

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, HUBBALLI**

Present:

Sri. Yamanappa Karehanumantappa,
Prl. Senior Civil Judge, Hubballi.

O.S. No. 440/2025

Dated this the 24th day of January - 2026

Plaintiff : Siddappa S/o Basappa Harkuni

.Vs.

Defendants : Malappa s/o Gadigeppa Malwad and
another

PARTIES TO I.A. No. II

Applicant : Smt. Reshma W/o Jafar Sadiq Peerzade

.Vs.

Opponents : Siddappa S/o Basappa Harkuni

ORDER ON IA No. II

The Advocate for defendant No.2 has filed application U/O. VI Rule 16 R/w Section 151 of C.P.C. praying this Court to strike out the pleadings against the defendant No.2, with respect to property No.941/1/1B to an extent of 1 acre.

2. Along with the application the defendant No. 2 has filed affidavit stating that, the plaintiff has filed the suit for specific performance and declaration and the same is false and baseless and filed with an intention to harass the defendant No.2. The defendant No. 2 has purchased an

extent of 1 acre to the eastern side property out of survey block No.941/1/1B a total extent of 2 acres for total consideration amount of Rs.45,00,000/- which has been paid to the plaintiff on various dates through SBI and Canara Bank and he is in actual and physical possession of the same. The plaintiff though having knowledge about this has filed this false suit. The Plaintiff and defendant No.1 colluding with each other has filed this present suit by creating a document which is styled as agreement of sale which is unregistered and on white paper on which there is no signature of the Plaintiff and the same seems to be a money transaction. The defendant No.2 is the bonafide purchaser for consideration and he has given public advertisement in the newspaper before purchasing the said land and the defendant No.1 has taken permission from the competent Court to sell the said property in which minor's interest is involved. In the above circumstances the above issues may be treated as preliminary issue and the suit be dismissed in the ends of justice. The plaintiff has no cause of action and has no right, title and interest over the suit property as the property standing exclusively in the name of his vendor who had absolute right to sell the suit property. The above aspects delineated in detail in his written statement and it requires to be dealt with as preliminary issue and the pleadings be struck out and the suit be dismissed. Under this background prays to allow the application.

3. The Advocate for plaintiff has filed objection to the application and denied the entire averments made in the affidavit of defendant No.2. Further he contended that, defendant No. 1 has executed a sale agreement in respect of entire suit property i.e., 2 acres of Sy/Block No. 941/1/1B this being the fact the purchaser of suit property to the extent of 1 acre of land i.e, defendant No.2 cannot seek to strikeout the pleadings against him in plaint. The defendant No.2 has purchased the part of the suit property to the extent of 1 acre when the agreement of sale of plaintiff in respect of total suit property i.e., 2 acres was still in force and the agreement of sale of plaintiff is on 16.01.2022 which is much prior to sale deed of defendant No.2 which is dated 03.05.2025. If the extent of 1 acre of land which is being is deleted or purchased by defendant No.2 striked off the plaintiff would be put to untold hardship which cannot be compensated in terms of money. Hence, prayed to reject the application.

4. Heard both side. The counsel for defendant has also filed written argument. Perused the same and perused the materials on record. The following points arise for my consideration:

1. Whether defendant has made out a ground that there is unnecessary pleadings and there is delay of fair trial of the suit?

2. What order?

5. My answer to the above points are as under.

Point No.1 : In the Negative.
Point No.2 : As per final order,
for the following:

REASONS

6. **Point No.1:** The plaintiff has filed this suit against the defendants for the relief of specific performance of contract on the ground that, the defendant No.1 has sold the suit property in favour of plaintiff on 16.01.2022 by executing agreement of Sale Deed in the presence of witnesses after receiving ₹ 10 lakhs.

7. The Advocate for defendant No.2 has filed this application stating that, he is a bonafide purchase of the part of suit property. The plaintiff has filed false suit and may hw name be strikeout from the plaint. The real object of Order 6 Rule 16 is striking out pleadings where unnecessary frivolous pleadings averred in the plaint which is not required for fair trial of the suit and when he has filed suit by way of abusing process of Court.

8. The cardinal rule of pleadings that, the pleadings has to state material facts. According to plaintiff he has purchased the suit property by way of agreement of Sale Deed dated 16.01.2022 for valuable consideration amount and in the same survey number 1 acre land has been purchased by defendant No.2 from defendant No.1 through registered document for which the plaintiff has impleaded

defendant No.2 in the suit proceedings. Whether defendant No.2 is bonafide purchaser or not cannot be decided at this stage. Therefore, I am of the considered view that, there is no unnecessary pleadings in the plaint and there is no delay for the fair trial. Therefore, the plea of defendant No.2 cannot be accepted. Accordingly, I answer point No.1 in **Negative**.

9. **Point No.2:** In view of my answer to point No.1 as stated above, I proceed to pass the following;

ORDER

The I.A. No. II filed by defendant No.2 U/
O. VI Rule 16 R/w Section 151 of C.P.C is
hereby rejected.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **24th day of January - 2026**)

Sd/-
(Yamanappa Karehanumantappa)
Prl. Senior Civil Judge, Hubballi.