

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

Present:

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

O.S. No.421/2025

Dated this the 30th day of April - 2026

Plaintiff : M/s. CPV Engineers Private Limited
represented by its director Sri. D. Jaisingh
S/o. Dowlatharam Singh.

.Vs.

Defendants : Smt. Pushpadevi W/o. Babulal Bafana
and others.

PARTIES TO IA No.II

Applicants : M/s. CPV Engineers Private Limited
represented by its director Sri. D. Jaisingh
S/o. Dowlatharam Singh.

.Vs.

Opponent : Smt. Pushpadevi W/o. Babulal Bafana
and others.

**ORDER ON IA No.II U/o.39 Rule 1 AND 2 R/W. SECTION
151 OF CPC**

This suit is filed by the plaintiff for the relief of specific performance of contract. This I.A. is filed by plaintiff U/o.39 Rule 1 and 2 R/w. Section 151 of CPC seeking temporary injunction as against defendants from alienating, transferring or creating any charge or encumbrance over the suit property pending disposal of the suit.

2. In support of the application, the director of plaintiff company has sworn affidavit stating that the suit property was originally belonging to KSSIDC Limited, Hubballi. It has sold the suit property in favour of M/s. Karnataka Steels, Hubballi i.e. a partnership firm represented by its partners by name Hirachand Mishrimalji Bafana and Babulal Dhingarmal Bafana. They agreed to sell the suit property in favour of M/s. CPV Engineers, Hubballi, for ₹8,00,051/- and executed agreement of sale dated 05.10.1992. The plaintiff has paid ₹75,000/- through cheque as sale consideration amount. No period was fixed in the agreement of sale to get the absolute sale deed executed and registered within a particular period of time as such the time is not the essence of contract. The plaintiff has personally approached the Babulal Dhingarmal Bafana on several occasions, he went on postponing the same, but he never refused to execute the sale deed in favour of plaintiff. In the meantime Babulal has breathed his last on 23.01.2015. The plaintiff was not aware of legal heirs of deceased Babulal. The plaintiff ascertained the legal heirs and issued a legal notice on 29.08.2024 and filed this suit. If he succeeded in disposing off the suit property, the plaintiffs will be put to great loss and hardship. They have got fair chances of success in the matter and have made out a prima facie case and balance of convenience lies in their favour. Hence, prayed to allow the application.

3. On issuance of suit summons, defendants have appeared and filed written statement. They have filed memo to adopt the written statement as objection to this I.A. They have contended that during the year 1992 the defendants No.3 and 4 were minors not in a position to understand the difficulties of the family. The women of the family i.e. defendants No.1, 2 and 5 never used to be involved in any of the business and financial affairs undertaken by their predecessor. The defendants further contended that their predecessor had informed them that he had orally permitted to use the suit property by the then CPV Engineers Partnership firm as a gratitude for receiving ₹8,00,051/- in the needy hours. When the defendants No.3 and 4 attained knowledgeable age their father Babulal used to insist them to think of setting up of an industry of their choice in the suit property namely Karnataka Steels. Their father was never intimated them about executing of agreement of sale dated 05.10.1992 and 01.12.1997.

4. Further the defendants have contended that they deny the execution of agreement of sale by their predecessor. The alleged agreement of sale shows that four of partners of M/s. CPV Engineers had signed the said document, but the present company is formed by only three partners without disclosing about the other partner who had signed the alleged agreement of sale. The plaintiff nor the other partners had raised their little fingers about execution

of alleged agreement of sale till 29.08.2024. The plaintiff was in cordial terms with their predecessor and they used to meet quite often till his death on 23.01.2015. The defendants submits that after the death of predecessor the plaintiff had come to Bangalore to extend his condolence to their family and stated about his continuation of using the suit property on same terms. When the defendants wanted to get the E-khata in respect of suit property, the plaintiff informed the procedure to get the E-khata, at the time also the plaintiff never informed about execution of agreement of sale by their predecessor Babulal. They were shocked when they received notice dated 29.08.2024 about execution of agreement of sale. The plaintiff never disclosed them in their earlier meetings at any point of time. The plaintiff has filed this suit after lapse of 33 years claiming that he had paid entire consideration amount as long back as on 01.12.1997. He further contended that plaintiff in his plaint stated that after the death of Babulal on 3.01.2015 he was not aware of the details of legal representatives, but has issued notice on 29.08.2024 to the legal representatives i.e. present defendants No.1 to 5 without disclosing how and when he came to know about their details. The defendant No.4 has written a letter on 12.09.2024 to the counsel who had issued notice to the defendants requesting him to send the copy of the agreement of sale dated 01.12.1997. The plaintiff was well aware of the details of legal representatives, however after receipt of letter dated 12.09.2024 the plaintiff has filed

