



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C AT MUDIGERE.**

Dated this the 3rd day of November 2025

**:: PRESENT ::
SRI. PRAKASH.P.M, M.B.A, L.L.B.,
Senior Civil Judge & J.M.F.C,
Mudigere.**

OS. No. 30/2025

**Plaintiff: Sri. Sandeep Malagoudanavar,
S/o Sri. Nemagouda,
Aged about 41years,
Residing at No. 1177,
Padmakunja,
18th B Main Road,
5th Block, Rajajinagar,
Bengaluru – 10.**

(Rep by Sri. B.S.S.B., Adv.,)

-VS-

**Defendants: 1. Sri. K.K. Jagadish,
S/o K.K. Keshave Gowda,
Aged about 46 years,
Presently Residing at
Naduvinamadakal Grama,
Hesgal Post, Kasaba Hobli,**



Mudigere Taluk,
Chikkamagaluru District 577132.

(By Sri. S.D., Advocate)

PARTIES TO IA No.II

**Applicant/plaintiff: Sri. Sandeep Malagoudanavar
Vs.**

Opponent/defendant: Sri. K.K. Jagadish

1	Provisions under which the application is filed	Under order XXXIX rule 1 and 2 of CPC
2	Relief sought for	Temporary injunction
3	The date on which the application is filed	26.05.2025
4	Number of the application	IA. No. II
5	Date on which the objection filed by opponents	11.06.2025
6	The date on which the order were passed on the said application	31.10.2025



**ORDER ON I.A.No.II FILED BY THE PLAINTIFF UNDER
ORDER 39 RULE 1 AND 2 OF CPC**

The plaintiff has filed IA No.II under Order 39 rule 1 & 2 of C.P.C. to restrain the defendant, his agents, servants or any person claiming through him or acting on his behalf from alienating or in any encumbering the suit schedule property in any manner, pending disposal of the suit.

2. In the affidavit accompanying with IA No.II, plaintiff stated that, he entered into an registered sale agreement with defendant on 07.03.2019 in respect of suit schedule property. The sale consideration was fixed at Rs.36,11,500/-, out of which he has paid sum of Rs.15,00,000/- to the defendant through NEFT transaction. He has also paid sum of Rs.2,00,000/- to the defendant on 16.05.2019. The defendant has agreed to clear the loan availed by him with Vijaya Bank, Mudigere branch and furnish the discharge deed in respect of suit schedule property. Despite of complying the condition laid down in the agreement, the defendant has issued legal notice on dated 14.10.2024, calling upon the plaintiff to co-operate for cancellation of registered sale agreement dated 07.03.2019



by receiving advance amount of Rs.15,00,000/-. The plaintiff has issued reply notice on 23.10.2024 to the said notice. The plaintiff from the beginning insisted defendant to comply with clause 9 of the sale agreement dated 07.03.2019, but defendant postponing the same with one other pretext. The plaintiff is always ready and willing to perform his part of obligation. On 1st week of November through the agents he came to know that discharge deed has been executed by defendant's banker in favour of defendant on 16.03.2023 itself in respect of suit schedule property, the defendant has deliberately suppressed the said fact in the legal notice dated 14.10.2024 and in the reply notice dated 23.10.2024, plaintiff had specifically requested defendant counsel to advise defendant to comply with clause 9 of the agreement. He tried to contact defendant on several times, but defendant avoided to meet him. Hence, he has issued legal notice on dated 9.01.2025 calling upon defendant to execute sale deed by receiving balance and sale consideration. Despite of service of notice defendant has not replied nor complied with the notice. Hence, he has filed this suit. Now the defendant is praying to alienate the



suit schedule property infavour of 3rd parties. He has made out prima-facie case balance of convenience lies in favour and if IA is not allowed he will be put to irreparable loss and injury. Hence prays to allow the application.

3. On the other hand the defendant filed objection, in the objection he admitted the execution of registered sale agreement dated 07.03.2019 in favour of plaintiff and also admitted the receipt of Rs.15,00,000/- from the plaintiff. But he denied the execution of agreement shara on dated 23.12.2019 or 03.08.2020 to 18.10.2024 in favour of plaintiff. He further contended that he assured the plaintiff that he will clear the loan from the bank in respect of suit schedule property and also agreed to execute the registered sale deed. But plaintiff was / is not ready and willing to perform his part of contract. The suit is barred by limitation. Now the market value of the property is more than Rs.25,00,000/- per acre. After the defendant has filed O.S. No. 16/2025 before this court, the plaintiff has issued legal notice and has filed this suit without cause of action. Hence he prays to dismiss the application.



