



**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND  
JMFC., AT GOWRIBIDANUR**

Dated this 7<sup>th</sup> day of July 2025

PRESENT

**Smt. PUSHPA .D**

**B.Com, L.L.B.,**

**Addl. Civil Judge & J.M.F.C,  
Gowribidanur**

**ORIGINAL SUIT NO.270/2025**

**PLAINTIFFS :**

1. Sri. Krishnappa,  
Son of Late. Narasimhappa ,  
Aged about 55 years,  
R/at Chikkavaddenahalli Village  
D.Palya Hobali  
Gowribidanur Taluk

**(Represented by Sri. D.V Manjunath  
Advocate for plaintiff)**

**V/s**

**DEFENDANTS:**

1. Sri. Gangappa,  
Son of Late Anjinappa,  
Aged about 82 years,
2. Sri.Ramanjinappa,  
Son of Gangappa,  
Aged about 47 years,
- 3 Smt.Aswathmma  
Daughter of Ganappa,  
wife of late Ramappa  
Aged about 40 years,
- 4 Sri.Nagesh  
Son of Gangappa  
Aged about 38 years,

The defendants No.1to 4 are R/at



Doddavaddenahalli (hosapete) village  
D.Palya Hobli ,Gowribidnaur Taluk.

**5** Smt Kavitha  
Daughter of Gangappa  
Wife of Gangadharappa  
Aged about 33 years,  
Residing at M.G.Road Uppara colony,  
Near Preethi Charitable Trust  
Rudrashrama prathana Sandana  
Gowribidanur -561308

Also R/atDoddavaddenahalli (Hosapete) Villlage  
D.Palya hobli  
Gowribidanur Taluk

**(Represented by Sri. NMT  
Advocate for defendant )**

**ORDER ON IA NO. I FILED BY THE PLAINTIFF UNDER  
ORDER XXXIX RULES 1 and 2 OF CPC;**

**ORDER ON IA NO.II FILED BY THE DEFENDANTS UNDER  
ORDER XXXIX RULE 4 OF THE CPC**

The plaintiff has filed interim application U/o XXXIX Rules 1 and 2 of CPC, by seeking prayer to grant ad-interim order of temporary injunction against the defendants from alienating or encumbering the schedule property until pending disposal of the suit. The defendants have filed an application under Order 39 Rule 4 of CPC for vacate the ex-parte TI order on IA. No. I.

2. In the accompanying affidavit to the interim application, the plaintiff has stated that the defendants entered into an agreement of



sale with respect to the suit schedule property in favour of the plaintiff for a total sale consideration of ₹3,01,125/-. On the date of the agreement, the defendants received a sum of ₹1,10,000/- as part performance of the contract and agreed to execute and register the sale deed upon receipt of the balance sale consideration. It is further stated that the defendants undertook to execute the sale deed after obtaining the *khata* and mutation in the name of Defendant No.1, along with the 11-E sketch, survey *hudbusth*, and other necessary documents required for registration. The *khata* currently stands jointly in the names of Defendant No.1 and others. However, the defendants have not come forward to execute the sale deed in favour of the plaintiff and have failed to furnish the required documents for registration. Moreover, the defendants have not taken any steps to apply for the 11-E sketch to separate their extent of 2 acres, 29 guntas, and 8 aanas in the suit schedule property bearing Sy. No. 60. The plaintiff states that he has always been ready and willing to perform his part of the contract and to pay the remaining sale consideration. A legal notice was issued to the defendants on 24.03.2025, but despite having received the notice, the defendants have not responded. Hence, he prays to allow the application.

3. In response of the suit summons, defendants have appeared



through their respective counsel and filed written statement cum objection and vacating the TI order application to the present application. It is contended that, the allegations contained in the affidavit in support of IA are all false and incorrect. Further submitted that, the plaintiff have suppressed the real facts and have filed false suit against these defendants and have not approached the court with clean hands. The defendants further contend that the suit schedule property originally belonged to one Doddamariyappa. During his lifetime, for the purpose of clearing debts and meeting family necessities, he sold the property to one Kadiramma under a registered sale deed dated 08.04.1943. Subsequently, Kadiramma sold 1 acre 26 guntas being 1/3rd share of the total extent of 5 acres in the schedule property to one Anjinappa, who thereby became the absolute owner of that extent. Upon Anjinappa's demise, his estate was succeeded by his four children. Such being the case, the plaintiff has not come up with clean hands, defendants have not entered into any agreement of sale with the plaintiff. The signature appeared on the alleged agreement of sale is forged one and does not belong to any of the defendants. Hence, prays to reject the application.

