



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC
COURT, RANEBENNUR.**

Dated on this the 03rd day of March 2026

**Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.
Prl. Civil Judge & JMFC., Ranebennur.**

ORIGINAL SUIT NO.332/2025

Plaintiffs: Smt. Ramijabi W/o Abdulsab Harihar
& another

**(Rep. By Sri. S.C.S. Advo.,)
V/s**

Defendants: Ningappa Rathanakatti
& another

**(D-1 Rep. By Sri. M.S.M. Advo.,)
(D-2 Exparte.)**

IA NO. I CAUSE TITLE.

**Plaintiffs/
Applicants:** Smt. Ramijabi W/o Abdulsab Harihar
& another

-Vs.-

**Opponents/
Defendants:** Ningappa Rathanakatti
& another

ORDER ON IA NO.I

The plaintiffs have filed this application under Order
XXXIX Rules 1 and 2 read with Section 151 of the CPC, seeking



an order restraining Defendant No.1 from alienating, creating any charge, or otherwise dealing with the suit schedule property until the disposal of the suit.

2. Brief facts of the case necessary for the purpose of disposing the application are as under :

The plaintiffs have filed this suit seeking a declaration of title and a mandatory injunction. It is alleged that the suit property was purchased by the husband of Plaintiff No.1 and father of Plaintiff No.2 from the erstwhile owner through a registered sale deed dated 12.08.1974, and he was put in possession thereof. It is further alleged that the defendants, acting in collusion, created documents in favor of Defendant No.1, based on which Defendant No.1 encroached upon the suit property and illegally constructed a building. The plaintiffs became aware of these acts and issued a legal notice, but the defendants have failed to restore possession. Hence, the present suit.

2.1. In support of the application, Plaintiff No.1 has filed an affidavit reiterating the averments in the plaint and contending that Defendant No.1, by taking undue advantage of the plaintiffs' innocence and his name in the records, is attempting to alienate the suit property in favor of third parties.



She submits that, if such alienation occurs, the very purpose of the suit will be frustrated, and the plaintiffs will suffer irreparable loss if the application is rejected. She further contends that no harm or prejudice will be caused to the defendants if the interim relief sought is granted. On these grounds, the plaintiff prays that the Court allow the application.

3. Upon due service of the summons and a copy of the interim application, Defendant No.1 filed his written statement, which is adopted as his objection to the present application. He contends that the suit is not maintainable either in law or on facts. It is further stated that the suit property was purchased by the husband of Plaintiff No.1 and father of Plaintiff No.2 before his marriage, and he subsequently alienated the same in his favor through a registered sale deed dated 14.02.1981, remaining in possession and enjoyment ever since. The panchayat records were also updated in his favor, and a house was constructed under the 'Ashreya Yojana Scheme.' Accordingly, he denies the plaintiffs' title and alleges encroachment, praying for dismissal of the application.

4. Heard the arguments of Counsel for either side, perused the materials available on record. Hence, posted for



order.

5. After carefully analyzing and upon the perusal of the plaint, affidavit sworn to the application and the objection put forth by the defendants and other materials available on record, the following points arise for my consideration.

I. Whether the plaintiffs have made out a prima facie case to grant the relief as sought for in the IA-I.?

II. Whether the plaintiffs prove that balance of convenience lies in their favour as regards the IA-I.?

III. Who will be put to irreparable loss and injury if the IA-I is rejected or granted.?

IV. What order?

6. After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the afore raised points as under:

Point No.1 : In the Negative.

Point No.2 & 3 : Do not survive for consideration

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

REASONS

7. POINT NO.1:

The provision that the Plaintiff seeks to invoke here is Order XXXIX Rule 1 (a) of Civil Procedure Code. After perusal of the prayer sought in the IA-1 it is needless to state that the



case of the plaintiff, as regards the IA-1 falls within **Clause (a)** of Order XXXIX Rule 1 of Civil Procedure Code, which verbatim reads as follows:

*“Where in any suit it is proved by affidavit or otherwise :-
(inter alia).*

***(a)** that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or.”*

The reason why this court considers that the relief sought by way of this application falls within the ambit of **clause (a)**. However, plain reading of said clause seeks to protect the applicant from two apprehensions either damage, alienate or wrongful sale of the suit properties; and because the relief sought by the applicant by way of this application is to restrain the opposite party from alienate or create any third party interest, it becomes obvious that the apprehension of the applicant is that the activities of the opposite party if not curtailed would cause injury to the plaintiff's lawful rights. Needless to state in order to successfully maintain this application the applicant should first demonstrate existence of *prima facie* case in her favor.

7.1. At the very outset it would be incumbent upon this



court to clarify that, the rule that before the issue of a temporary injunction, the court must satisfy itself that the plaintiff has a prima facie case, it does not mean that, the court should examine the merits of the case closely and come to a conclusion that the plaintiffs have a case in which they are likely to succeed.

