

KAHS510000372025



Presented on : 08-01-2025
Registered on : 08-01-2025
Decided on : 11-06-2026
Duration : 1year 5months 3days

IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC., BELUR

Present:-

Smt. Salma A.S.
B.B.A., LL.B.,(Hons)
I Addl. Civil Judge and JMFC., Belur.

Dated this, the 11th day of June, 2026

O.S. No. 16/2025

Eregowda S/o late Ajjegowda

...Plaintiff

-Versus-

Chandregowda S/o late Ajjegowda and others

....Defendants

I.A. No.II

Eregowda S/o late Ajjegowda

...Applicant/ Plaintiff

-Versus-

Chandregowda S/o late Ajjegowda and others

..Opponents/Defendants

(By- **Sri. K.L.N.**, Advocate for Plaintiff)

(By- **Sri. C.M.C.**, Advocate for Defendant No.1 to 5)

ORDERS ON I.A. NO.II

1	Provision under which the application is filed	U/o 39 rule 1 and 2 of CPC.
2	Relief sought for	To restrain the defendants or anybody claiming under them from alienating or creating any charge and changing the Khata of the suit schedule property till disposal of the suit.
3	The date on which the application is filed	08.01.2025
4	Number of the application	II
5	The date on which the objections are filed by different opponents	05.07.2025
6	The date on which the orders were passed on the application	12.06.2026

That the plaintiff has filed IA No.II under order 39 rule 1 and 2 of CPC with the prayer to restrain the defendants or anybody claiming under them from alienating or creating any charge and changing the Khata of the suit schedule property till disposal of the suit.

2. In support of the IA, the plaintiff has sworn an affidavit contending that, the present suit is filed for the relief of Declaration and Permanent Injunction. It is the contention of the plaintiff that, originally the property bearing Sy No.40 measuring 5 acres 7 guntas of Mallapura village, Madihalli Hobli, Beluru Taluk belongs to the father of the plaintiff and defendant No.1 Ajjegowda.

That after his death his children have partitioned the said property and as per the Panchayath Palu Parikath the plaintiff was allotted 1 acre 3 guntas and defendant No.1 was allotted 1 acre 4 guntas and other brothers by name Nagaraja was allotted to 1 acre 4 guntas, Venkatesha was allotted 1 acre 3 gutnas and Kumara was allotted to 1 acre 3 guntas. That as per the Panchayath Palu Parikath in the revenue records the name of the concerned parties were mutated and they were in possession of their respective shares. When such being the case the defendant No.1 had expressed his willingness to sell 1 acre 4 guntas allotted to his share in the Panchayath Palu Parikath. As such the plaintiff has expressed his willingness to purchase the said property. That the defendant No.1 and his wife Rathnamma has executed registered sale deed infavour of the plaintiff on 06.07.2000 on behalf of their minor children also. That after the purchase the plaintiff became the absolute owner and is in possession of the suit schedule property. Except the plaintiff no other person has got any right over the suit schedule property. That the plaintiff has given an application before the Tahsildar for change of Khata, based on the sale deed, but Khata is not changed. That recently in the month of April 2024 the plaintiff got to know that as per the sale deed the Khata is not updated in the name of the plaintiff. In this regard he has filed an application before the Tahsildar, but the said application was rejected by saying that many years have been lapsed since execution of sale deed. In this regard the plaintiff has filed an appeal before the AC Court, Sakaleshapura in which the defendant No.1 and children have appeared and filed objection stating that, they have filed the suit in O.S. No.92/2024 before the Civil Judge, Beluru and they have compromised the suit and

produced the copy of compromised decree and the appeal was dismissed with a direction to approach the Civil court. That the defendants were aware of the fact that the suit schedule property is sold to the plaintiff, even then in order to defeat the rights of the plaintiff the defendant No.1 to 5 have filed the collusive suit in O.S. No.92/2024 and has compromised the suit. That the defendant No.1 to 5 nor any other persons has any right over the suit schedule property. That the plaintiff is the absolute owner and in possession of the suit schedule property. That the defendants by taking advantage of the collusive decree obtained in O.S. No.92/2024 is trying to change the Khata in their names and alienate the suit schedule property. That said compromise decree is not binding on the plaintiff. That the plaintiff has filed complaint before the Halebeedu Police, but they did not take any action. That the defendants being the powerful persons in the locality is trying to interfere with the possession of the plaintiff over the suit schedule property. Hence the plaintiff was constrained to file the present suit and IA. That the prima facie case and balance of convenience lies in favour of the plaintiff and if Temporary Injunction is not granted the plaintiff will be put to irreparable loss and injury which cannot be compensated in terms of money. Hence prayed to allow the IA.

