



**IN THE COURT OF ADDL CIVIL JUDGE & JMFC.,**  
**SAKALESH PURA**

**:-PRESENT:-**

**Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,**

Addl. Civil Judge & JMFC., Sakaleshpura.

**Dated this the 1<sup>st</sup> day of March, 2025**

**O.S. NO. 22/2025**

**PLAINTIFF** : **Smt. Radha**

**V/s.**

**DEFENDANTS** : **Smt. Kamala and another**

**I.A. No.II**

**Plaintiff/Applicant** : **Smt. Radha**

**V/s.**

**Defendants/Opponents** : **Smt. Kamala and another**



**ORDERS ON APPLICATION FILED BY THE PLAINTIFF**  
**UNDER ORDER XXXIX RULE 1 AND 2 OF C.P.C**

The plaintiff has filed this application under order XXXIX Rule 1 and 2 of CPC praying this court to pass an order of an ad-interim temporary injunction restraining the defendants from interfering with the possession by causing obstructions to the constructions work in the suit schedule property till the disposal of the suit.

2. In the affidavit annexed along with the application, plaintiff has averred that she has filed the present suit for the relief of permanent injunction in respect of the suit schedule property. The plaintiff has purchased the suit schedule property from on B.E. Chandru and his family members through a registered sale deed dated 02.07.2024 and the revenue records got mutated in her name. From the date of sale deed, she is possession of the suit schedule property by erecting the fence around. Thereafter, she has also obtained



license from the concerned authority on 11.11.2024. the plaintiff has also laid down the foundation work in the suit schedule property. The defendants having no any right, title or interest, have tried interfere with the possession and caused obstructions to put up construction in the suit schedule property. The defendants have threatened to sell the suit schedule property in their favour. The plaintiff has got prima-facie case and balance of convenience in her favour. If the application is not allowed, she would be put to irreparable loss and injury. Hence prayed to allow the application.

**3.** Upon the service of summons the defendants have appeared before the Court through their counsel and filed written statement cum objections. It is their contention that defendant No.1 has purchased the suit schedule property from the said B.E.Chandru and his family members through a Registered sale deed dated 27.02.2015. Thus, she became absolute owner in possession of the property and the revenue



records also got mutated in her name. That on 03.12.2024 the plaintiff having no any right, title or interest, have tried interfere with the possession by putting up construction. As such, the defendants have lodged a complaint before Jurisdictional police, wherein the said Chandru has given statement by stating that they would not obstruct with the possession of the suit schedule property. The plaintiff has got created a registered sale deed in her favour in respect of the property which is not in existence and instigated her to put up construction by storing the materials. As such, defendant No.1 has filed a suit vide O.S.No.16/2025 against the plaintiff and others for the relief of permanent injunction. The plaintiff is trying to construct the house in the property belonging to the defendants. The plaintiff has given boundaries which is not in existence at all. Accordingly, prayed to dismiss the application.



4. On basis of the application, plaint, written statement and documents on record, the following points that arise for the determination of this court.

1. Whether the plaintiff has made out prima- facie case in her favour?

2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether the plaintiff will be put to great hardship and irreparable loss if, order of temporary injunction is not granted?

4. What order?

5. Heard arguments. Perused the application, affidavit, objections and records placed before this court.

6. My finding on above points are as follows:-

**Point No.1 : In the *Negative***

**Point No.2 : In the *Negative***



**Point No.3** : In the *Negative*

**Point No.4**: As per the final order for the following

**::REASONS::**

7. **Point No.1 to 3 :-** Since these points are inter connected with each other, they are taken together for the discussion in order to avoid the repetition of the facts and circumstances.

8. The plaintiff has filed the present suit for the relief of permanent injunction in respect of the suit schedule property. Her main contention is that, the said Chandru and his family members have sold the suit schedule property bearing in her favour through registered sale deed dated 02.07.2024. On the other hand, the defendants have contended that the said Chandru and his family members have sold the suit schedule property in favour of defendant No.1 through a registered sale deed dated 27.02.2015. On perusal of both the



sale deeds, it appears that property of Mastigaiah is situated towards northern side. It is pertinent to note that it appears on prima-facie that the said Chandru and his family members have sold the property in favour of plaintiff as well as Defendant No.1.

**9.** As per the documents, it can be seen on prima-facie that the defendant has lodged a complaint before Sakaleshpura Rural Police Station on 03.12.2024 against the said Chandru. He has given statement before the police by stating that he has sold the property extent of 28 X 80 feet in favour of the defendant and handed over all the documents. Further, he has also stated that somebody else is constructing the structure and he would clear the monies and till than he would not carry out any construction in the suit schedule property. After payment of the monies, he would take back the possession of the suit schedule property and proceed accordingly. Hence, from the very statement, it appears at this



stage on prima-facie that, it is not that he sold two different properties in favour of the plaintiff and defendant No.1 but same property subsequently in favour of the plaintiff.

10. Hence, by looking into the nature of the suit and also the pleadings, it appears on prima-facie that both plaintiff and defendant No.1 possess the sale deed in respect of same property. Hence, the said cloud has to be clarified. It is to note here that in a decision reported in ***ILR 2005 KAR 884 (T.L.Nagendra Babu v/s Manohar Rao Pawar)*** the Hon'ble High Court of Karnataka held that without identification of the property, the temporary injunction cannot be granted. From the above decision, it is clear that in the absence of the materials with respect to identification of the property, the injunction cannot be granted. Hence, at this stage, the plaintiff has failed to prove the prima-facie case and balance of convenience much more in comparison with the defendants.



11. The plaintiff has contended that the defendant is trying to interfere with the possession of suit schedule property. Whereas, the at this stage, there is a cloud as to boundaries and possession of the suit schedule property. Hence by considering the above facts and circumstances at this stage, the plaintiff has failed to prove prima-facie case and balance of consideration in her favour. Further if the application is allowed, it is the defendants who would put to irreparable loss and injury than in comparison with the plaintiff. Accordingly Point No.1 to 3 are answered in the *Negative*.

**12. Point No.4::** For the above discussed reasons, this court proceeds to pass the following:



**::ORDER::**

IA No. II filed by the plaintiff  
under order XXXIX Rule 1 and 2 of  
C.P.C. is hereby dismissed.

No costs.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 1<sup>st</sup> day of March, 2025]

[Lakshmi Narasimha R.V.,  
Addl. Civil Judge and JMFC,  
Sakaleshpura.