the suit almost after a year on 04.09.2025. The reading of the plaint itself demonstrate that the suit is barred by limitation having filed the same after 33 years by pleading false facts. The cause of action stated by the plaintiff is only for the purpose of bringing the suit within time, but if the entire plaint is read, prima facie the suit is barred by limitation. The question of limitation is both of law and facts, but reading the plaint depict that the suit is barred by limitation. Hence, prayed to reject the application.

5. I have heard both sides and perused the pleadings of the parties, I.A. as well as documents relied by both the parties to the suit. The following points arise for my consideration:

1. Whether the plaintiff has made out prima facie case?
2. Whether the balance of convenience is in favour of the plaintiff?
3. Whether the plaintiff would suffer irreparable injury, if its prayer for temporary injunction is dis-allowed?
4. What order?

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

Points No.1 to 3 : In the Negative.
Point No.4 : As per final order,
for the following:

REASONS

7. **Points No.1 to 3:** The plaintiff has filed this suit against the defendants for the relief of specific performance of contract alleging that one Babulal Dingarmal with the consent of another partner Hirachand Bafna sell the property in favour of plaintiff company on 05.10.1992. In the year 1992 the suit property was handed over to the plaintiff company. Babulal Bafna was absolute owner of dissolution partnership dated 01.08.1996 and he has executed fresh agreement on 01.12.1997 in favour of plaintiff company and collected consideration amount of ₹8,00,051/-. The Babulal was died on 23.01.2015. Thereafter, plaintiff filed this suit. The defendants disputed the transaction with the plaintiff. On perusal of agreement of sale dated 1997 the Babulal Bafna executed agreement of sale in favour of plaintiff company. Thereafter, in the year 1997 executed agreement of sale in favour of plaintiff. Since from 1997 till 2015 the plaintiff company has not made efforts to get the sale deed from the seller. It shows that there is negligence on the part of the plaintiff. He has not acted upon according to agreement of sale within reasonable time. When the plaintiff approached this court for equitable relief, he should be clean hands and shown the bonafide reasons. Why there is a delay there is no satisfactory reasons. Moreover, the plaintiff has not produced any documents before this court that he has been in possession over the suit property in respect of agreement of sale. In revenue records name of Hirachand Bafna and

Babulal Bafna appeared. Except these two agreements there is no documents before this court with regard to transaction taken place between the plaintiff and father of defendants. So, considering all these facts, this Court is of the considered opinion that the full pledged trial is required to decide the case on merits. So, without expressing any opinion on merits of the case, this Court is of the considered opinion that at this stage plaintiff has not made out prima facie case with respect to suit property. The balance of convenience does not leans in his favour. If the temporary injunction is refused, he will not be put to hardship. Hence, I answer points No.1 to 3 in **in the Negative**.

8. **Point No.4**: In view of my answer to points No.1 to 3 as stated above, I proceed to pass the following;

ORDER

The I.A. No.II filed by the plaintiff U/o.39
Rule 1 and 2 of CPC is hereby rejected.

The costs shall follow the event.

(Dictated to the Stenographer directly on computer, script corrected directly on computer and then pronounced by me in the Open Court on this the **30th day of April - 2026**)

(Yamanappa Karehanumanthappa)
Pri. Senior Civil Judge, Hubballi.

*Order prepared separately and pronounced in the
Open court, its operative portion reads thus:*

ORDER

The I.A. No.II filed by the plaintiff U/o.39
Rule 1 and 2 of CPC is hereby rejected.

The costs shall follow the event.

(Yamanappa Karehanumanthappa)
Pri. Senior Civil Judge, Hubballi.