3. That on service of summons the defendant No.1 to 5 have appeared through their counsel and have filed written statement contending that, the suit of the plaintiff is not maintainable either on law or on facts. That the suit is barred by limitation. That as per the case of the plaintiff he has purchased the suit schedule property on 06.07.2000, from that date till present why he has not

given application before the Tahsildar for change of name in the revenue records. That from 2000 till date the suit schedule property is standing in the name of 1st defendant and hence the suit is barred by limitation. That the court fee paid is insufficient and he is not made all his necessary parties as parties to the present suit.

a) That the suit schedule property is the ancestral property of defendant No.1. As per MR No.6/1991 the Khata was effected, from that date till today the defendants are the absolute owner and in possession of the suit schedule property. That the defendants have never executed sale deed infavour of the plaintiff and has not delivered the possession of the suit schedule property. That with regard to the suit schedule property and other family properties of the defendants family, since there was a dispute the suit was filed in O.S. No.92/2024 in the said suit the compromise decree was passed on 23.03.2024. When the defendants tried to execute the compromise decree they got to know about the alleged sale deed created by the plaintiff. When the defendant No.1 questioned the plaintiff regarding the same he gave evasive reply. Thereafter when defendant No.1 recollected his memory he remembered that, around 25 years back the plaintiff had brought defendant No.1 to Beluru stating that, by mortgaging property he will take loan and give it to defendant No.1 and without the knowledge of the defendant No.1 has created alleged sale deed. Thereafter when the defendant No.1 questioned the plaintiff as to why loan is not granted even after obtaining the signature the plaintiff stating that, the bank is not granting loan at present. That since the defendant No.1 was illiterate did not have any worldly knowledge and by

believing the words of his brother has kept quite. Even after that the revenue records were standing in the name of defendant No.1. That the defendant No.1 has not executed any sale deed infavour of the plaintiff. That the defendants are in peaceful possession and enjoyment over the suit schedule property. That the plaintiff has filed the present suit with an intention to grab the suit schedule property of the defendant. That the plaintiff has no right over the suit schedule property. That the documents produced by the plaintiff is forged one and hence the question of restraining the defendants from alienating the property does not arise and hence prayed to reject the IA.

4. Heard learned counsel for the plaintiff and defendants.

5. After perusal of the records of the case, the following points would emerge for my consideration:

1. Whether the plaintiff has made out a prima-facie case?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff would be put to untold hardship and irreparable loss if the temporary injunction is not granted?

4. What order?

6. My findings on the above points are as under:

- 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

7. **Point No.1 to 3:** I have taken these three points together for my common discussion as they are inter-linked with each other in order to avoid repetition of the same.

It is the contention of the plaintiff that, plaintiff is the absolute owners and in peaceful possession and enjoyment the schedule property. That the plaintiff has purchased the suit schedule property defendant No.1 under registered sale deed dated 06.07.2000. That after the purchase the plaintiff has filed application before Tahsildar for change of Khata, but the Khata is not effected in the name of the plaintiff. By taking advantage of the same the defendants have obtained a collusive compromise decree in O.S. No.92/2024 and trying to alienate the suit schedule property.

8. On the other hand the defendants have contended that the plaintiff is neither the owner nor in possession of the suit schedule property. That the defendant No.1 has never executed the alleged sale deed dated 06.07.2000 in favour of the plaintiff . That around 25 years back the plaintiff claiming that, to help defendant No.1 to obtain loan from the bank has obtained signature of defendant No.1 and has created alleged sale deed without the knowledge or consent of the defendant No.1 and hence it will not create any right in favour of the plaintiff.

9. In view of rival contentions put forth by both the parties, now let me see whether the plaintiff has made out prima facie case and balance of convenience for grant of temporary injunction as prayed in I.A.No.II.

