal of this documents and the comparing this documents on record, at this stage the

plaintiff has made out a prima facie case. Whether or not the plaintiff is entitled for relief of specific performance is a matter of trial. However, at this stage the materials on record clearly disclose that there are triable issues which needs to be tried. Therefore, keeping in view of the existence of triable issues. If the defendants are not restrained by way of this temporary injunction they may alienate the suit schedule property in favour of the third parties creating the third party interest in the suit schedule property which may lead to multiplicity of the proceedings. In that case the plaintiff right will be deprived from obtaining the specific performance of the contract pertaining to the sell agreement which is subject matter of the suit. Therefore, in order to protect the interest of the plaintiff, in order to avoid multiplicity of the proceedings and further litigation pertaining to the suit schedule property, it is necessary to injunct the defendants from alienating the suit schedule property pending disposal of the suit.

9. It is the contention of the defendant No. 2 is that the suit is barred by limitation as the suit is filed after 13 years from the date

of the sale agreement. It is also the contention of the defendant No. 2 that the sale agreement was made to execute by the defendant by taking undue advantage of the loan which has been availed from the plaintiff. This contention the defendants have taken is matter of trial. At this stage on count of this defence taken by the defendants, the injunction can not be rejected wherein it involves the third party interest in the suit schedule property. Further the limitation is a mixed question of facts and law as such it calls for trial. Therefore, without holding any enquiry or trial about the question of limitation, prima facie at this stage an injunction can not be rejected. Therefore, at this stage this court holds that the plaintiff has made out a prima facie case. **Hence in view of the same this court answers Point No. 1 in the Affirmative.**

10. **POINT NO. 2: Balance of Convenience:**

The plaintiff has produced prima facie documents to this court, as this court already held that there are issues that needs to be tried. In such case if the plaintiff is rejected an injunction then he will be put to hardship in comparison to that of the hardship

that will be caused to the defendants by allowing this application. Hence the balance of convenience lies in favour of the plaintiff and not in favour of the defendants. **Accordingly, point No. 2 is answered in the Affirmative.**

11. POINT NO. 3: Irreparable Loss and Injury:

As discussed early, this is an application filed by the plaintiff seeking for relief of temporary injunction restraining the defendants from alienating the suit property. The plaintiff has already established his prima facie case by producing the documents in his favour. If at all the defendants not restrained by way of temporary injunction, they may alienate the suit schedule property to the third parties. It will affect the the plaintiff right in the suit schedule property if any, if at all proved at the trial. If at all, after the trial, this court holds that the plaintiff is entitled for specific performance of the suit and if the property is already alienated then the plaintiff will be put to irreparable loss which can not be suitably compensated. The alienation also lead multiplicity of the proceedings. **Accordingly, point No. 3 is answered in the**

Affirmative.

12. Point No.4 : In view of the above and for the aforesaid reasons, this court proceeds to pass the following;

ORDER

I.A.No.I filed by the Plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

Defendants, their agents, servants or anybody claiming through them are hereby restrained by way of temporary injunction from alienating the suit schedule property in favour of the third parties pending disposal of the suit.

For compliance U/s 89 of CPC by: 27-03-2026.

*(Order is dictated to the stenographer directly on the computer, corrected by me and then pronounced in the open court, on this the **28th day of January 2026**).*

(Smt. Chandrika. K. T.)

Addl. Civil Judge and JMFC,
Devanahalli.

Order pronounced in open court vide separate

ORDER

I.A.No.I filed by the Plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

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For compliance U/s 89 of CPC by: 27-03-2026.

Addl Civil Judge and JMFC,

Devanahalli.

