

ORDER ON IA NO. I

This is a suit for Specific Performance.

IA.I filed U/o. 39 Rule 1 & 2 R/w Sec.151 of CPC for grant of ad-interim injunction order restraining the defendants, their agents, servants, family members or any body claiming on their behalf from alienating the land bearing Sy. No.1 New Sy. No.91 measuring 1.00 acres situated at Gangapura Village, Nandagudi Hobli, Hoskote Anugondanahalli Hobli, Hoskote Taluk, Bengaluru Rural District (Hereinafter referred to as "**Plaint Schedule Property**", for brevity) till disposal of the suit.

Perused IA No.I, affidavit annexed to the application and documents such as copy unregistered agreement of sale dated 25.02.1986; copy of sale deed dated 19.07.1975; copy of legal notice dated 22.05.2025 and copy of reply notice dated 19.06.2025. It appears that, the father of the defendant No.4 to 10 entered into an agreement of sale with the plaintiff agreeing to sell the plaint schedule property on 25.02.1986. The plaintiff has filed the present suit after a lapse of nearly 39 years from the date of execution of the agreement of sale. It is worth to refer decision of

the Hon'ble Apex Court in the case of Ripudaman Singh -Vs- Balkrishna reported in (2019) 4 SCC 767 wherein the Hon'ble Apex Court held at para No.9 that **It is well settled that an agreement to sell does not create any interest in immovable property, it nonetheless constitutes a legally enforceable contract between the parties to it.** It is also worth to refer decision of the Hon'ble Apex Court in the case of Somnath -Vs- Ravinder Kumar in Civil Appeal No.4484/2025 dated 25.03.2025 wherein the Hon'ble Apex Court held at para No.13 that **as per Section 54 of the Transfer of Property Act, 1882 a contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties. It does not, of itself create any interest in or charge on such property. Thus, even if the suit for specific performance is decreed, without a specific decree for transfer of the possession of the suit property, the same can be enforced only when the court directs the judgment-debtor to convey the suit property to the decree holder. It is only after registration that the transfer of title would take place from one to the other.** In view of above ratio, mere entering into an agreement of sale does not creates any

right, interest or charge over the immovable property. In the case on hand, the plaintiff expressed an apprehension of alienation of the plaint schedule property. If injunction is not granted before issuing notice, the defendants may alienate or create charge over the plaint schedule property. In such circumstances, the plaintiff will be put to irreparable loss and hardship and object of granting ad-interim temporary injunction will be defeated by delay and to preserve the plaint schedule property intact and to avoid further complication and multiplicity of proceedings, notice is dispensed for the time being and I proceed to pass the following:

ORDER

Consequently, ex-parte ad-interim temporary injunction is granted against the defendants restraining them from alienating or creating charge over the plaint schedule property till next date of hearing.

Issue ad-interim ex-parte temporary injunction order to the defendants after complying the provision of Order 39 Rule-3 of C.P.C.

OS.228/2025

Issue suit summons to the defendants and emergent notice on IA No.I to the defendants and notice on IA No.III to defendant No.3.

Returnable by:

**Prl. Civil Judge & JMFC.,
Hosakote.**