

IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE

AND J.M.F.C., HUBBALLI

PRESENT:- SMT. SARVAMANGALA K.M.,
B.A. LL.B

I ADDL. SENIOR CIVIL JUDGE AND JMFC.,
HUBBALLI.

O.S. No.356/2025

Dated this the 03rd day of February, 2026

Plaintiff : Allasab S/o Jamalsab
Jamalsabnavar.

.Vs.

Defendant : Syed Tanveer S/o Hayatsab Kittur
and others.

PARTIES TO I.A. No.IV

Applicant : Syed Tanveer S/o Hayatsab Kittur
and others.

//Versus//

Opponent : Allasab S/o Jamalsab
Jamalsabnavar.

- i. Provision under : Under Order 39 Rule 1 and
which application is 2 R/w Sec.151 of CPC.
filed

- ii. *Relief sought for* : *Seeking an order of temporary injunction restraining the plaintiff, his agents, servants, henchmen and any other person claiming through him to obstructing the peaceful possession, enjoyment and the cultivating of suit schedule property by defendant No.2 to 4, till pending final disposal of the this suit, in the ends of justice and equity.*
- iii. *The date on which application is filed* : *18.11.2025*
- iv. *Number of the application* : *IV*
- v. *The date on which objections are filed by different opponents* : *02.12.2025*
- vi. *The date on which orders were passed on the said application* : *03.02.2026*

ORDER ON I.A. NO.IV

The defendants filed an I.A. No.IV under Order 39 rule 1 and 2 R/w Sec.151 of C.P.C., seeking an order of temporary injunction restraining the plaintiff, his agents, servants,

henchmen and any other person claiming through him to obstructing the peaceful possession, enjoyment and the cultivating of suit schedule property by defendant No.2 to 4, till pending final disposal of the this suit, in the ends of justice and equity.

Description of the suit schedule property:

An agricultural land bearing survey/block No.207/2B/1 measuring 02 acres 25 guntas situated at Haliyal Village, Hubballi Taluk, which is bounded as under:

*East : Adjacent Hissa No.2 and 1K.
West : Road.
North : Adjacent Hissa No.1A.
South : Adjacent R.S. No.209.*

2. On the otherhand, the plaintiff filed objections to this application.

3. Heard arguments.

4. On the basis of entire materials available on record the following points arise for my consideration:

POINTS

1. *Whether the defendants have made out prima-facie case?*
2. *Whether the balance of convenience lies in favour of the defendants ?*
3. *Whether the hardship would be caused to the defendants if injunction is not granted?*
4. *What order ?*
5. *My answer to the above points are as follows:*
 - 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:** *This is the suit filed by the plaintiff against the defendant seeking the relief of cancellation of impugned sale deed dated:18.08.2018 executed in favour of defendant by exerting fraud and undue influence on plaintiff and same is illegal and void. Further, seeking possession of the suit schedule property if Court come to the conclusion that*

plaintiff is not in the possession of the suit property, further consequential relief of permanent injunction restraining the defendant from unlawfully obstructing the peaceful possession and enjoyment of the suit property by the plaintiff with cost and such other relief. Herein this suit the defendant filed the present application seeking the relief of temporary injunction against the plaintiff restraining from obstructing the peaceful possession of the suit schedule property by defendant no-2 to 4 till disposal of the suit.

7. The brief facts of the affidavit annexed to application is that, the defendant No.2 to 4 are the absolute owners and possessor of suit schedule property by way of registered sale deed dated:05.06.2025 executed by defendant No.1. The said sale deed is registered in the office of Senior Sub-Registrar, Hubballi. It is further submitted that the defendant No.1 have been inducted defendant No.2 to 4 in to actual and physical possession over the Suit Schedule Property and also name of defendant No.2 to 4 are mutated in the records of right of Schedule Property as holder and cultivator and possessor.