4. Heard, arguments on both sides, in view of the material available on record and the rival contentions raised by the parties. The



following points have arisen for my consideration;

### **P O I N T S**

1. *Whether the applicant/plaintiff has made out a prima-facie case for the grant of the T.I. as prayed?*
2. *Whether the balance of convenience lies in favor of plaintiff?*
3. *Whether irreparable loss would be caused to the applicant/plaintiff. If the instant interlocutory application is not allowed?*
4. *Whether the defendants have made out grounds to allow the IA.No.II?*
5. *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 | : | In the Negative.                      |
| Point No.5 | : | As per final order for the following; |

### **R E A S O N S**

6. **Point Nos.1 to 4:** Any of the observation made herein does not affect the merits of the case and parties at liberty to prove their respective contentions. These observations have been made only for the purpose of disposal of this application. These points are taken together for common discussions and to avoid the repetition of facts.



The whole facts of the interim application is already narrated at the inception of this order. Therefore, repetition of the same avoided here.

7. I have carefully perused the entire plaint averments, affidavit in support of the interim application, the objections cum written statement and documents filed by the defendants. To prove the case of the plaintiff, the plaintiff has produced a copy of the unregistered sale agreement, RTC extract, mutation extract, copy of the legal notice, postal receipts, acknowledgments and Returned RPAD Cover. On perusal of the unregistered agreement of sale, it appears that the said agreement was executed by defendants in favour of plaintiff for a sum of Rs.3,01,125/- and received balance sale consideration of Rs.1,10,000/- and agreed to execute the sale agreement after obtaining 11E sketch and individual khata. Further, on perusal of the RTC extract, it is observed that in Column No.9, the name of Gangappa along with other individuals is recorded as joint holders, and in Column No.10, the M.R. (mutation register) reflects the name as Pavathi.

8. On the contrary, the defendants have produced as many as documents such as, registered sale deed dated 08.04.1943 and 20.03.1944 and record of rights in two number, RTC and Geneological tree. During the course of arguments, the learned counsel for the defendants also brought to the attention of this Court that the suit is



barred by limitation. He further submitted that the agreement of sale relied upon by the plaintiff is an unregistered document which requires to be impounded under the provisions of the Indian Stamp Act and that is also not registered under the Indian Registration Act. Furthermore, the defendants have alleged that the said agreement of sale is a forged document and was not executed by the defendants in favour of the plaintiff. In support of these contentions, the learned counsel for the defendants relied on a catena of judgments. Moreover, the burden of proof is on the defendants and this burden can be discharged by the defendants only at the stage of trial and it cannot be looked into at this preliminary stage.

9. The primary purpose for granting interim relief is the preservation of property in this suit till legal rights and conflicting claims of the parties before the court are adjudicated, in other words the object of making an order regarding interim relief is to evolve a workable formula to the extent called for by the demands of situation, keeping in mind the pros and cons of the matter and striking a delicate balance between two conflicting interest that is injury prejudices likely to be caused to the defendants.

10. At this juncture, it is to be kept in mind that the Court cannot conduct a mini-trial at this stage by appreciating the documents



produced by the parties, in detail. All that the Court must see is whether the party seeking the relief of temporary injunction has made out a prima-facie case. A prima-facie case does not mean that the plaintiff will succeed in the suit in all probability but it merely means that the plaintiff has made out sufficient grounds for the case to go for trial.

