



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,

AT: ALAND

Present: Shri. **Abdul Rahaman Pathan**,
B.A. LL.M.,
II Additional Senior Civil Judge & JMFC.,
Kalaburagi

C/c Senior Civil Judge & JMFC., Aland

O.S. No. 63/2025

Dated this the 19th day of December 2025

PLAINTIFF: Smt. Shakuntala W/o Hanamanth
Gayakwaad, Age: 46 years, Occ:
Household and Agriculture, R/o
Jamaga (K) village, Tq: Aland, Dist:
Kalaburagi

(By Shri. M.S.A. Adv.,)

//Versus//

DEFENDANT: Anasuyabai W/o Hanamanth
Gayakwaad, Age: 58 years, Occ:
Household, R/o Jamaga (K) Village,
Tq: Aland, Dist: Kalaburagi.

(By Shri. D.H.H. Adv.,)

PARTIES TO I.A. No. III

**Applicant/
Plaintiff:** Smt. Shakuntala W/o Hanamanth
Gayakwaad,

//Versus//

**Opponent/
Defendant:** Anasuyabai W/o Hanamanth
Gayakwaad,

Provision under which instant application is filed	U/Order XXXIX rule 1 and 2 of Code of Civil Procedure
Relief sought for	Temporary injunction
Date of application	17-05-2025
Number	I. A. No. III
Date on which the objections are filed	10-10-2025
Date on which Order is pronounced	19-12-2025

ORDER ON I.A. NO. III

The plaintiff filed instant application U/Order XXXIX rule 1 and 2 of the Code of Civil Procedure seeking for an order of temporary injunction to restrain defendant from causing obstruction to her possession over Suit Schedule Properties pending disposal of the suit.

2. The averments made in the affidavit annexed to the application in brief are as under:

It is averred in the affidavit annexed to the application that, defendant is the owner of land bearing Sy. No. 48/1 measuring 01.20 acres, Situated at Jamaga (K) Village, Aland taluka and House Property bearing No. 119 measuring 40 X 40 square feet, Situated at Jamaga (K) Village, Aland taluka, **(Hereinafter referred as Suit Schedule Properties)**. She was in dire need of money to meet necessity of her family as such, she agreed to sell suit property in favor of plaintiff for total sale consideration of Rs. 10,00,000/- and executed Unregistered Agreement to Sell dated, 11-02-2025 receiving

part sale consideration of Rs. 50,000/-. It was agreed to complete the sale transaction after furnishing relevant documents. This being the state of affairs, plaintiff approached defendant for execution of sale deed in terms of said agreement to sell but she dodged the same on or other pretext. Thus, plaintiff got issued legal notice dated, 01-04-2025 calling upon defendant to execute the sale deed in terms of said agreement to sell but of no avail. The plaintiff has been ready and willing to perform her part of contract. Taking undue advantage of the entries in revenue records, defendant is highhandedly trying to cause obstruction to the possession of plaintiff over suit property. Thus, she left with no alternative filed instant suit and instant application to restrain defendant from causing obstruction to her possession over Suit Schedule Properties. There is prima facie case and balance of convenience lies in her favor. Thus, prayed to allow this application.

3. The defendant filed objection to instant application contending that, instant application is not maintainable either in law or on facts as such, liable to be rejected at the threshold. It is admitted that, defendant is the owner of suit property. It is denied that, defendant agreed to sell suit property in favor of defendant for total sale consideration of Rs. 10,00,000/- and executed Unregistered Agreement to Sell dated, 11-02-2025 receiving part sale consideration of Rs. 50, 000/-. It is also denied that, defendant agreed to execute the sale deed in terms of said agreement to sell after furnishing relevant documents. It is further denied that, defendant handed over possession of the suit property in favor of plaintiff in pursuance of part performance of contract. It is further

denied that, despite repeated request, defendant dodged to execute the sale deed in terms of said agreement to sell.

4. It is specifically contended that, plaintiff is concubine of husband of defendant. The defendant neither agreed to sell suit property in favor of defendant nor executed Unregistered Agreement to Sell dated, 11-02-2025 receiving part sale consideration mentioned therein. The said agreement to sell is sham and doctored instrument defendant does not derive any right there from. There is no prima facie case and balance of convenience in his favor. Thus, prayed to reject this application with costs.

