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**IN THE COURT OF CIVIL JUDGE & JMFC., AT:
AFZALPUR.**

PRESENT

Sri. ANIL AMATE, B.A. L.LB(Hon's) ,
Civil Judge & JMFC.,
AFZALPUR.

O. S. No.53/2026.

PLAINTIFF: Sangeeta W/o Devalu Rathod, Age: 44 Yrs,
Occ: Household & Agriculture. R/o
Baluragi Village, Tq: Afzalpur, Dist:
Kalaburagi.

(By Sri. R.B.Y. and Sri. K.G. Poojari., Advocates)

V/s

DEFENDANTS: 1. Mumataz W/o Mahiboob Sab,
Age: 46 Yrs, Occ: Household &
Agriculture. R/o Baluragi Village,
Tq: Afzalpur, Dist: Kalaburagi.
2. Basappa S/o Bhimanna Kalur,
Age: 38 Yrs, Occ: Agriculture.
R/o Gour (K), Tq: Afzalur, Dist:
Kalaburagi

(By Sri.Dattu B. Pujari., Advocate)

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PARTIES IN I.A.NO.I

APPLICANT: Sangeeta W/o Devalu Rathod, Age: 44 Yrs,
Occ: Household & Agriculture. R/o Baluragi
Village, Tq: Afzalpur, Dist: Kalaburagi.

V/s

OPPONENTS: 1. Mumataz W/o Mahiboob Sab, Age: 46 Yrs,
Occ: Household & Agriculture. R/o
Baluragi Village, Tq: Afzalpur, Dist:
Kalaburagi.
2. Basappa S/o Bhimanna Kalur, Age: 38 Yrs,
Occ: Agriculture. R/o Gour (K), Tq: Afzalur,
Dist: Kalaburagi

:ORDER ON I.A.NO.I:

This is a suit of the plaintiff against the defendants for declaration and injunction as per the plaintiff, the plaintiff sought relief of specific performance of contract as direct the defendant No.1 to receive balance amount of Rs.1,00,000/- and execute the registered sale deed in favour of plaintiff, to declare the sale deed bearing Doc No.1444/2026-27 dated 11.08.2026 executed by defendant No.1 in favour of the defendant No.2 and further to restrain the defendant No.2 not alienate the suit property in any one favour.

2. Description of suit property is land bearing Sy.No 188/1 ad measuring 9 acres 31 guntas out of which 03

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acres situated at Balurgi village in Afzalpur Taluka with boundaries: East: land of Devappa , West: land Valu Rathod,North: land of Anvar Patel , South: Remaining land of defendant No.1.

3. In support of above IA No.I the plaintiff has filed affidavit stated that, she is plaintiff in this suit,hence she knows the facts the case. Further she has filed suit for specific performance of contract, declaration of ownership and injunction against the defendant No.1. further stated that to consider the para No.1 to 12 of plaint she has given information, these true and correct, this suit is filed against the defendants, the defendants intended to cause loss to plaintiff by way of sale,gift, will, or in any form of transfer, which will cause irreparable loss to the plaintiff, if IA No.I is not allowed it will cause irreparable loss to the plaintiff, it will not be compensated in terms of money, therefore , prayed for allow the I.A. No. I.

3. on other side , the defendant No.1 and 2 have filed their written statement and filed memo for treat the WS as objection to the IA No.I. the defendants denied all the averments of the plaint in to, and specifically contended that, the defendant no.2 is bonafide purchaser of property measuring 05 acres 9 guntas in Sy.No.188/1 for valuable consideration amount and the plaintiff is silent for nearly three years and failed to issue any legal notice demanding

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execution of the sale deed within the agreed period, the plaintiff fails to financial capacity and readiness and willingness to perform her part of contract. Hence prayed for the reject the IA No.1 in the interest of justice and equity.