Hence, defendant No.2 to 4 was and is actual possession and cultivate the Suit Schedule Property, since from the date of purchase till today, by paying the revenue. Originally Suit Schedule Property was under the ownership Plaintiff, he has transferred his right, title, interest and possession of Suit Schedule property in favor of Defendant No.1, by executed the registered Sale deed, which is registered in the office of Sub-Registrar (North), Hubballi dated:24.04.2025. Accordingly, Plaintiff has inducted the defendant No.1 in to actual and vacant possession of suit schedule property and name of the defendant No.1 was mutated in the record of right as a holder, cultivator and possessor of suit schedule property, Since from the date of purchase till the day of execution of the sale deed and hand over the actual possession of suit schedule property to defendant No.2 to 4, defendant No.1 was in actual possession and cultivated Suit Schedule Property.

It is further submitted that, at the instigation of defendant No.1 to 4 ill-wishers, the plaintiff with an oblique intention to grab the money from the defendants has got filed this false suit

without having any right, interest, possession and whatsoever nature over the suit schedule property and trying to obtain the fraudulent order. When this is the true state of affair on 10.07.2025, defendant along with his son trying to obstruct and dispossess defendant No. 2 to 4 from the suit property, but at the intervention of neighbours went away by threatening that they are came again in large number, then again on 05.11.2025, defendants along with large number of henchman's are tried to interfere in peaceful possession and cultivation of the suit schedule property by defendant No. 2 to 4 and trying to destroy the corps and stolen machineries laying in suit property, by illegally, highhandedly by using their muscle power, then at the intervention of Defendant No.1 plaintiff is beaten him mercilessly, then at the intervention of defendant No.1 to 4 family members Plaintiff and his henchman's are went away and while going they are threatened that they will come again in large number. Thereafter, defendant No.1 and 3 have rushed to police station and informed about illegal, high handed

act of plaintiff. But they say that the matter is in civil nature and they cannot taken any steps against the plaintiff.

It is further submitted that if the Plaintiff is not restrain as prayed in the Sub-Joined application, than Plaintiff has dispossess to the defendants from the suit schedule property, in that event defendant No. 2 to 4 will be put to the irreparable loss and hardship and its create multiplicity proceeding, if Plaintiff is restrained as prayed no loss, hardship and inconvenience will be caused. The defendant have made out prima facie cace and the balance of convenience also lies in their favour for grant of injunction. Hence, prayed to allow the application.

8. The objections of the plaintiff is that, the application filed by the defendants with an intention to take illegal possession of land in dispute from the custody and possession of plaintiffs, the defendants, showing that the defendant No.1 has paid Rs.8,00,000/- consideration to the plaintiff. The cheque amount shown in the sale deed, have not been transferred to the plaintiff i.e., no crossed cheque have been issued by defendant

No.1 to the present plaintiff. The Defendant No.1 taken thumb impression on backside of the cheque and drawn the amount to himself and said amount is not credited to the plaintiff. When consideration is not passed the document becomes void and no legal value in the eye of law. For this reasons "Plaintiff's Bank Account Statement" annexed with this objections with the list of documents. There was a clear cut condition that unless and until sale consideration mentioned in the notarized Sale agreement i.e., Rs. 68,25,000/- has been paid the possession is till today with the plaintiff and plaintiff is an agriculturist and he is cultivating the lands in dispute at no point of time plaintiff has given the possession to the defendant No.1. Only recitals in the sale deed never transfer a possession unless and until actual possession is delivered by the plaintiff to the defendant. In this case the defendant No.1 is a D.C Permitted Agriculturist. He never cultivated lands in his life. This is bring to the notice of the court that Bull and Cock story created by Defendant No.2 to 4 and Defendant No. 1 to engulf valuable agriculture land from plaintiff. It is not possible by creation of a story and illwill

design and scheme. But actual truth and fact is different. The Haliyal Panchayat Members and Chairman of present when Defendant No.1 with their henchmen want to construct a shed along with 10-12 members tried to dispossess the plaintiff from agriculture land, panchayat members and chairman, kept the Scooter which has been brought by the Defendant No.1 persons and still it is under custody of the Panchayat members will tell the truth about the incident, how the henchmen of Defendant No.2 to 4 and Defendant No. 1 beaten son of the plaintiff and plaintiff also at no point of time handed over possession to the Defendant No.2 to 4 and Defendant No.1. But Reverse Story of ulterior motive has been hatched to grab the property of plaintiff.