11. I have perused the authorities produced by the defendants. Therefore, from the pleadings and documents of plaintiff and defendants, it prima-facie appear that the issue of limitation constitutes a mixed question of fact and law, which can only be adjudicated through a full-fledged trial. At this juncture, it is pertinent to consider the decision cited by the learned counsel for the defendants in *K.B. Jayaram & Another v. Navaneethamma & Others*, with reference to the nature of the documents produced by the plaintiff. The said document, being an unregistered agreement of sale, is subject to the requirements of registration and is also alleged to be insufficiently stamped. However, the plaintiff has filed a memo enclosing the original unregistered document and has expressed a willingness to have it impounded and to pay the requisite stamp duty. In light of the above, acceptance of the memo filed by the plaintiff necessitates that the agreement of sale be impounded under Section 33 of the Karnataka Stamp Act, 1957, to



facilitate proper adjudication regarding the sufficient stamp duty and for the payment of any applicable penalty. Furthermore, the defendants have taken up the defence that the agreement of sale is forged document. The determination of this issue involves question of fact and therefore requires full-fledged trial. The defendants are at liberty to lead cogent oral and documentary evidence to rebut the case of the plaintiff and disprove the authenticity of the disputed documents at the stage of trial. The documents produced by the plaintiff establishes a prima facie case in favor of the plaintiff. Upon considering the pleadings and documents produced by the plaintiff, at this preliminary stage, the plaintiff has made out a prima-facie and whenever there is an arguable case, it can be said that the plaintiff has made out a prima-facie case.

12. The Court has to see whether the applicant will sustain such injuries or loss which cannot possibly and adequately remedied by way of damage and the said damage would be inadequate in case of the success of the applicants. As far as the question of balance of convenience/inconvenience is concerned, the Court has to see inconvenience which may be caused to either of the parties and see whether it is necessary or proper to maintain status quo till the adjudication of dispute finally decided. The ingredients are to be established by the party who seek injunction in his favor. The grant of



injunction is a discretionary relief and the parties who claims such a relief should come to the Court with clean hands and place all the materials before the Court so that Court will satisfy about the case in favor of the parties seeking the order.

13. As the R.T.C of the suit schedule property standing in the name of the Defendants, the possibility of the defendants alienating the suit schedule properties to third parties cannot be ruled out. If the defendants are not restrained from alienating the suit schedule properties at this stage, then the plaintiffs would be constrained to implead all the future purchasers of the suit schedule properties and the suit would take years to reach a conclusion. On the other hand, if the application is allowed, there appears to be no harm or injury that would be caused to the defendants and they are at liberty to contest the case and demolish the case of the plaintiff and if the suit is ultimately dismissed, the defendants will be at liberty to deal with the suit schedule property as per their wishes. It is a well-settled principle of law that no property can be alienated during the pendency of a suit, as such an act would attract the bar under Section 52 of the Transfer of Property Act, dealing with the doctrine of lis pendens. The object of this provision is to prevent one party from defeating the rights of the other during litigation by transferring the disputed property to a third



party, thereby rendering the court's final decision ineffective. The doctrine serves to preserve the subject matter of the suit, prevent multiplicity of proceedings, and protect the rights of all parties involved in the litigation. Therefore, this Court is of the opinion that the balance of convenience/inconvenience lies in favor of the plaintiff and not in favor of the defendants, as the plaintiff would be constrained to file multiple suits or resort to other procedures under law if the suit schedule properties are alienated during the pendency of this suit as before and this Court is of the opinion that if the I.A is not allowed, the plaintiffs would be put to irreparable loss and injury. Hence, I have answered **Points No.1 to 3 in the Affirmative and Point No.4 in the Negative.**

14 **Point No.5:** In view of my findings on Points No.1 to 4, the plaintiff is entitled to the relief of temporary injunction, as sought for. Hence, this court proceed to pass the following:

### **ORDER**

- (I), I.A filed by the plaintiff under Order XXXIX Rules 1 & 2 of C.P.C is hereby allowed.
- (II). The defendants are hereby restrained, by way of temporary injunction, to alienate the suit schedule property, until further orders.



(III). Consequently, the I.A filed by the defendants under Order XXXIX Rule 4 of C.P.C is hereby dismissed.

(IV). The document viz., agreement of sale dated 22.01.2015 is hereby impounded under Section 33 of the Karnataka Stamp Act, 1957 and the office is hereby directed to forward the said document to the concerned Deputy Registrar along with a copy of this order, for calculation of requisite stamp duty and penalty.

Await report by 25.09.2025

No order as to costs.

(Typed by me on my own computer, corrected and then signed by me on 07<sup>th</sup> July, 2025)

Sd/-  
**(PUSHPA D)**  
**Addl., Civil Judge & JMFC.,**  
**Gowribidanuru**