4. Heard both sides arguments, peruse documents available on record.

5. In view of above the following points that would arise for consideration on I.A.No. I is as follows:-

1. Whether, at this stage the plaintiff has made out a prima-facie case lies in its favour ?

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

3. Whether the plaintiff proves that in event of not allowing I.A.No. II, it will be put to irreparable loss and injury?

4. What Order?

6. Answers to the above points is as follows:-

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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:-

R E A S O N S

7. Point No. 1 to 3:- Since these points are inter alia, hence they are taken together for common discussion. It is well settled principles of law that, in order to decide the application filed under order XXXIX Rules 1 & 2 of CPC, the basic principles that are to be considered are prima-facie case, balance of convenience and irreparable loss shall be taken into consideration. So far as the prima facie case, balance of convenience and irreparable loss are concerned, firstly the plaintiff has to establish the prima-facie case, the plaintiffs contended that she has filed suit for specific performance of contract, declaration of ownership and injunction against the defendant No.1. further stated that to consider the para No.1 to 12 of plaint she has given information, these true and correct, this suit is filed against the defendants, the defendants intended to cause loss to plaintiff by way of sale, gift, will, or in any form of transfer, which will cause irreparable loss to

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the plaintiff.

8. At this stage the plaintiff has produced the documents ROR of the suit property which standing in the name of the defendant No.1, agreement for sale executed by the defendant No.1 in favour of the plaintiff, sale deed executed by defendant No.1 in favour of the defendant No.2. the filed this suit for specific performance of contract as direct the defendant No.1 to receive balance amount of Rs.1,00,000/- and execute the registered sale deed in favour of plaintiff, to declare the sale deed bearing Doc No.1444/2026-27 dated 11.08.2026 executed by defendant No.1 in favour of the defendant No.2 and further to restrain the defendant No.2 not alienate the suit property in any one favour. The Suit property valued at 2,000/- and court fees paid for only relief of declaration and injunction, as per the valuation slip, relief claimed specific performance of contract suit property valued at 10.50,000/- court fee shown as Rs. 50/- in the plaint at para No.12 shown court fee paid Rs.64,700/- . The defendant No.1 contention is that plaintiff never ready to purchase property by payment of balance amount, even the plaintiff not issued one notice to defendant No.1 to call upon her to perform her part of contract, defendant No.1 is widow woman to lead her livelihood she alienated her property to defendant No.2. Therefore, under the

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circumstances of the suit, the the plaintiff not issued prior notice to defendant No.1, plaintiff not shown her readiness and willingness to perform her part of contract in her plaint, further it is pertinent to note that defendant No.1 has 09 acres 31 guntas of land in Sy.No.188/1 situated Ballurgi village as per the averments of the plaint, out of which the defendant No.1 sold 05 acres 09 guntas, as per the plaintiff defendant No.1 agreed to sell 03 acres of land , the suit property boundaries in agreement of sale and sale deed of defendant No.2 are one and same or different the plaintiff not clarified, there is remaining land of the defendant No.1, hence the plaintiff fails to show the prima facie right over the defendant No.1 sold out property in favour of the defendant No.2, where the defendants have denied the description of suit property, therefore in the opinion of the court the plaintiff not made out prima facie case. So far as the irreparable loss is concerned, as above said supra the plaintiff not established prima facie case and balance convenience not lies in favour of plaintiff. As per the assertion of the plaintiff, defendants definitely at this stage, no irreparable loss will cause to plaintiff rather than defendants. Therefore, this court is of opinion that, refusing the injunction order will not be going to cause loss and damage to the plaintiff. Therefore, for the above made observation this court is answered the points No. 1

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to 3 are in the negative.

9. Point No. 4:- For the foregoing reasons, this court proceed to pass the following

-: O R D E R :-

The I.A. No. II filed U/O XXXIX Rule 1 & 2 of CPC filed by the plaintiff is hereby rejected.

No order as to cost.

(Dictated to the Typist, directly on computer, typed by him, corrected by me, signed and then pronounced in open court on this the 24th Day of July-2026)

(Anil Amate 24.07.2026)

Civil Judge & JMFC,

Afzalpur.