It is further contended that after passing the first order on I.A No.1 single word is not whispered in W.S of Defendant No.1. Only memo is filed by Defendant No.2 to 4 adopting the Defendant No.1's W.S. This clearly shows Defendant No.2 to 4 and Defendant No.1 at no point of time is in actual possession and cultivation of the suit property. Pigment of imagination

Defendant No.2 to 4 and Defendant No.1 are cultivating i.e., what are the agriculture implements, for which purpose they are used. The present defendant are not having any knowledge about agricultural cultivation. The Defendant No.2 to 4 and Defendant No.1 are only have akkram-sakkaram plot sellers by using such selfish thing. When notarized agreement executed by Defendant No.1 with the plaintiff for actual sale price. But for Government valuation Registered sale deed is executed and issued a cheque to the plaintiff as per Notarized agreement. Those cheques bounced and amount is not transferred to plaintiff. Sale deed amount cheque also not transferred. Defendant No.1 taken a Thumb impression of plaintiff and drawn the amount to himself by using plaintiff's illiteracy and innocence. If the I.A is allowed person with fraud scheme will succeed by diversion and misleading the court i.e., Defendant No.2 to 4 and Defendant No.1 will succeed and poor innocent plaintiff will suffer heavy loss, which cannot be compensated in terms of money or any other mode. Hence, prayed to dismiss the application.

9. Admittedly, this is the suit filed by the plaintiff against the defendant seeking the relief of cancellation of impugned sale deed dated:18.08.2018 executed in favour of defendant by exerting fraud and undue influence on plaintiff and same is illegal and void. Further, seeking possession of the suit schedule property if Court come to the conclusion that plaintiff is not in the possession of the suit property, further consequential relief of permanent injunction restraining the defendant from unlawfully obstructing the peaceful possession and enjoyment of the suit property by the plaintiff with cost and such other relief.

10. In order to ascertain the prima-facie case of the defendant and in the light of the arguments canvassed by the learned counsel for the plaintiff and defendant this court carefully perused the materials on record, the list of documents of the plaintiffs consists of records of rights consists of Sy No.207/2b/1 measuring 2:25 Acres which is stands in the name of plaintiff. Mutation register extract which discloses the name of defendant, certified copy of order sheet in O.S.

No.372/2023, two original cheques, two notarized agreement of sale dated:02.11.2021 and 19.09.2021 in between plaintiffs and defendant in respect of the suit schedule property, and copy of two sale deeds dated 24.04.2025 and 05.06.2025.

11. No doubt, on perusal of the entire materials and arguments canvassed by the both side it is noticed to the court that the preponderance of probability is in favour of both side, but the full fledged trial of both side is required to decide the same, On perusal of the entire materials available on record, it is noticed to the court that as per contention of the plaintiff two earlier agreements of sale existed for a total consideration of ₹68,25,000/-. At the defendant's request to avoid stamp duty, a registered sale deed was executed showing only ₹8,00,000/-. The registered sale deed was not intended to be acted upon. And is therefore nominal sham and obtained by fraud. Hence the plaintiff seeks a declaration that the sale deed is illegal, void and not binding. This is not a simple cancellation suit, but a fraud based declaratory suit.