7.2. All that, the court has to see is that on the face of it the person applying for an injunction has a case which needs consideration and which is not bound to fail by virtue of some apparent defects. Further, merely because the documents are in the name of the defendants, plaintiffs cannot maintain an application for interim injunction successfully, instead they have to demonstrate through some prima facie materials or documents to show their prima-facie case.

7.3. Keeping these principles in mind, the Court now turns to the documentary evidence on record. On perusal, it appears that the plaintiffs filed this suit seeking a declaration of title and a mandatory injunction, relying primarily on the sale deed executed in favor of the husband of Plaintiff No.1. In response, Defendant No.1 produced a certified copy of a registered sale deed dated 14.12.1981, showing that he



purchased the suit property from the husband of Plaintiff No.1. Prima facie, this sale deed demonstrates that a valid registered transaction took place between the parties before the competent authority.

7.4. Admittedly, the plaintiffs have not challenged the sale deed executed in favor of Defendant No.1 or sought any substantive relief against it. The suit is filed solely for a declaration of title, based on the sale deed in favor of the husband of Plaintiff No.1. However, the sale deed produced by Defendant No.1 prima facie establishes that, after purchasing the suit property, the husband of Plaintiff No.1 alienated it through a registered sale deed and delivered possession. Further, other documents produced by Defendant No.1 show that the property has been recorded in his name and has remained so for nearly four decades.

7.5. The present application seeks to restrain Defendant No.1 from alienating the suit property until the disposal of the suit. However, the plaintiffs have neither produced documents nor pleaded facts sufficient to challenge the registered sale deed standing in the name of Defendant No.1 and the subsequent entries in the panchayat records. The mere



assertion that the suit property was purchased by the husband of Plaintiff No.1 does not establish a prima facie case or provide grounds to restrain Defendant No.1 from dealing with the property. Accordingly, this Court is of the considered opinion that the plaintiffs have failed to demonstrate a prima facie case to warrant the relief sought in the present application.

7.6. It is settled law that, the grant of injunction is a discretionary relief, the exercise thereof is subject to the Court satisfying that there is a serious disputed question to be tried in the suit and that an act, on the facts before the Court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant and the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue, before the legal right would be established at the trial and further that, the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it. Considering all these aspects, this court finds no hesitation in holding the Point for Consideration No.(i) in the **Negative**.



8. Points No.2 and 3:-

To avoid the repetition and ambiguity these two points are taken together for the consideration.

8.1. This Court has already gone on to hold on merits that, the plaintiffs have failed to prove the existence of *prima-facie* case in their favor, under such circumstances this Court need not look into the other aspects i.e.,balance of convenience and also irreparable loss and this view of the Court is further supported by the decision passed by Hon'ble Apex Court in ***Kashi Math Samsthan & Anr. Vs. Srimad Sudhindra Thirtha Swamy & Anr-AIR 2010 SC 296*** wherein it is held that:

“In order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that, he has made out, prima-facie case to go for trial, the balance of convenience is also in his favor and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima-facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima-facie case to go for trial, it is not open to the Court to grant injunction in his favour even if he has made out a case of balance of



convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted. (emphasis supplied by me)."

8.2. The same view was held by the *Hon'ble High Court of Karnataka in Sri Gowrishankara Swamigalu Vs Sri Siddhaganga Mutt* reported- **AIR 1989 KAR 1701**, wherein it is held that:

"The existence of a prima facie case in the matter of granting injunction is really the harbinger or the all clear sign to go ahead in investigating other aspects of the question governing the grant or refusal of injunction. If there was no prima facie case at all or the case put forward was so weak and tainted having very little prospect of being accepted by the Court, further questions of balance of convenience and irreparable loss need not be considered since the plaintiff would fall at the very first stile itself."

But if there was a prima facie case then other considerations governing the grant of injunction would come into play and will also have to be evaluated before granting or refusing the injunction. In other words the existence of a prima facie case or even a very strong prima facie case does not permit leap frogging by the plaintiff directly to an injunction without crossing the other hurdles in between. (emphasis supplied by me)

So this Court, in view of its conclusion arrived at regarding *Point No.(i)*, this court is of the opinion that this Court need not



proceed to consider the other aspects. Hence, in view of the above discussion and abiding by the legal principle laid down in the above decisions, this Court holds Points No.(ii) and (iii) as ***do not survive for consideration of this Court.***

9. Point No. 4:

For the foregoing reasons and in view of the finding given by this court on Point No. I to III, this court proceeds to pass the following:

ORDER

**“IA No. 1 filed U/O. XXXIX Rule 1 and 2
R/w. Sec. 151 of CPC by the plaintiffs is
hereby dismissed.
No order as to cost.”**

(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 03rd day of March, 2026).

Sd/-
(ADITHYAKUMAR H.R)
Prl. C.J. & JMFC Court,
Ranebennur.

Order on IA
KAHV520014352025

