

**IN THE COURT OF ADDL.SENIOR CIVIL JUDGE
AND JMFC, GADAG**

PRESENT

**SHRI.G.R.SHETTAR., B.com. LL.B (Spl)
PRL.SENIOR CIVIL JUDGE AND CJM, GADAG
C/C ADDL.CIVIL JUDGE AND JMFC, GADAG**

DATED THIS 03RD DAY OF FEBRUARY, 2026

O.S.No.22/2024

PLAINTIFF:

Rajaram P S/o Venkataramayya,
Age: 67 years, Occ: Business,
R/o Near Raghavendraswami Math,
Belagar Oni, Kamalapur, Tq:Hospet,
Dist:Vijayanagar

(R/by Sri.S.S.S/ A.S.M., Advocate)

Vs

DEFENDANT:

Babu S/o Churchappa Hirehal,
Age: 55 years, Occ: Agriculture,
R/o Near Huligermma Temple, Jadar Oni,
Konnur, Tq:Naragund, Dist:Gadag.

(R/by Sri.G.C.R., Advocate)

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PARTIES To I.A. No.I

APPLICANT/

Org.PLAINTIFF :

Rajaram P S/o Venkataramayya.

Vs

OPPONENT/

Org.DEFENDANT :

Babu S/o Churchappa Hirehal.

i.	Provision under which the applications are filed	U/o 39 rule 1 and 2 of CPC
ii.	Relief sought for	For restraining the defendant from alienating the suit property
iii.	The date on which the application is filed	17/01/2024
iv.	Number of applications	I.A.No.I
v.	Date on which the objections is filed by different opponent/s	02/12/2024
vi.	Date on which order is passed on said application	03/02/2026

ORDER ON I.A.I U/O 39 RULE 1 & 2 OF CPC

Plaintiff has filed the present application praying for restraining the defendant from alienating the suit property till disposal of the suit.

2. Application is supported by the affidavit sworn to by the plaintiff wherein it is contended that defendant being the owner of the suit property, for his family and legal necessity has agreed to sell the suit property to the plaintiff for Rs.80,00,000/- and executed registered agreement for sale on 24.02.2021 and received part consideration of Rs.40,00,000/-. The defendant promised to execute the registered sale deed

after clearing all the encumbrances over the suit property. The plaintiff being ready and will to perform his part of contract was ready with remaining amount and registration charges to get execute the sale deed and asked the defendant to execute the sale deed and also got issued legal notice calling upon the defendant to execute the sale deed. Though the notice duly served but the defendant did not come forward to execute the sale deed. Under such circumstances if the defendant is not prohibited from alienating the suit property, the plaintiff will be put to irreparable loss and injury. Hence, the plaintiff constrained to file the suit and application.

3. After service of summons, the defendant appeared through his counsel and filed written statement and also filed memo adopting the contents of written statement as objections to I.A.No.I. The defendant has contended that he and his wife have purchased the suit property Sy.No.105/2 measuring 16 acres 27 guntas of Beleri village, his wife and

daughters have filed OS No.20/2014 for partition before the court of Senior Civil Judge court, Gadag which is still pending. The defendant has denied the execution of agreement for sale agreeing to sell the suit property to the plaintiff. It is contended that, since the defendant was in need of money he discussed with one Prabhakar and plaintiff for financial assistance. The plaintiff agreed to lend Rs.40,00,000/- on payment of advance interest of Rs.10,00,000/- for 34 months and on his instructions the defendant executed agreement for sale on 24.02.2021 as security of loan. After transfer of Rs.40,00,000/- by the plaintiff, the defendant retransferred Rs.10,00,000/- bank account of one Prabhakar Gujamagadi on 25.02.2021, so, the defendant received only Rs.30,00,000/- from plaintiff. Thereafter also as per the instructions of the plaintiff the defendant has paid Rs.4,50,000/- to the bank account of one Nagaraj V. Jagali i.e., clerk of the shop of Parabahakar Gujamagadi on 31.01.2023, defendant has paid Rs.2,40,000/- bank account of one Prabhakar Gujamagadi on 09.02.2022, has paid

Rs.1,20,000/- bank account of one Manjunath B. Hireholi on 30.08.2023 as per the instruction of Prabhakar Gujmagadi towards repayment of loan of the plaintiff. The being the fact the plaintiff has cooked up false story of sale agreement and filed the false suit. Hence, prayed for dismissal of the suit and application.