On the other hand, the defendant takes the usual counter stand. A registered sale deed carries presumption of validity and no such agreements of sale were executed. Once execution and registration are admitted, oral allegations cannot override a registered document. Therefore, defendant claims to be the absolute owner of the property. Anyhow, At this interlocutory stage, the court is not required to decide the validity or legality of the registered sale deed, which is the main issue in the suit. The only question to be considered is whether the defendant is entitled to protection of possession pending justification. The pleadings and documents prima facie disclose that the defendant no. 2 to 4 claims possession of a suit property under the registered sale deed. Though the plaintiff has challenged the said sale deed on the ground of fraud, such challenge requires full-fledged trial and evidence. It is a settled principle of law that Even a person in settled position is entitled to protection against interference, irrespective of disputes relating to title, until the matter is finally adjudicated. At the same time, it is necessary to clarify that any protection granted at this

stage shall be confined to Only to possession and shall not be construed as an expression on the validity of a sale deed or the merits of a suit. The balance of convenience lies in maintaining status quo with respect to possession, and refusal of injunction may lead to breach of peace and multiplicity of precedents. No irreparable hardship would be caused to the plaintiff by restraining interference with possession, as the plaintiff's rights are subject to the final outcome of a suit. In view of the above-said facts and circumstances, this Court is of the opinion that defendant no. 2 to 4 is entitled to a limited order of interim injunction.

At this stage, the court is required to consider whether the defendants have made out a prima facie case, whether the balance of convenience lies in their favour, and whether they would suffer preferable injury if the injunction is not granted. On perusal of the pleadings, it is evident that the plaintiff has specifically pleaded fraud and has challenged the very validity of the registered sale deed. The huge disparity between the sale consideration mentioned in the alleged agreement of sale i.e.

₹68,25,000/- and the consideration shown in the registered salary i.e., ₹8,00,000/- raises a serious travel issue which cannot be decided without evidence. Whether the salary is nominal or obtained by fraud is a matter of doubt. That requires full-fledged trial. When the title itself is under serious dispute and the validity of the sale deed is challenged, permitting the plaintiff to interfere with the suit's property would result in creation of multiplicity of proceedings. If such interference is permitted, the very object of the suit would be defeated. The balance of convenience lies in favour of preserving the perceived property in its present condition. No irreparable hardship would be caused to the plaintiff by restraining interference. Whereas refusal of injunction would cause irreparable loss and injury to the defendants which cannot be compensated in terms of money. this Court is of the view that the defendants have made out a prima facie case for grant of temporary injunction. Hence, this court has answered **point No.1 in the Affirmative.**

12. **Point No.2 and 3:** *As these points are inter connected with each other, I have taken these points together for consideration in order to avoid repetition of facts.*

13. *The second condition for granting temporary injunction is that, the balance of convenience must be in favor of applicant. In other words the court must be satisfied that, the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing injunction will be greater than that, which is likely to be caused to the opposite party by granting it.*

14. *The object of the interlocutory injunction is to protect the defendants against the injury by violation of their right for which, they could not be adequately compensated if issues were resolved in their favor at the trial.*

15. *These are all the facts can be considered after full fledged trial. Anyhow, the defendants filed the above said application seeking an order of restraining the plaintiff from interference with the suit schedule property pending disposal of*

*the suit. In such circumstances, if we presume that the defendants have get the relief in respect of the suit schedule property it will not cause any hardship to the plaintiff. Therefore there are sufficient grounds on record to hold that, the balance convenience and irreparable loss lies in favor of defendants if injunction is not granted. In view of the above discussion, I answered **point No.2 and 3 in the Affirmative.***

16. **Point No.4:** *On the basis of my reasons on point Nos.1 to 3, I proceed to pass the following;*

ORDER

The I.A No.IV filed by the learned counsel for the defendants under Order 39 Rule 1 and 2 R/w Section 151 of CPC is hereby allowed.

Accordingly, the plaintiff or any person claiming through him is hereby restrained from obstructing the peaceful possession and enjoyment of the suit schedule property by

*defendant No.2 to 4 till disposal of the suit
by way of temporary injunction.*

No order as to costs.

*(Dictated to the Stenographer, directly on Computer and typed by her. The same is corrected and then pronounced by me in the open court on this the **03rd** day of February 2026)*

*sd/-
(SMT. SARVAMANGALA K.M.,)
I Addl. Senior Civil Judge & JMFC.,
Hubballi.*