5. On the basis of plaint averments and documents produced, following points arise for my consideration.

- 1. Whether plaintiff has made out prima facie case for grant of temporary injunction as prayed?.**
- 2. Whether the balance of convenience lies in favor of plaintiff?.**
- 3. Whether plaintiff will be put to irreparable injury, if order of temporary injunction is not granted?.**
- 4. What order?.**

6. Heard learned counsel for plaintiff and defendant. Perused material placed on record. My answer to above points is as under:

Point No. 1: In the Negative

Point No. 2: In the Negative

Point No. 3: In the Negative

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

:REASONS:

7. **Point No. 1 to 3:** These points are interconnected as such, are taken together for common discussion to avoid repetition. At the outset, plaintiff filed instant suit for a relief of Specific Performance of Contract to direct defendant to execute the sale deed in terms of Unregistered Agreement to Sell dated, 11-02-2025 and also for Perpetual Injunction to restrain defendant from causing obstruction to the possession of defendant and also from alienating the same in favor of third parties. In support of his case, plaintiff produced Original Unregistered Agreement to Sell dated, 11-02-2025, translation thereof, RTC Extract, DCB Register Extract, Legal Notice dated, 01-04-2025, Postal receipt, Postal Endorsement and Photographs. Per contra, defendant produced Certified Copy of Order Sheet in Criminal Miscellaneous No. 44/2018 and RTC Extract.

8. In view of above, this Court carefully perused material placed on record. It is undisputed fact that, defendant is the owner of suit property and she acquired the same in lieu of maintenance. It is also undisputed fact that, plaintiff and defendant both are wives of one Hanumanth. With these admitted facts, this Court carefully perused Unregistered Agreement to Sell dated, 11-02-2025. Wherein it appears that, defendant agreed to sell suit property in favor of plaintiff for total sale consideration of Rs. 10,00,000/- and executed said instrument receiving part sale consideration of Rs. 50,000/-. The defendant has denied very execution of said instrument and receipt of part sale consideration mentioned therein. It is pertinent to note that, plaintiff claims relief of

temporary injunction to protect her possession over suit property based on unregistered agreement to sell dated, 11-02-2025 as such, it is amply clear that, plaintiff claims protection of possession claimed to have been handed over in part performance of contract, which is dealt U/Section 53-A of the Transfer of Property Act. In view of the same, this Court carefully perused Unregistered Agreement to Sell dated, 11-02-2025. Wherein it appears that, possession of the suit property has been handed over in favor of plaintiff as on date of execution of said agreement to sell. At this juncture, it is profitable to refer Section 17(1A) of the Registration Act, which envisages that, a document containing contract to transfer for consideration, any immovable property for the purpose of Section 53-A of the Transfer of Property Act shall be registered if they have been executed on or after the commencement of the Registration Act and other Related laws (Amendment) Act, 2001 and if such documents are not registered on or after such commencement, then they shall have effect for the purposes of Section 53-A. It appears from material on record that, the agreement to sell claimed by plaintiff has been executed on 11-02-2025 i.e, subsequent to enactment of amended Section 17(1A) of the Registration Act as such, said instrument cannot be considered for the purpose of Section 53-A of the Transfer of Property Act. Thus claim of plaintiff for protection of possession over suit property based on unregistered Agreement to Sell dated, 11-02-2025 does not appear to be probable. The said principle of law is supported by decision of Hon'ble Supreme Court reported in **(2018) 7 S.C.C. 639, (AMEER MINHAJ VS., DIERDRE ELIZABETH (WRIGHT) ISSAR)**. Wherein at Paragraph No. 10 and

11 it is held that, an unregistered agreement to sell cannot be considered to protect the possession over immovable property for the purpose of Section 53-A of the Transfer of Property Act. In this case also, plaintiff claims protection of possession over suit property by virtue of unregistered Agreement to Sell dated, 11-02-2025 as such, her claim for protection of possession over suit property cannot be sustained. Per contra, RTC Extract produced by plaintiff and defendant show that, Khata of the suit property stands in the name of defendant. It is well settled law that, entries in the revenue records raise presumption of possession. The said preposition of law is supported by decision of Hon'ble Supreme Court reported in **(2007) 13 S.C.C. 565, (GURUNATH MANOHAR PAVASKAR AND OTHERS VS., NAGESH SIDDAPPA NAVALGUND AND OTHERS)**. Wherein at Paragraph No. 12 it is held as under:

12. A revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and / or continuity thereof both forward and backward can also be raised under Section 110 of the Indian Evidence Act. The Courts below, were, therefore, required to appreciate the evidence keeping in view the correct legal principle in mind.

It appears from sacred ratio laid down in the above extracted decision that, the entries in revenue records are prima facie proof of possession. In such eventuality, if ad interim injunction as prayed for is granted, defendant will be put to more hardship than plaintiff. Thus, there is no prima facie case and balance of convenience lies in favor of defendant. **Accordingly, I answer Point No. 1 to 3 in the Negative.**

9. **POINT No. 4:** In view of discussion and conclusion arrived at Point No. 1 to 3, this Court proceeds to pass following:

ORDER

**I.A. No. III filed by plaintiff U/Order XXXIX
Rule 1 and 2 of Code of Civil Procedure is hereby
REJECTED.**

Parties to bear their own costs.

(Dictated to the Stenographer directly on laptop, corrected by me and then pronounced in Open Court on this the 19th day of December 2025).

(Abdul Rahaman Pathan)
II Additional Senior Civil Judge
& JMFC., Kalaburagi.