4. Heard the arguments.

5. The points arise for my consideration are:

P O I N T S

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

6. My findings on the above points are:

- POINT No.I** : In the Affirmative
POINT No.II : In the Affirmative
POINT No.III : In the Affirmative
POINT No.IV : As per the final order
for the following:

REASONS

7. **POINTS No.I & II** : it is contended that defendant being the owner of the suit property, for his family and legal necessity has agreed to sell the suit property to the plaintiff for Rs.80,00,000/- and executed registered agreement for sale on 24.02.2021 and received part consideration of Rs.40,00,000/-. The defendant promised to execute the registered sale deed after clearing all the encumbrances over the suit property. The plaintiff being ready and will to perform his part of contract was ready with remaining amount and registration charges to get execute the sale deed and asked the defendant to execute the sale deed and also got issued legal notice calling upon the defendant to execute the sale deed but the defendant did not come forward to execute the sale deed.

8. Per contra the defendant has denied the execution of agreement for sale and contended that, since the defendant was in need of money asked the plaintiff for financial assistance. The plaintiff agreed to lend Rs.40,00,000/- on payment of advance interest of

Rs.10,00,000/- for 34 months and on his instructions the defendant executed agreement for sale as security of loan. After transfer of Rs.40,00,000/- by the plaintiff, the defendant retransferred Rs.10,00,000/- bank account of one Prabhakar Gujamagadi on 25.02.2021, so, the defendant received only Rs.30,00,000/- from plaintiff. Thereafter also as per the instructions of the plaintiff the defendant has paid Rs.4,50,000/- to the bank account of one Nagaraj V. Jagali i.e., clerk of the shop of Parabahakar Gujamagadi on 31.01.2023, defendant has paid Rs.2,40,000/- bank account of one Prabhakar Gujamagadi on 09.02.2022, has paid Rs.1,20,000/- bank account of one Manjunath B. Hireholi on 30.08.2023 as per the instruction of Prabhakar Gujmagadi towards repayment of loan of the plaintiff. The defendant also contended that he and his wife have purchased the suit property Sy.No.105/2 measuring 16 acres 27 guntas of Beleri village, his wife and daughters have filed OS No.20/2014 for partition before the court of Senior Civil Judge court, Gadag

which is still pending. The being the fact the plaintiff has cooked up false story of sale agreement and filed the false suit.

9. I have gone through the entire material carefully. The plaintiff has contended that the defendant has executed sale agreement agreeing to sell the suit property but the defendant has contended that he has executed the sale agreement as a security of loan and already he made part payments. To decide the real dispute between the parties, full-fledged trial is required. For granting the temporary injunction, prima facie is to be looked into, prima facie case includes maintainability of suit. On going through the material produced at this pre trial stage, suit of the plaintiff is absolutely maintainable and fit of trial. Therefore, I am of the opinion that the plaintiff has made out prima facie case and balance of convenience is also in favour of plaintiff. Hence, I answer the Point No.I and II in the Affirmative.

10. **POINT No.III** : As discussed above, suit of the plaintiff is maintainable and fit for trial. Purpose of granting temporary injunction is to maintain the state of things as exists today till disposal of the matter in controversy. Admittedly, suit property is standing in the name of defendant, if he succeed in alienating the suit property, the situation will become irreversible as on the date of disposal of matter and it will lead to multiplicity of proceedings. Further, after filing of the suit, Ex-parte temporary injunction order was granted till further order on IA No.I. Under such circumstances if the temporary injunction as prayed in I.A. No.I is not granted the plaintiff would be put to irreparable loss then the defendant. Hence, I answer the point No.III in the Affirmative.

11. **POINT No.IV**: As discussed above, I proceed to pass the following:

ORDER

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

The defendant is hereby restrained from alienating the suit property in any manner till disposal of the suit.

No order as to cost.

(Dictated to Stenographer, transcribed and typed by him, printed, then corrected and pronounced by me in the open court on this **03rd day of February, 2026**)

(G.R.SHETTAR)
Prl. Sr. Civil Judge & CJM, GADAG
C/c Addl.Sr. Civil Judge & JMFC,
GADAG