4. Heard the learned counsel for the plaintiff and defendant.

5. Now the points that would arise for my consideration is:

1. Whether the plaintiff has made out prima- facie case in his favour?
2. Whether the plaintiff proves that balance of convenience lies in his favour?
3. Whether the plaintiff proves that he would be put to irreparable loss and injury if T.I. is not granted in his favour?
4. What order?

6. My finding on the aforesaid points for consideration is:

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



R E A S O N S.

7. Point No.1 to 3: As these points connected to each other, in order to avoid the repetition these points are taken up together for discussion.

8. The present suit is filed by the plaintiff for the relief of specific performance of contract on the basis of registered agreement of sale dated 07.03.2019 executed by the defendant. Now, the plaintiff is seeking temporary injunction, to restrain the defendant from alienating/encumbering the suit schedule property.

9. It could be seen from the available materials that the registered sale agreement is in favour of plaintiff. The defendant has executed registered agreement of sale in favour of plaintiff on dated 07.03.2019 and received the advance sale consideration of Rs.17,00,000/-. Admittedly, at this stage the registered agreement shows that the defendant has executed the registered agreement of sale in favour of plaintiff.

10. Here the apprehension of the plaintiff is that, the defendant is making hectic efforts to alienate the suit



schedule property and if the defendant succeed in his attempt than it would cause multiplicity of proceedings. Here the defendant appeared before the court and filed written statement and admitted the execution of registered agreement of sale dated 07.03.2019 and also admitted the receipt of Rs.15,00,000/- from the plaintiff and contended that he has not executed agreement shara on 23.12.2019 or 03.08.2020 to 18.10.2024 in favour of plaintiff. He further specifically contended that he agreed to close the loan from the bank and to execute the sale deed in favour of plaintiff. But plaintiff himself was / is not ready and willing to perform his part of contract and the agreement of sale is barred by limitation and suit is not maintainable and accordingly, prays to dismiss the IA. The said contentions taken by the defendant can be decided only after the full pledged trial. But, the defendant has not denied the alienation of suit schedule property to the third parties. The apprehension of the plaintiff is concerned is not opposed by the defendant. As the registered sale agreement stands in favour of plaintiff. The contention of the defendant that he has not executed agreement shara and suit is barred by



limitation and plaintiff himself was / is not ready to perform his part of contract are all concerned can be decided only after the full pledged trail as stated above. At this stage, the prima facie document i.e., registered agreement of sale dated 07.03.2019 is in the name of plaintiff.

11. As I have already stated the apprehension of the plaintiff is concerned, the defendant has appeared before the court and not denied the allegations of alienation of the suit schedule property by producing relevant material. Therefore, if the defendant succeed in his attempt then definitely it would cause hardship to the plaintiff.

12. As I have already stated above, the plaintiff has placed registered sale agreement and defendant has appeared and not denied the allegation of alienating the suit schedule property to third parties. Under such circumstances, it is clear that the apprehension of the plaintiff is natural and considerable one. Thereby defendant has to be restrained from disposing or alienating the suit schedule property.



Hence, the plaintiff is able to show that the balance of convenience lies in his favour.

13. It is significant to note that, it is the duty of the defendant to demonstrate or substantiate his defense by producing the relevant material. The defendant has appeared and not denied the allegation of the plaintiff that he is trying to alienate the suit schedule property. From the said fact, it appears that the apprehension of the plaintiff is reasonable to consider. From the above facts and circumstances, I am of the opinion that the prayer of the temporary injunction as prayed in IA No.II is refused then the loss would be caused to the plaintiff. Hence, I answer **Point No.1 to 3 in the Affirmative.**

14. Point No.4: In view of above discussion of points No.1 to 3, I proceed to pass the following;

ORDER

The IA No.II filed by the plaintiff
under order 39 Rule 1 and 2 of C.P.C is
hereby allowed.



The defendant is hereby restrained by way of temporary injunction from alienating/ encumbering the suit schedule property in any manner till the disposal of suit.

No order as to costs.

(Dictated to the stenographer, directly on computer, typed by her and corrected by me and pronounced in the open Court this the 3rd day of November 2025)

(PRAKASH P.M.)
Senior Civil Judge and J.M.F.C.,
Mudigere