10. The plaintiff in support of his case, has produced certified copy of registered sale deed dated 06.07.2000, certified copy of MR, RTCs, copy of order from AC, Sakaleshapura, copy of plaint and compromise petition in O.S. No.92/2024, copy of complaint dated 05.01.2025 given to Halebeedu Police, endorsement given by Halebeedu Police dated 06.01.2025.

11. On the contrary, the defendants in support of their case, have produced Genealogical Tree, RTC of property bearing Sy No.19/2, 29/3, 20, 21, 24, 25,26.

12. It is the contention of the plaintiff that, the plaintiff is the absolute owners and in possession of the suit schedule property. That the plaintiff has purchased the suit schedule property from defendant No.1 under registered sale deed dated 06.07.2000. From the date of purchase he is the absolute owner and in possession of the suit schedule property. In order to substantiate the same the plaintiff has produced certified copy of sale deed dated 06.07.2000. That the alleged sale deed dated 06.07.2000 is the registered document, there is a presumption that, a registered document is validly executed. A registered document therefore, prima facie would be valid in law. The onus of proof is on the person who denies it. No doubt it is a rebuttable presumption.

13. In this regard it is appropriate to rely upon the principle laid

down in the case of **Vishawanath Bapurao Sabale Vs. Shalinibai Nagappa Sabale and others – 2009(3) Civil L.J. 540** in which it was held that,

“15. All the four deeds executed on 02.07.1955 are registered documents. They carry a presumption of valid execution. There is no proof to show that the said documents were sham or nominal.”

14. Further it is the contention of the defendants that, around 25 years back the plaintiff by saying that, he will help the defendant No.1 to obtain loan from the bank has got his signature and created alleged sale deed. The burden is on the defendants to prove the same. The defendant No.1 has admitted his signature and execution of document, but he has contended that, it was executed without his knowledge or consent. Since the alleged agreement of sale is a registered document it carries a presumption of valid execution the burden is on the person who wants to challenge it. Until contrary is proved a registered document is presumed to be genuine and hence at this stage it can be relied on.

15. Further the counsel for the defendants has contended that, the suit itself is not maintainable since, the plaintiff has challenged the compromise decree passed in O.S. No.92/2024. That on perusal of plaint it is found that, the plaintiff has not sought to declare the alleged compromise decree as null and void. But he has just prayed to declare that, the compromise decree is not binding on him. Moreover the plaintiff is not a party to the compromise decree. Even otherwise that is not the only relief

claimed by the plaintiff. The main relief claimed by the plaintiff is that, to declare that, he is the absolute owner of the suit schedule property and for permanent injunction to restrain the defendants from interfering with plaintiff's peaceful possession and enjoyment over the suit schedule property. As an ancillary relief the plaintiff has sought to declare the alleged compromise decree has not binding on him and hence even if one relief prayed can be granted the suit is maintainable.

16. That it is contention of the plaintiff that, the defendants by taking advantage of their name being entered in the revenue records are trying to alienate the suit schedule property. That the compromise decree entered into the between the defendants itself is a threat to the plaintiff. Moreover the genuineness of the alleged sale deed will only proved after full fledged trial. Hence there is a triable issue. If the defendants alienate the suit schedule property during the pendency of the suit it will lead to multiplicity of proceedings and irreparable loss and injury will be caused to the plaintiff which cannot be compensated in terms of money. Hence on perusal of the entire materials on records this court is of the opinion that, plaintiff has made out prima facie case and balance of convenience. If temporary injunction is not granted the plaintiff will be put to irreparable loss and injury which cannot be compensated in terms of money. Hence I answered **Point No.1 to 3 in the Affirmative**

17. Point No.4: For the aforesaid reasons and discussions made supra, I proceed to pass the following:

ORDER

IA No.II filed by the plaintiff under Order 39 Rule 1 and 2 of Code of Civil Procedure is hereby **allowed.**

The defendants or anybody claiming under them are hereby restrained from alienating or creating any charge and changing the Khata over the suit schedule property till disposal of the suit.

Under the facts and circumstances of the case, no order as to costs.

*(Dictated to Stenographer, transcribed by her, transcription corrected by me and then pronounced in the open court on this, the **11th day of June, 2026**)*

(Smt. Salma A.S.)
I Addl. Civil Judge and JMFC.,
Belur.